

1 **SECTION 1051.** 46.27 (7g) (c) 5. of the statutes is renumbered 46.27 (7g) (c) 5.

2 a. and amended to read:

3 46.27 (7g) (c) 5. a. If the department's claim is not allowable because of subd.
4 4. and the estate includes an interest in a home, the court exercising probate
5 jurisdiction shall, in the final judgment or summary findings and order, assign the
6 interest in the home subject to a lien in favor of the department for the amount
7 described in subd. 1. The personal representative or petitioner for summary
8 settlement or summary assignment of the estate shall record the final judgment as
9 provided in s. 863.29, 867.01 (3) (h) or 867.02 (2) (h).

10 **SECTION 1052.** 46.27 (7g) (c) 5. b. of the statutes is created to read:

11 46.27 (7g) (c) 5. b. If the department's claim is not allowable because of subd.
12 4., the estate includes an interest in a home and the personal representative closes
13 the estate by sworn statement under s. 865.16, the personal representative shall
14 stipulate in the statement that the home is assigned subject to a lien in favor of the
15 department for the amount described in subd. 1. The personal representative shall
16 record the statement in the same manner as described in s. 863.29, as if the
17 statement were a final judgment.

18 **SECTION 1053.** 46.27 (7g) (h) of the statutes is created to read:

19 46.27 (7g) (h) The department may contract with or employ an attorney to
20 probate estates to recover under this subsection the costs of care.

21 **SECTION 1054.** 46.27 (9) (a) of the statutes is amended to read:

22 46.27 (9) (a) The department may select up to 5 counties that volunteer to
23 participate in a pilot project under which they will receive certain funds allocated for
24 long-term care. The department shall allocate a level of funds to these counties
25 equal to the amount that would otherwise be paid under s. 20.435 (5) ~~(4)~~ (b) to nursing

1 homes for providing care because of increased utilization of nursing home services,
2 as estimated by the department. In estimating these levels, the department shall
3 exclude any increased utilization of services provided by state centers for the
4 developmentally disabled. The department shall calculate these amounts on a
5 calendar year basis under sub. (10).

6 **SECTION 1055.** 46.27 (9) (c) of the statutes is amended to read:

7 46.27 (9) (c) All long-term community support services provided under this
8 pilot project in lieu of nursing home care shall be consistent with those services
9 described in the participating county's community options plan under sub. (4) (c) 1
10 and provided under sub. (5) (b). Unless the department has contracted under s.
11 ~~46.271 (2m)~~ 46.281 (1) (d) with an entity other than the county department, each
12 county participating in the pilot project shall assess persons under sub. (6).

13 **SECTION 1056.** 46.27 (10) (a) 1. of the statutes is amended to read:

14 46.27 (10) (a) 1. The department shall determine for each county participating
15 in the pilot project under sub. (9) a funding level of state medical assistance
16 expenditures to be received by the county. This level shall equal the amount that the
17 department determines would otherwise be paid under s. 20.435 ~~(5)~~ (4) (b) because
18 of increased utilization of nursing home services, as estimated by the department.

19 **SECTION 1057.** 46.27 (11) (c) 3. of the statutes is amended to read:

20 46.27 (11) (c) 3. Medical assistance reimbursement for services a county, a
21 private nonprofit agency or an aging unit with which the department contracts
22 provides under this subsection shall be made from the appropriations under s. 20.435
23 ~~(5)~~ (4) (o) and (7) (b) and (bd).

24 **SECTION 1058.** 46.27 (11) (c) 4. of the statutes is amended to read:

1 46.27 (11) (c) 4. The department may, from the appropriation under s. 20.435
2 ~~(5)~~ (4) (o), provide reimbursement for services provided under this subsection by
3 counties that are in excess of the current average annual per person rate, as
4 established by the department, and are less than or equal to the average amount
5 approved in the waiver received under par. (am).

6 **SECTION 1059.** 46.27 (11) (c) 5n. a. of the statutes is amended to read:

7 46.27 (11) (c) 5n. a. An assessment under sub. (6) has been completed for the
8 person prior to the person's admission to the community-based residential facility,
9 ~~whether or not the person is a private pay admittee at the time of admission. except~~
10 ~~that a person seeking admission or about to be admitted on a private pay basis may~~
11 ~~waive the assessment, unless the person is expected to become eligible for medical~~
12 ~~assistance within 6 months of assessment. The county may waive this condition in~~
13 ~~accordance with guidelines established by the department. If the county waives this~~
14 ~~condition, the county must meet with the person or the person's guardian to discuss~~
15 ~~the cost-effectiveness of various service options.~~

16 **SECTION 1059.** 46.27 (11) (c) 5q. of the statutes is created to read:

17 46.27 (11) (c) 5q. No county department or aging unit may deny services to a
18 person under subd. 5n. who refused to have an assessment completed as required
19 under subd. 5n. a. before the effective date of this subdivision [revisor inserts
20 date].

21 **SECTION 1060.** 46.271 (2m) of the statutes is repealed.

22 **SECTION 1061.** 46.275 (5) (a) of the statutes is amended to read:

23 46.275 (5) (a) Medical assistance reimbursement for services a county, or the
24 department under sub. (3r), provides under this program is available from the
25 appropriations under s. 20.435 ~~(5)~~ (4) (b) and (o). If 2 or more counties jointly contract

1 to provide services under this program and the department approves the contract,
2 medical assistance reimbursement is also available for services provided jointly by
3 these counties.

4 **SECTION 1062.** 46.275 (5) (c) of the statutes is amended to read:

5 46.275 (5) (c) The total allocation under s. 20.435 ~~(5)~~ (4) (b) and (o) to counties
6 and to the department under sub. (3r) for services provided under this section may
7 not exceed the amount approved by the federal department of health and human
8 services. A county may use funds received under this section only to provide services
9 to persons who meet the requirements under sub. (4) and may not use unexpended
10 funds received under this section to serve other developmentally disabled persons
11 residing in the county.

12 **SECTION 1063.** 46.275 (5) (d) of the statutes is amended to read:

13 46.275 (5) (d) The department may, from the appropriation under s. 20.435 ~~(5)~~
14 (4) (o), provide reimbursement for services provided under this section by counties
15 that are in excess of the current average annual per person rate, as established by
16 the department, and are less than the average amount approved in the waiver
17 received under sub. (2).

18 **SECTION 1064.** 46.277 (5) (d) 1n. a. of the statutes is amended to read:

19 46.277 (5) (d) 1n. a. An assessment under s. 46.27 (6) has been completed for
20 the person prior to the person's admission to the community-based residential
21 facility, ~~whether or not the person is a private pay admittee at the time of admission.~~
22 except that a person seeking admission or about to be admitted on a private pay basis
23 may waive the assessment, unless the person is expected to become eligible for
24 medical assistance within 6 months of assessment. The county may waive this
25 condition in accordance with guidelines established by the department. If the county

1 waives this condition, the county must meet with the person or the person's guardian
2 to discuss the cost-effectiveness of various service options.

3 **SECTION 1065.** 46.278 (6) (d) of the statutes is amended to read:

4 46.278 (6) (d) If a county makes available nonfederal funds equal to the state
5 share of service costs under the waiver received under sub. (3), the department may,
6 from the appropriation under s. 20.435 (5) (4) (o), provide reimbursement for services
7 that the county provides under this section to persons who are in addition to those
8 who may be served under this section with funds from the appropriation under s.
9 20.435 (5) (4) (b).

10 **SECTION 1066.** 46.278 (6) (e) of the statutes is renumbered 46.278 (6) (e) 1.
11 (intro.) and amended to read:

12 46.278 (6) (e) 1. (intro.) The department may provide enhanced reimbursement
13 for services under the program for an individual who was relocated to the community
14 by a county department from ~~an~~ one of the following:

15 a. An intermediate care facility for the mentally retarded that closes under s.
16 50.03 (14).

17 2. a. The enhanced reimbursement rate under ~~this paragraph~~ subd. 1. a. and
18 b. shall be determined under a formula that is developed by the department.

19 **SECTION 1067.** 46.278 (6) (e) 1. b. of the statutes is created to read:

20 46.278 (6) (e) 1. b. An intermediate care facility for the mentally retarded or
21 a distinct part thereof that has a plan of closure approved by the department and that
22 intends to close within 12 months.

23 **SECTION 1067b.** 46.278 (6) (e) 1. c. of the statutes is created to read:

1 46.278 (6) (e) 1. c. An intermediate care facility for the mentally retarded that
2 has a plan of closure or significant reduction in capacity approved by the department
3 and that intends to close or significantly reduce its capacity within 60 months.

4 **SECTION 1067c.** 46.278 (6) (e) 2. b. of the statutes is created to read:

5 46.278 (6) (e) 2. b. The enhanced reimbursement rate under subd. 1. c. shall
6 be 90% of the enhanced reimbursement rate under this subd. 2. a.

7 **SECTION 1068.** 46.2805 of the statutes is created to read:

8 **46.2805 Definitions; long-term care.** In ss. 46.2805 to 46.2895:

9 (1) “Care management organization” means an entity that is certified as
10 meeting the requirements for a care management organization under s. 46.284 (3)
11 and that has a contract under s. 46.284 (2). “Care management organization” does
12 not mean an entity that contracts with the department to operate one of the
13 following:

14 (a) A program of all-inclusive care for persons aged 65 or older authorized
15 under 42 USC 1395 to 1395ggg.

16 (b) A demonstration program known as the Wisconsin partnership program
17 under a federal waiver authorized under 42 USC 1315.

18 (2) “Eligible person” means a person who meets all eligibility criteria under s.
19 46.286 (1) or (1m).

20 (3) “Enrollee” means a person who is enrolled in a care management
21 organization.

22 (4) “Family care benefit” means financial assistance for long-term care and
23 support items for an enrollee.

24 (5) “Family care district” means a special purpose district created under s.
25 46.2895 (1).

1 (6) “Family care district board” means the governing board of a family care
2 district.

3 (7) “Functional and financial screen” means a screen prescribed by the
4 department that is used to determine functional eligibility under s. 46.286 (1) (a) and
5 financial eligibility under s. 46.286 (1) (b).

6 (7m) “Local long-term care council” means a local long-term care council that
7 is appointed under s. 46.282 (2) (a).

8 (8) “Nonprofit organization” has the meaning given in s. 108.02 (19).

9 (9) “Older person” means a person who is aged at least 65.

10 (10) “Resource center” means an entity that meets the standards for operation
11 under s. 46.283 (3) or, if under contract to provide a portion of the services specified
12 under s. 46.283 (3), meets the standards for operation with respect to those services.

13 (11) “Tribe or band” means a federally recognized American Indian tribe or
14 band.

15 **SECTION 1069.** 46.281 of the statutes is created to read:

16 **46.281 Powers and duties of the department and the secretary;**
17 **long-term care. (1) DUTIES OF THE DEPARTMENT.** The department shall do all of the
18 following:

19 (a) Provide training to members of the council on long-term care who are aged
20 65 or older or who have physical or developmental disabilities or their family
21 members, guardians or other advocates, to enable these members to participate in
22 the council’s duties.

23 (b) Provide information to the council on long-term care, including copies of
24 reports submitted to the department by local long-term care councils, and seek
25 recommendations of the council.

1 (c) Request from the secretary of the federal department of health and human
2 services any waivers of federal medicaid laws necessary to permit the use of federal
3 moneys to provide the family care benefit to recipients of medical assistance. The
4 department shall implement any waiver that is approved and that is consistent with
5 ss. 46.2805 to 46.2895. Regardless of whether a waiver is approved, the department
6 may implement operation of resource centers, care management organizations and
7 the family care benefit.

8 (d) Before July 1, 2001:

9 1. Establish, in geographic areas in which resides no more than 29% of the
10 population that is eligible for the family care benefit, a pilot project under which the
11 department may contract with a county, a family care district, a tribe or band or the
12 Great Lakes inter-tribal council, inc., or with any 2 or more of these entities under
13 a joint application, to operate a resource center.

14 2. In geographic areas in which resides no more than 29% of the population that
15 is eligible for the family care benefit, contract with counties or tribes or bands under
16 a pilot project to demonstrate the ability of counties or tribes or bands to manage all
17 long-term care programs and administer the family care benefit as care
18 management organizations.

19 (e) After June 30, 2001, if the local long-term care council for the applicable
20 area has developed the initial plan under s. 46.282 (3) (a) 1., contract with entities
21 specified under par. (d) and, only if specifically authorized by the legislature and if
22 the legislature appropriates necessary funding, contract as so authorized with one
23 or more entities in addition to those specified in par. (d) certified as meeting
24 requirements under s. 46.284 (3) for services of the entity as a care management

1 organization and one or more entities for services specified under s. 46.283 (3) and
2 (4).

3 (f) Prescribe and implement a per person monthly rate structure for costs of the
4 family care benefit.

5 (g) In order to maintain continuous quality assurance and quality
6 improvement for resource centers and care management organizations, do all of the
7 following:

8 1. Prescribe by rule and by contract and enforce performance standards for
9 operation of resource centers and care management organizations.

10 2. Use performance expectations that are related to outcomes for persons in
11 contracting with care management organizations and resource centers.

12 3. Conduct ongoing evaluations of the long-term care system specified in ss.
13 46.2805 to 46.2895.

14 4. Require that quality assurance and quality improvement efforts be included
15 throughout the long-term care system specified in ss. 46.2805 to 46.2895.

16 5. Ensure that reviews of the quality of management and service delivery of
17 resource centers and care management organizations are conducted by external
18 organizations and make information about specific review results available to the
19 public.

20 (h) Require by contract that resource centers and care management
21 organizations establish procedures under which an individual who applies for or
22 receives the family care benefit may register a complaint or grievance and
23 procedures for resolving complaints and grievances.

1 (i) Prescribe criteria to assign priority equitably on any necessary waiting lists
2 for persons who are eligible for the family care benefit but who do not meet the
3 criteria under s. 46.286 (3).

4 (2) **POWERS OF THE DEPARTMENT.** The department may develop risk-sharing
5 arrangements in contracts with care management organizations, in accordance with
6 applicable state laws and federal statutes and regulations.

7 (3) **DUTY OF THE SECRETARY.** The secretary shall certify to each county, hospital,
8 nursing home, community-based residential facility, adult family home and
9 residential care apartment complex the date on which a resource center that serves
10 the area of the county, hospital, nursing home, community-based residential facility,
11 adult family home or residential care apartment complex is first available to provide
12 a functional and financial screen. To facilitate phase-in of services of resource
13 centers, the secretary may certify that the resource center is available for specified
14 groups of eligible individuals or for specified facilities in the county.

15 **SECTION 1070.** 46.281 (1) (a) of the statutes, as created by 1999 Wisconsin Act
16 (this act), is repealed.

17 **SECTION 1071.** 46.281 (1) (b) of the statutes, as created by 1999 Wisconsin Act
18 (this act), is repealed.

19 **SECTION 1072.** 46.282 of the statutes is created to read:

20 **46.282 Councils on long-term care. (1) COUNCIL ON LONG-TERM CARE.** The
21 council on long-term care appointed under s. 15.197 (5) shall do all of the following:

22 (a) Assist the department in developing broad policy issues related to
23 long-term care services.

1 (b) Assist the department in developing, implementing, coordinating and
2 guiding long-term care services and systems, including by reviewing and making
3 nonbinding recommendations to the department on all of the following:

4 1. The department's standard contract provisions for resource centers and care
5 management organizations.

6 2. The family care benefit, including the per person rate structure for the
7 benefit.

8 3. The long-term support community options program under s. 46.27.

9 4. The community integration programs under ss. 46.275, 46.277 and 46.278.

10 5. Programs other than those under pars (c) and (d) that provide home and
11 community-based services.

12 6. The provision of medical assistance services under a fee-for-service system.

13 (c) Monitor patterns of complaints, grievances and appeals related to
14 long-term care in order to identify issues of statewide importance.

15 (d) Monitor the numbers of persons on waiting lists.

16 (e) Review patterns of utilization of various types of services by care
17 management organizations.

18 (f) Monitor the pattern of care management organization enrollments and
19 disenrollments throughout the state.

20 (g) Report annually to the legislature under s. 13.172 (2) and to the governor
21 on the status, significant achievements and problems of resource centers, care
22 management organizations and the family care benefit, including all of the following:

23 1. Numbers of persons served.

24 2. Costs of long-term care provided under the family care benefit.

1 3. The number and service areas of resource centers and care management
2 organizations.

3 4. Waiting list information.

4 5. Results of reviews of quality of services provided by resource centers and care
5 management organizations.

6 **(2) LOCAL LONG-TERM CARE COUNCILS; APPOINTMENT; MEMBERSHIP; TERMS;**
7 **COMPENSATION AND TRAINING; OFFICERS.** (a) *Appointment by a county.* In a county that
8 participates in a pilot project under s. 46.281 (1) (d) and before a county participates
9 in the program under ss. 46.2805 to 46.2895, the following shall be done:

10 1. The county board of supervisors of the county shall appoint a local long-term
11 care council or the county boards of supervisors of 2 or more contiguous counties shall
12 appoint a local long-term care council, except as follows:

13 a. In a county with a county executive or a county administrator, the county
14 executive or county administrator shall appoint the local long-term care council,
15 other than as provided in subd. 1. b., subject to confirmation by the county board of
16 supervisors.

17 b. If the lands of any tribe or band are located in the county or contiguous
18 counties to be served by a local long-term care council, each tribe or band with these
19 lands shall appoint at least one member of the local long-term care council.

20 2. A county board of supervisors or, in a county with a county executive or a
21 county administrator, the county executive or county administrator shall appoint
22 members of the local long-term care council who are required to be older persons or
23 persons with physical or developmental disabilities or their immediate family
24 members or other representatives from nominations that are submitted to the
25 county board of supervisors or the county executive or county administrator by older

1 persons or persons with physical or developmental disabilities or their immediate
2 family members or other representatives and by local organizations that represent
3 older persons or persons with physical or developmental disabilities.

4 (am) *Appointment by a tribe or band or council.* If a tribe or band or the Great
5 Lakes inter-tribal council, inc., intends to apply for a contract to operate a resource
6 center or for certification as a care management organization, the tribe or band or
7 the council shall, as a condition of the application or the certification appoint a local
8 long-term care council.

9 (b) *Membership.* 1. A local long-term care council that serves a single-county
10 area shall consist of 17 members, at least 9 of whom are older persons or persons with
11 physical or developmental disabilities or their immediate family members or other
12 representatives. The age or disability represented by these 9 members shall
13 correspond to the proportion of numbers of persons, as determined by the
14 department, receiving long-term care in this state who are aged 65 or older or have
15 a physical or developmental disability. The total remaining 8 members shall consist
16 of providers of long-term care services, persons residing in the county with
17 recognized ability and demonstrated interest in long-term care and up to 3 members
18 of the county board of supervisors or other elected officials.

19 2. A local long-term care council that serves an area of 2 or more contiguous
20 counties shall consist of 23 members, at least 12 of whom are older persons or persons
21 with physical or developmental disabilities or their immediate family members or
22 other representatives. The age or disability represented by these 12 members shall
23 correspond to the proportion of numbers of persons, as determined by the
24 department, receiving long-term care in this state who are aged 65 or older or have

1 a physical or developmental disability. The total remaining 11 members shall consist
2 of all of the following:

3 a. Providers of long-term care services.

4 b. Persons residing in the county with recognized ability and demonstrated
5 interest in long-term care.

6 c. Either up to 4 members of the county boards of supervisors or other elected
7 officials or, for a council that serves an area of more than 4 contiguous counties, up
8 to one member of the county board of supervisors of the contiguous counties or up to
9 one other elected official in each contiguous county area.

10 3. A local long-term care council that is appointed by a tribe or band or by the
11 Great Lakes inter-tribal council, inc., shall consist of 21 members, at least 11 of
12 whom are older persons or persons with physical or developmental disabilities or
13 their family members or other representatives. The age or disability represented by
14 these 11 members shall correspond to the proportion of numbers of persons, as
15 determined by the department, receiving long-term care in this state who are aged
16 65 or older or have a physical or developmental disability. The total remaining 10
17 members shall consist of providers of long-term care services, persons residing in the
18 county with recognized ability and demonstrated interest in long-term care and up
19 to 3 members of the governing board of the tribe or band or the Great Lakes
20 inter-tribal council, inc., that appoints the local long-term care council.

21 4. Vacancies in membership in a local long-term care council shall be filled for
22 the residue of the unexpired term in the manner that the original appointments are
23 made. A local long-term care council member may be removed from office for the
24 following reasons:

1 a. For cause, by a two-thirds vote of each county board of supervisors or
2 governing body of a tribe or band participating in the appointment, on due notice in
3 writing and hearing of the charges against the member.

4 b. If the member, when appointed, was a member of the county board of
5 supervisors or was another elected official and was not reelected to that office, on due
6 notice in writing.

7 (c) *Terms.* The members of the local long-term care council appointed under
8 par. (a) shall serve 3-year terms. No member may serve more than 2 consecutive
9 terms. Of the members first appointed under par. (b) 1., 6 shall be appointed for 3
10 years; 6 shall be appointed for 4 years; and 5 shall be appointed for 5 years. Of the
11 members first appointed under par. (b) 2., 8 shall be appointed for 3 years; 8 shall be
12 appointed for 4 years; and 7 shall be appointed for 5 years. Of the members appointed
13 under par. (b) 3., one-third shall be appointed for 3 years; one-third shall be
14 appointed for 4 years; and one-third shall be appointed for 5 years.

15 (d) *Compensation and training.* Members of the local long-term care council
16 who are older persons, persons with physical or developmental disabilities or the
17 family members or other representatives of these persons shall receive compensation
18 from the applicable county for reasonable expenses associated with membership
19 participation. The county board of supervisors or, in the case of a member appointed
20 by the governing body of a tribe or band or by the Great Lakes inter-tribal council,
21 inc., the tribe or band or the Great Lakes inter-tribal council, inc., shall provide
22 training to these members to enable them to participate effectively.

23 (e) *Officers.* At the first meeting of a local long-term care council, members
24 shall elect from their number a chairperson, a secretary and other officers as
25 necessary. Vacancies in these offices shall be filled for the unexpired terms. The

1 chairperson shall preside at all meetings when present and countersign all actions
2 taken by the local long-term care council. In case of the absence of the chairperson
3 for any meeting, the members present shall choose a temporary chairperson.

4 (3) LOCAL LONG-TERM CARE COUNCILS; POWERS AND DUTIES. (a) A local long-term
5 care council shall do all of the following within the council's area:

6 1. Develop the initial plan for the structure of the county, multicounty or tribal
7 resource center and care management organization or organizations, including
8 formulating recommendations to the county board or boards of supervisors and, in
9 a county with a county executive or a county administrator, to the county executive
10 or county administrator, to the governing body of the tribe or band or of the Great
11 Lakes inter-tribal council, inc., if applicable, and to the department on all of the
12 following:

13 a. Whether or not the county, counties, tribe or band or Great Lakes inter-tribal
14 council, inc., should exercise its right to apply under s. 46.283 (1) for a contract to
15 operate a resource center or to apply under s. 46.284 (1) for a contract to operate a
16 care management organization and how the operation should proceed.

17 b. Whether the county should create a family care district to operate a resource
18 center or under a care management organization.

19 c. Whether local organizations other than the county should serve as
20 alternatives or in addition to county-operated entities to operate a resource center
21 or a care management organization and, if so, which organizations should be
22 considered.

23 d. If applicable, how county-operated functions should interact with a resource
24 center or care management organization that is operated by a tribe or band or by the
25 Great Lakes inter-tribal council, inc.

1 2. a. In the years 2000 and 2001, under criteria that the department prescribes,
2 after consulting with the council on long-term care, evaluate the performance of the
3 care management organization or organizations in the area of the local long-term
4 care council and determine whether additional care management organizations are
5 needed in the area and, if so, recommend this to the department.

6 b. In the year 2002 and thereafter, under criteria that the department
7 prescribes, evaluate the performance of the care management organization or
8 organizations in the area of the local long-term care council and determine whether
9 additional care management organizations are needed in the area and, if so
10 recommend this to the department.

11 3. Advise the department regarding applications for initial certification or
12 certification renewal of care management organizations in the area of the local
13 long-term care council, including providing recommendations for organizations
14 applying for certification or recertification, and assist the department in reviewing
15 and evaluating the applications.

16 4. Receive information about and monitor complaints from persons served by
17 the care management organization in the area concerning whether the numbers of
18 providers of long-term care services used by the care management organization are
19 sufficient to ensure convenient and desirable consumer choice and provide
20 recommendations under subd. 3. to the department about this issue.

21 5. Review initial plans and existing provider networks of any care management
22 organization in the area to assist the care management organization in developing
23 a network of service providers that includes a sufficient number of accessible,
24 convenient and desirable services.

1 6. Advise care management organizations about whether to offer optional
2 acute and primary health care services and, if so, how these benefits should be
3 offered.

4 7. Review the utilization of various types of long-term care services by care
5 management organizations in the area.

6 8. Monitor the pattern of enrollments and disenrollments in local care
7 management organizations.

8 9. Identify gaps in services, living arrangements and community resources and
9 develop strategies to build local capacity to serve older persons and persons with
10 physical or developmental disabilities, especially those with long-term care needs.

11 10. Perform long-range planning on policy for older persons and persons with
12 physical or developmental disabilities.

13 11. Annually review interagency agreements between a resource center and
14 care management organization or organizations and make recommendations, as
15 appropriate, on the interaction between the resource center and the care
16 management organization or organizations to assure coordination between or
17 among them.

18 12. Annually review the number and types of complaints and grievances about
19 the long-term care system by persons who receive or may receive care under the
20 system, to determine if a need exists for system changes, and recommend system or
21 other changes if appropriate.

22 13. Identify potential new sources of community resources and funding for
23 needed services for older persons and persons with physical or developmental
24 disabilities.

1 14. Support long-term care system improvements to improve services to older
2 persons and persons with physical or developmental disabilities and their families.

3 15. Annually report to the department and, before July 1, 2001, to the
4 long-term care council concerning significant achievements and problems in the
5 local long-term care system.

6 (b) A local long-term care council may, within the local long-term care council's
7 area, assume the duties of the county long-term community support planning
8 committee as specified under s. 46.27 (4).

9 **SECTION 1073.** 46.282 (1) of the statutes, as created by 1999 Wisconsin Act ...
10 (this act), is repealed.

11 **SECTION 1074.** 46.283 of the statutes is created to read:

12 **46.283 Resource centers. (1) APPLICATION FOR CONTRACT.** (a) After
13 considering recommendations of the local long-term care council under s. 46.282 (3)
14 (a) 1., a county board of supervisors and, in a county with a county executive or a
15 county administrator, the county executive or county administrator, may decide all
16 of the following:

17 1. Whether to authorize one or more county departments under s. 46.21,
18 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 (1) (a) 1. or 2. to apply to the
19 department for a contract to operate a resource center and, if so, which to authorize
20 and what client group to serve.

21 2. Whether to create a family care district to apply to the department for a
22 contract to operate a resource center.

23 (b) After considering recommendations of the local long-term care council
24 under s. 46.282 (3) (a) 1., the governing body of a tribe or band or of the Great Lakes
25 inter-tribal council, inc., may decide whether to authorize a tribal agency to apply

1 to the department for a contract to operate a resource center for tribal members and,
2 if so, which client group to serve.

3 (c) Under the requirements of par. (a), a county board of supervisors may decide
4 to apply to the department for a contract to operate a multicounty resource center
5 in conjunction with the county board or boards of one or more other counties or a
6 county–tribal resource center in conjunction with the governing body of a tribe or
7 band or the Great Lakes inter–tribal council, inc.

8 (d) Under the requirements of par. (b), the governing body of a tribe or band may
9 decide to apply to the department for a contract to operate a resource center in
10 conjunction with the governing body or governing bodies of one or more other tribes
11 or bands or the Great Lakes inter–tribal council, inc., or with a county board of
12 supervisors.

13 **(2) EXCLUSIVE CONTRACT.** (a) Before July 1, 2001, the department may contract
14 only with a county, a family care district, the governing body of a tribe or band or the
15 Great Lakes inter–tribal council, inc., or with 2 or more of these entities under a joint
16 application, to operate a resource center.

17 (b) After June 30, 2001, the department shall contract with the entities
18 specified under s. 46.281 (1) (d) 1. and may, in addition to contracting with these
19 entities and subject to approval of necessary funding, contract to operate a resource
20 center with counties, family care districts, the governing body of a tribe or band or
21 the Great Lakes inter–tribal council, inc., or under a joint application of any of these,
22 or with a private nonprofit organization if the department determines that the
23 organization has no significant connection to an entity that operates a care
24 management organization and if any of the following applies:

1 1. A county board of supervisors declines in writing to apply for a contract to
2 operate a resource center.

3 2. A county agency or a family care district applies for a contract but fails to
4 meet the standards specified in sub. (3).

5 **(3) STANDARDS FOR OPERATION.** The department shall assure that at least all of
6 the following are available to a person who contacts a resource center for service:

7 (a) Information and referral services and other assistance at hours that are
8 convenient for the public.

9 (b) A determination of functional eligibility for the family care benefit.

10 (c) Within the limits of available funding, prevention and intervention services.

11 (d) Counseling concerning public and private benefits programs.

12 (e) A determination of financial eligibility and of the maximum amount of cost
13 sharing required for a person who is seeking long-term care services, under
14 standards prescribed by the department.

15 (f) Assistance to a person who is eligible for the family care benefit with respect
16 to the person's choice of whether or not to enroll in a care management organization
17 and, if so, which available care management organization would best meet his or her
18 needs.

19 (g) Assistance in enrolling in a care management organization for persons who
20 choose to enroll.

21 (h) Equitable assignment of priority on any necessary waiting lists, consistent
22 with criteria prescribed by the department, for persons who are eligible for the family
23 care benefit but who do not meet the criteria under s. 46.286 (3).

1 (i) Assessment of risk for each person who is on a waiting list, as described in
2 par. (h), development with the person of an interim plan of care and assistance to the
3 person in arranging for services.

4 (j) Transitional services to families whose children with physical or
5 developmental disabilities are preparing to enter the adult service system.

6 (k) A determination of eligibility for state supplemental payments under s.
7 49.77, medical assistance under s. 49.46, 49.468 or 49.47 or the federal food stamp
8 program under 7 USC 2011 to 2029.

9 (4) DUTIES. A resource center shall do all of the following:

10 (a) Provide services within the entire geographic area prescribed for the
11 resource center by the department.

12 (b) Submit to the department all reports and data required or requested by the
13 department.

14 (c) Implement internal quality improvement and quality assurance processes
15 that meet standards prescribed by the department.

16 (d) Cooperate with any review by an external advocacy organization.

17 (e) Within 6 months after the family care benefit is available to all eligible
18 persons in the area of the resource center, provide information about the services of
19 the resource center, including the services specified in sub. (3)(d), about assessments
20 under s. 46.284 (4)(b) and care plans under s. 46.284 (4)(c) and about the family care
21 benefit to all older persons and persons with a physical disability who are residents
22 of nursing homes, community-based residential facilities, adult family homes and
23 residential care apartment complexes in the area of the resource center.

1 (f) Provide a functional and financial screen to any resident, as specified in par.
2 (e), who requests a screen and assist any resident who is eligible and chooses to enroll
3 in a care management organization to do so.

4 (g) Provide a functional and financial screen to any person seeking admission
5 to a nursing home, community-based residential facility, residential care apartment
6 complex or adult family home if the secretary has certified that the resource center
7 is available to the person and the facility and the person is determined by the
8 resource center to have a condition that is expected to last at least 90 days that would
9 require care, assistance or supervision. ^{inserv space} A resource center may not require a financial
10 screen for a person seeking admission or about to be admitted on a private pay basis
11 who waives the requirement for a financial screen under this paragraph, unless the
12 person is expected to become eligible for medical assistance within 6 months. A
13 resource center need not provide a functional screen for a person seeking admission
14 or about to be admitted who has received a screen for functional eligibility under s.
15 46.286 (1) (a) within the previous 6 months.

16 (h) Provide access to services under s. 46.90 and ch. 55 to a person who is
17 eligible for the services, through cooperation with the county agency or agencies that
18 provide the services.

19 (i) Assure that emergency calls to the resource center are responded to
20 promptly, 24 hours per day.

21 (5) FUNDING. From the appropriation accounts under s. 20.435 (4) (b), (bm) and
22 (pa) and (7) (b), (bd) and (md), the department may contract with organizations that
23 meet standards under sub. (3) for performance of the duties under sub. (4) and shall
24 distribute funds for services provided by resource centers.

1 **(6) GOVERNING BOARD.** A resource center shall have a governing board that
2 reflects the ethnic and economic diversity of the geographic area served by the
3 resource center. At least one-fourth of the members of the governing board shall be
4 older persons or persons with physical or developmental disabilities or their family
5 members, guardians or other advocates.

6 **(7) CONFIDENTIALITY; EXCHANGE OF INFORMATION.** No record, as defined in s. 19.32
7 (2), of a resource center that contains personally identifiable information, as defined
8 in s. 19.62 (5), concerning an individual who receives services from the resource
9 center may be disclosed by the resource center without the individual's informed
10 consent, except as follows:

11 (a) A resource center may provide information as required to comply with s.
12 16.009 (2) (p) or 49.45 (4) or as necessary for the department to administer the
13 program under ss. 46.2805 to 46.2895.

14 (b) Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06
15 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a resource center acting
16 under this section may exchange confidential information about a client, as defined
17 in s. 46.287 (1), without the informed consent of the client, under s. 46.21 (2m) (c),
18 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.284 (7), 46.2895 (10), 51.42 (3) (e) or
19 51.437 (4r) (b) in the county of the resource center, if necessary to enable the resource
20 center to perform its duties or to coordinate the delivery of services to the client.

21 **SECTION 1075.** 46.284 of the statutes is created to read:

22 **46.284 Care management organizations. (1) APPLICATION FOR CONTRACT.**

23 (a) After considering recommendations of the local long-term care council under s.
24 46.282 (3) (a) 1., a county board of supervisors and, in a county with a county

1 executive or a county administrator, the county executive or county administrator,
2 may decide all of the following:

3 1. Whether to authorize one or more county departments under s. 46.21,
4 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 (1) (a) 1. or 2. to apply to the
5 department for a contract to operate a care management organization and, if so,
6 which to authorize and what client group to serve.

7 2. Whether to create a family care district to apply to the department for a
8 contract to operate a care management organization.

9 (b) The governing body of a tribe or band or of the Great Lakes inter-tribal
10 council, inc., may decide whether to authorize a tribal agency to apply to the
11 department for a contract to operate a care management organization for tribal
12 members and, if so, which client group to serve.

13 (c) Under the requirements of par. (a), a county board of supervisors may decide
14 to apply to the department for a contract to operate a multicounty care management
15 organization in conjunction with the county board or boards of one or more other
16 counties or a county-tribal care management organization in conjunction with the
17 governing body of a tribe or band or the Great Lakes inter-tribal council, inc.

18 (d) Under the requirements of par. (b), the governing body of a tribe or band may
19 decide to apply to the department for a contract to operate a care management
20 organization in conjunction with the governing body or governing bodies of one or
21 more other tribes or bands or the Great Lakes inter-tribal council, inc., or with a
22 county board of supervisors.

23 (2) CONTRACTS. (a) The department may contract for operation of a care
24 management organization only with an entity that is certified as meeting the
25 requirements under sub. (3). No entity may operate as a care management

1 organization under the requirements of this section unless so certified and under
2 contract with the department.

3 (b) Within each county, the department shall initially contract to operate a care
4 management organization with the county or a family care district if the county
5 elects to operate a care management organization and the care management
6 organization meets the requirements of sub. (3) and performance standards
7 prescribed by the department. A county that contracts under this paragraph may
8 operate the care management organization for all of the target groups or for a
9 selected group or groups. With respect to contracts exclusively with counties to
10 operate a care management organization, all of the following apply:

11 1. Before January 1, 2003, the department may not contract with an
12 organization other than the county to operate a care management organization in
13 the county unless any of the following applies:

14 a. The county and the local long-term care council agree in writing that at least
15 one additional care management organization is necessary or desirable.

16 b. The governing body of a tribe or band or the Great Lakes inter-tribal council,
17 inc., elects to operate a care management organization within the area and is
18 certified under sub. (3).

19 2. After December 31, 2002, and before January 1, 2004, the department may
20 not contract with an organization other than the county to operate a care
21 management organization in the county unless any of the following applies:

22 a. Subdivision 1. a. or b. applies.

23 b. The county fails to meet requirements of sub. (3) and performance standards
24 prescribed by the department.

1 c. The county does not have the capacity to serve all county residents who are
2 entitled to the family care benefit in the client group or groups that the county serves
3 and cannot develop the capacity. If this subd. 2. c. applies, the department may
4 contract with an organization in addition to the county.

5 3. After December 31, 2003, the department may contract with counties, family
6 care districts, the governing body of a tribe or band or the Great Lakes inter-tribal
7 council, inc., or under a joint application of any of these, or with a private
8 organization that has no significant connection to an entity that operates a resource
9 center. Proposals for contracts under this subdivision shall be solicited under a
10 competitive sealed proposal process under s. 16.75 (2m) and, after consulting with
11 the local long-term care council for the county or counties, the department shall
12 evaluate the proposals primarily as to the quality of care that is proposed to be
13 provided, certify those applicants that meet the requirements specified in sub. (3) (a),
14 select certified applicants for contract and contract with the selected applicants.

15 **(3) CERTIFICATION; REQUIREMENTS.** (a) If an entity meets the requirements
16 under par. (b) and applicable rules of the department and submits to the department
17 an application for initial certification or certification renewal, the department shall
18 certify that the entity meets the requirements for a care management organization.
19 An application shall include comments about the applicant and recommendations
20 about the application that are provided by the appropriate local long-term care
21 council, as specified under s. 46.282 (3) (a) 3.

22 (b) To be certified as a care management organization, an applicant shall
23 demonstrate or ensure all of the following:

24 1. Adequate availability of providers with the expertise and ability to provide
25 services that are responsive to the disabilities or conditions of all of the applicant's

1 proposed enrollees and sufficient representation of programmatic philosophies and
2 cultural orientations to accommodate a variety of enrollee preferences and needs.

3 2. Adequate availability of providers that can meet the preferences and needs
4 of its proposed service recipients for services at various times, including evenings,
5 weekends and, when applicable, on a 24-hour basis.

6 3. Adequate availability of providers that are able and willing to perform all
7 of the tasks that are likely to be identified in proposed enrollees' service and care
8 plans.

9 4. Adequate availability of residential and day services that are geographically
10 accessible to proposed enrollees' homes, families or friends.

11 5. Adequate supported living arrangements of the types and sizes that meet
12 proposed enrollees' preference and needs.

13 6. Expertise in determining and meeting the needs of every target population
14 that the applicant proposes to serve and connections to the appropriate service
15 providers.

16 7. Thorough knowledge of local long-term care and other community resources.

17 8. The ability to manage and deliver, either directly or through subcontracts
18 or partnerships with other organizations, the full range of benefits to be included in
19 the monthly payment amount.

20 9. Thorough knowledge of methods for maximizing informal caregivers and
21 community resources and integrating them into a service or care plan.

22 10. Coverage for a geographic area specified by the department.

23 11. The ability to develop strong linkages with systems and services that are
24 not directly within the scope of the applicant's responsibility but that are important

1 to the target group that it proposes to serve, including primary and acute health care
2 services.

3 12. Adequate and competent staffing by qualified personnel to perform all of
4 the functions that the applicant proposes to undertake.

5 (4) DUTIES. A care management organization shall, in addition to meeting all
6 contract requirements, do all of the following:

7 (a) Accept requested enrollment of any person who is entitled to the family care
8 benefit and of any person who is eligible for the family care benefit and for whom
9 funding is available. No care management organization may disenroll any enrollee,
10 except under circumstances specified by the department by contract. No care
11 management organization may encourage any enrollee to disenroll in order to obtain
12 long-term care services under the medical assistance fee-for-service system. No
13 involuntary disenrollment is effective unless the department has reviewed and
14 approved it.

15 (b) Conduct a comprehensive assessment for each enrollee, including an
16 in-person interview with the enrollee, using a standard format developed by the
17 department.

18 (c) With the enrollee and the enrollee's family or guardian, if appropriate,
19 develop a comprehensive care plan that reflects the enrollee's values and
20 preferences.

21 (d) Provide or contract for the provision of necessary services and monitor the
22 provided or contracted services.

23 (e) Provide, within guidelines established by the department, a mechanism by
24 which an enrollee may arrange for, manage and monitor his or her family care benefit
25 directly or with the assistance of another person chosen by the enrollee. The care

1 management organization shall monitor the enrollee's use of a fixed budget for
2 purchase of services or support items from any qualified provider, monitor the health
3 and safety of the enrollee and provide assistance in management of the enrollee's
4 budget and services at a level tailored to the enrollee's need and desire for the
5 assistance.

6 (f) Provide, on a fee-for-service basis, case management services to persons
7 who are functionally eligible but not financially eligible for the family care benefit.

8 (g) Meet all performance standards required by the federal government or
9 promulgated by the department by rule.

10 (h) Submit to the department reports and data required or requested by the
11 department.

12 (i) Implement internal quality improvement and assurance processes that
13 meet standards prescribed by the department by rule.

14 (j) Cooperate with external quality assurance reviews.

15 (k) Meet departmental requirements for protection of solvency.

16 (L) Annually submit to the department an independent financial audit that
17 meets federal requirements.

18 (5) FUNDING AND RISK-SHARING. (a) From the appropriation accounts under s.
19 20.435 (4) (b), (g) and (o) and (7) (b) and (bd), the department shall provide funding
20 on a capitated payment basis for the provision of services under this section.
21 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
22 under contract with the department may expend the funds, consistent with this
23 section, including providing payment, on a capitated basis, to providers of services
24 under the family care benefit.

1 (b) If the expenditures by a care management organization under par. (a)
2 exceed payments received from the department under par. (a), as determined by the
3 department by contract, the department may share the loss with the care
4 management organization, within the limits prescribed under the contract with the
5 department.

6 (c) If the payments received from the department under par. (a) exceed the
7 expenditures by a care management organization under par. (a), as determined by
8 the department by contract, the care management organization may retain a portion
9 of the excess payments, within the limits prescribed under the contract with the
10 department, and shall return the remainder to the department.

11 (d) The department may, by contract, impose solvency protections that the
12 department determines are reasonable and necessary to retain federal financial
13 participation. These protections may include all of the following:

14 1. The requirement that a care management organization segregate a risk
15 reserve from other funds of the care management organization or the authorizing
16 body for the care management organization.

17 2. The requirement that interest accruing to the risk reserve remain in the
18 escrow account for the risk reserve.

19 3. Limitations on the distribution of funds from the risk reserve.

20 4. The requirement that a care management organization place funds in a risk
21 reserve and maintain the risk reserve in an interest-bearing escrow account with a
22 financial institution, as defined in s. 69.30 (1) (b), or invest funds as specified in s.
23 46.2895 (4) (j) 2. or 3. Moneys in the risk reserve or invested as specified in this
24 subdivision may be expended only for the provision of services under this section.
25 If a care management organization ceases participation under this section, the funds

1 in the risk reserve or invested as specified in this subdivision, minus any
2 contribution of moneys other than those specified in par. (c), shall be returned to the
3 department. The department shall expend the moneys for the payment of
4 outstanding debts to providers of family care benefit services and for the
5 continuation of family care benefit services to enrollees.

6 (e) 1. Subject to subd. 2., a care management organization may enter into
7 contracts with providers of family care benefit services and may limit profits of the
8 providers under the contracts.

9 2. The department shall review the contracts in subd. 1., including rates for the
10 provision of service, to ensure that the contract terms protect services access by
11 enrollees and financial viability of the care management organization, and may
12 require contract revision.

13 (6) GOVERNING BOARD. A care management organization shall have a governing
14 board that reflects the ethnic and economic diversity of the geographic area served
15 by the care management organization. At least one-fourth of the members of the
16 governing board shall be older persons or persons with physical or developmental
17 disabilities or their family members, guardians or other advocates who are
18 representative of the care management organization's enrollee.

19 (7) CONFIDENTIALITY; EXCHANGE OF INFORMATION. No record, as defined in s. 19.32
20 (2), of a care management organization that contains personally identifiable
21 information, as defined in s. 19.62 (5), concerning an individual who receives services
22 from the care management organization may be disclosed by the care management
23 organization without the individual's informed consent, except as follows:

1 (a) A care management organization may provide information as required to
2 comply with s. 16.009 (2) (p) or 49.45 (4) or as necessary for the department to
3 administer the program under ss. 46.2805 to 46.2895.

4 (b) Notwithstanding ss. 48.78 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06
5 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a), a care management
6 organization acting under this section may exchange confidential information about
7 a client, as defined in s. 46.287 (1), without the informed consent of the client, under
8 s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.283 (7), 46.2895 (10),
9 51.42 (3) (e) or 51.437 (4r) (b) in the county of the care management organization, if
10 necessary to enable the care management organization to perform its duties or to
11 coordinate the delivery of services to the client.

12 **SECTION 1077.** 46.285 of the statutes is created to read:

13 **46.285 Operation of resource center and care management**
14 **organization.** (1) In order to meet federal requirements and assure federal
15 financial participation in funding of the family care benefit, a county, a tribe or band,
16 a family care district or an organization, including a private, nonprofit corporation,
17 may not directly operate both a resource center and a care management
18 organization, except as follows:

19 (a) For a pilot project established under s. 46.281 (1) (d) 2., provision of the
20 services specified under s. 46.283 (3) (b), (e), (f) and (g) shall be structurally separate
21 from the provision of services of the care management organization by January 1,
22 2001.

23 (b) The department may approve separation of the functions of a resource
24 center from those of a care management organization by a means other than those
25 specified in sub. (2).

1 **(2)** Except as provided in sub. (1), all of the following apply to operation of both
2 a resource center and a care management organization:

3 (a) 1. If a county board of supervisors and, if applicable, a county executive or
4 a county administrator, elect to apply to the department for a contract to operate a
5 resource center, the county board of supervisors may create a family care district to
6 apply to the department for a contract to operate a care management organization.

7 2. If a county board of supervisors and, if applicable, a county executive or a
8 county administrator, elect to apply to the department for a contract to operate a care
9 management organization, the county board of supervisors may create a family care
10 district to apply to the department to operate a resource center.

11 (b) 1. If the governing body of a tribe or band elects to apply to the department
12 for a contract directly to operate a resource center, tribal or band members may form
13 a separate corporation to apply to the department for a contract to operate a care
14 management organization. No members of the governing board of the corporation
15 may be members of the tribal or band governing body.

16 2. If the governing body of a tribe or band elects to apply to the department for
17 a contract directly to operate a care management organization, tribal or band
18 members may form a separate corporation to apply to the department for a contract
19 to operate a resource center. No members of the governing board of the corporation
20 may be members of the tribal or band governing body.

21 (c) Any county or family care district that seeks to operate jointly with a tribe
22 or band or tribal or band corporation a care management organization or resource
23 center shall submit jointly with the tribe or band or tribal or band corporation an
24 application to the department to operate the care management organization or
25 resource center.

1 **SECTION 1078.** 46.286 of the statutes is created to read:

2 **46.286 Family care benefit. (1) ELIGIBILITY.** Except as provided in sub. (1m),
3 a person is eligible for, but not necessarily entitled to, the family care benefit if the
4 person is at least 18 years of age; has a physical disability, as defined in s. 15.197 (4)
5 (a) 2., or infirmities of aging, as defined in s. 55.01 (3); and meets all of the following
6 criteria:

7 (a) *Functional eligibility.* A person is functionally eligible if any of the following
8 applies, as determined by the department or its designee:

9 1. The person's functional capacity is at either of the following levels:

10 a. The comprehensive level, if the person has a long-term or irreversible
11 condition, expected to last at least 90 days or result in death within one year of the
12 date of application, and requires ongoing care, assistance or supervision.

13 b. The intermediate level, if the person has a condition that is expected to last
14 at least 90 days or result in death within 12 months after the date of application, and
15 is at risk of losing his or her independence or functional capacity unless he or she
16 receives assistance from others.

17 2. The person has a condition that is expected to last at least 90 days or result
18 in death within 12 months after the date of application and, on the date that the
19 family care benefit became available in the person's county of residence, the person
20 was a resident in a nursing home or had been receiving for at least 60 days, under
21 a written plan of care, long-term care services, as specified by the department, which
22 were funded under any of the following:

23 a. The long-term support community options program under s. 46.27.

24 b. Home and community-based waiver programs under 42 USC 1396n (c),
25 including community integration program under s. 46.275, 46.277 or 46.278.

1 c. The Alzheimer's family caregiver support program under s. 46.87.

2 d. Community aids under s. 46.40, if documented by the county under a method
3 prescribed by the department.

4 e. County funding, if documented by the county under a method prescribed by
5 the department.

6 (b) *Financial eligibility*. A person is financially eligible if all of the following
7 apply:

8 1. As determined by the department or its designee, either of the following
9 applies:

10 a. The person would qualify for medical assistance except for financial or
11 disability criteria, and the projected cost of the person's care plan, as calculated by
12 the department or its designee, exceeds the person's gross monthly income, plus
13 one-twelfth of his or her countable assets, less deductions and allowances permitted
14 by rule by the department.

15 b. The person is eligible under ch. 49 for medical assistance.

16 2. If subd. 1. b. applies, the person accepts medical assistance unless he or she
17 is exempt from the acceptance under rules promulgated by the department.

18 **(1m) ELIGIBILITY EXCEPTION.** A person whose primary disabling condition is
19 developmental disability is eligible for the family care benefit if the person is a
20 resident of a county or is a member of a tribe or band that has operated, before July
21 1, 2001, a care management organization under s. 46.281 (1) (d) and meets all other
22 eligibility criteria under this subsection.

23 **(2) COST SHARING.** (a) A person who is determined to be financially eligible
24 under sub. (1) (b) shall contribute to the cost of his or her care an amount that is
25 calculated by the department or its designee after subtracting from the person's

1 gross income, plus one-twelfth of countable assets, the deductions and allowances
2 permitted by the department by rule.

3 (b) Funds received under par. (a) shall be used by a care management
4 organization to pay for services under the family care benefit.

5 (c) A person who is required to contribute to the cost of his or her care but who
6 fails to make the required contributions is ineligible for the family care benefit unless
7 he or she is exempt from the requirement under rules promulgated by the
8 department.

9 **(3) ENTITLEMENT.** (a) Subject to pars. (c) and (d), a person is entitled to and may
10 receive the family care benefit through enrollment in a care management
11 organization if he or she meets the requirements of sub. (1) (intro.), is financially
12 eligible, fulfills any applicable cost-sharing requirements and meets any of the
13 following criteria:

14 1. Is functionally eligible at the comprehensive level.

15 2. Is functionally eligible at the intermediate level and is eligible under sub. (1)

16 (b) 1. b.

17 3. Is functionally eligible at the intermediate level and is determined by an
18 agency under s. 46.90(2) or specified in s. 55.05(1t) to be in need of protective services
19 under s. 55.05 or protective placement under s. 55.06.

20 4. Is functionally eligible under sub. (1) (a) 2.

21 5. Is eligible under sub. (1m).

22 (b) An entitled individual who is enrolled in a care management organization
23 may not be involuntarily disenrolled except as follows:

24 1. For cause, subject to the requirements of s. 46.284 (4) (a).

1 2. If the contract between the care management organization and the
2 department is canceled or not renewed. If this circumstance occurs, the department
3 shall assure that enrollees continue to receive needed services through another care
4 management organization or through the medical assistance fee-for-service system
5 or any of the programs specified under sub. (1) (a) 2. a. to d.

6 3. The department or its designee determines that the person no longer meets
7 eligibility criteria under sub. (1).

8 (c) Within each county and for each client group, par. (a) shall first apply on the
9 effective date of a contract under which a care management organization accepts a
10 per person per month payment to provide services under the family care benefit to
11 eligible persons in that client group in the county. Within 24 months after this date,
12 the department shall assure that sufficient capacity exists within one or more care
13 management organizations to provide the family care benefit to all entitled persons
14 in that client group in the county.

15 (d) The department shall determine the date, which shall not be later than July
16 1, 2000, on which par. (a) shall first apply to persons who are not eligible for medical
17 assistance under ch. 49.

18 (4) DIVESTMENT; RULES. The department shall promulgate rules relating to
19 prohibitions on divestment of assets of persons who receive the family care benefit,
20 that are substantially similar to applicable provisions under s. 49.453.

21 (5) TREATMENT OF TRUST AMOUNTS; RULES. The department shall promulgate
22 rules relating to treatment of trust amounts of persons who receive the family care
23 benefit, that are substantially similar to applicable provisions under s. 49.454.

24 (6) PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE OF
25 COMMUNITY SPOUSE; RULES. The department shall promulgate rules relating to

1 protection of income and resources of couples for the maintenance of the spouse in
2 the community with regard to persons who receive the family care benefit, that are
3 substantially similar to applicable provisions under s. 49.455.

4 (7) RECOVERY OF FAMILY CARE BENEFIT PAYMENTS; RULES. The department shall
5 promulgate rules relating to the recovery from persons who receive the family care
6 benefit, including by liens and from estates, of correctly and incorrectly paid family
7 care benefits, that are substantially similar to applicable provisions under ss. 49.496
8 and 49.497.

9 **SECTION 1079.** 46.287 of the statutes is created to read:

10 **46.287 Hearings.** (1) DEFINITION. In this section, “client” means a person
11 applying for eligibility for the family care benefit, an eligible person or an enrollee.

12 (2) HEARING. (a) 1. Except as provided in subd. 2., a client may contest any of
13 the following applicable matters by filing, within 45 days of the failure of a resource
14 center or care management organization to act on the contested matter within the
15 time frames specified by rule by the department or within 45 days after receipt of
16 notice of a decision in a contested matter, a written request for a hearing under s.
17 227.44 to the division of hearings and appeals created under s. 15.103 (1):

18 a. Denial of eligibility under s. 46.286 (1) or (1m).

19 b. Determination of cost sharing under s. 46.286 (2).

20 c. Denial of entitlement under s. 46.286 (3).

21 d. Failure to provide timely services and support items that are included in the
22 plan of care.

23 e. Reduction of services or support items under the family care benefit.

24 f. Development of a plan of care that is unacceptable because the plan of care
25 requires the enrollee to live in a place that is unacceptable to the enrollee or the plan

1 of care provides care, treatment or support items that are insufficient to meet the
2 enrollee's needs, are unnecessarily restrictive or are unwanted by the enrollee.

3 g. Termination of the family care benefit.

4 h. Imposition of ineligibility for the family care benefit under s. 46.286 (4).

5 i. Denial of eligibility or reduction of the amounts of the family care benefit
6 under s. 46.286 (5).

7 j. Determinations similar to those specified under s. 49.455 (8) (a), made under
8 s. 46.286 (6).

9 k. Recovery of family care benefit payments under s. 46.286 (7).

10 2. An applicant for or recipient of medical assistance is not entitled to a hearing
11 concerning the identical dispute or matter under both this section and 42 CFR
12 431.200 to 431.246.

13 (b) An enrollee may contest a decision, omission or action of a care management
14 organization other than those specified in par. (a), or may contest the choice of service
15 provider. In these instances, the enrollee shall first send a written request for review
16 by the unit of the department that monitors care management organization
17 contracts. This unit shall review and attempt to resolve the dispute. If the dispute
18 is not resolved to the satisfaction of the enrollee, he or she may request a hearing
19 under the procedures specified in par. (a) 1. (intro.).

20 (c) Information regarding the availability of advocacy services and notice of
21 adverse actions taken and appeal rights shall be provided to a client by the resource
22 center or care management organization in a form and manner that is prescribed by
23 the department by rule.

24 **SECTION 1080.** 46.288 of the statutes is created to read:

1 **46.288 Rule-making.** The department shall promulgate as rules all of the
2 following:

3 (1) Standards for performance by resource centers and for certification of care
4 management organizations, including requirements for maintaining quality
5 assurance and quality improvement.

6 (2) Criteria and procedures for determining functional eligibility under s.
7 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), cost sharing under s. 46.286
8 (2) (a) and entitlement under s. 46.286 (3). The rules for determining functional
9 eligibility under s. 46.286 (1) (a) 1. a. shall be substantially similar to eligibility
10 criteria for receipt of the long-term support community options program under s.
11 46.27. Rules under this subsection shall include definitions of the following terms
12 applicable to s. 46.286:

13 (a) “Primary disabling condition”.

14 (b) “Mental illness”.

15 (c) “Substance abuse”.

16 (d) “Long-term or irreversible”.

17 (e) “Requires ongoing care, assistance or supervision”.

18 (f) “Condition that is expected to last at least 90 days or result in death within
19 one year”.

20 (g) “At risk of losing independence or functional capacity”.

21 (h) “Gross monthly income”.

22 (i) “Deductions and allowances”.

23 (j) “Countable assets”.

1 **(3)** Procedures and standards for procedures for s. 46.287 (2), including time
2 frames for action by a resource center or a care management organization on a
3 contested matter.

4 **SECTION 1081.** 46.289 of the statutes is created to read:

5 **46.289 Transition.** In order to facilitate the transition to the long-term care
6 system specified in ss. 46.2805 to 46.2895, within the limits of applicable federal
7 statutes and regulations and if the secretary of health and family services finds it
8 necessary, he or she may grant a county limited waivers to or exemptions from ss.
9 46.27 (3) (e) (intro.), 1. and 2. and (f), (5) (d) and (e), (6) (a) 1., 2. and 3. and (b) (intro.),
10 1. and 2., (6r) (c), (7) (b), (cj) and (cm) and (11) (c) 5m. (intro.) and 6. and 46.277 (3)
11 (a), (4) (a) and (5) (d) 1m., 1n. and 2. and rules promulgated under those provisions.

12 **SECTION 1082.** 46.2895 of the statutes is created to read:

13 **46.2895 Family care district. (1) CREATION.** (a) After considering
14 recommendations of the local long-term care council under s. 46.282 (3) (a) 1., a
15 county board of supervisors may create a special purpose district that is termed a
16 “family care district”, that is a local unit of government, that is separate and distinct
17 from, and independent of, the state and the county, and that has the powers and
18 duties specified in this section, if the county board does all of the following:

19 1. Adopts an enabling resolution that does all of the following:
20 a. Declares the need for establishing the family care district.
21 b. Specifies the family care district’s primary purpose, which shall be to
22 operate, under contract with the department, either a resource center under s.
23 46.283 or a care management organization under s. 46.284, but not both.

24 2. Files copies of the enabling resolution with the secretary of administration,
25 the secretary of health and family services and the secretary of revenue.

1 (b) The county boards of supervisors of 2 or more counties may together create
2 a family care district with the attributes specified in par. (a) (intro.) on a multicounty
3 basis within the counties if the county boards of supervisors comply with the
4 requirements of par. (a) 1. and 2.

5 **(2) JURISDICTION.** A family care district's jurisdiction is the geographical area
6 of the county or counties of the county board or boards of supervisors who created the
7 family care district.

8 **(3) FAMILY CARE DISTRICT BOARD.** (a) 1. The county board of supervisors of a
9 county or, in a county with a county administrator or county executive, the county
10 administrator or county executive shall appoint the members of the family care
11 district board, which is the governing board of a family care district under sub. (1)
12 (a).

13 2. The county boards of supervisors of 2 or more counties shall appoint the
14 members of the family care district board, which is the governing board of the family
15 care district under sub. (1)(b). Each county board shall appoint members in the same
16 proportion that the county's population represents to the total population of all of the
17 counties that constitute the jurisdiction of the family care district.

18 (b) 1. The family care district board appointed under par. (a) 1. shall consist of
19 15 persons who are residents of the area of jurisdiction of the family care district.
20 At least one-fourth of the members shall be representative of the client group or
21 groups whom it is the family care district's primary purpose to serve or those clients'
22 family members, guardians or other advocates.

23 2. The family care district board appointed under par. (a) 2. shall consist of an
24 odd number of members that is at least 15 but not more than 21 persons, all of whom
25 are residents of the area of jurisdiction of the family care district. At least one-fourth

1 of the members shall be representative of the client group or groups whom it is the
2 family care district's primary purpose to serve or those clients' family members,
3 guardians or other advocates.

4 3. Membership of the family care district board under subd. 1. or 2. shall reflect
5 the ethnic and economic diversity of the area of jurisdiction of the family care district.
6 Up to one-fourth of the members of the board may be elected or appointed officials
7 or employes of the county or counties that created the family care district. No
8 member of the board may have a private financial interest in or profit directly or
9 indirectly from any contract or other business of the family care district.

10 (c) The members of the family care district board appointed under par. (a) shall
11 serve 3-year terms. No member may serve more than 2 consecutive terms. Of the
12 members first appointed, 5 shall be appointed for 3 years; 5 shall be appointed for
13 4 years; and 5 or, in the case of a board appointed under par. (b) 2., the remainder,
14 shall be appointed for 5 years. A member shall serve until his or her successor is
15 appointed, unless removed for cause under s. 17.13.

16 (d) As soon as possible after the appointment of the initial members of the
17 family care district board, the board shall organize for the transaction of business
18 and elect a chairperson and other necessary officers. Each chairperson shall be
19 elected by the board from time to time for the term of that chairperson's office as a
20 member of the board or for the term of 3 years, whichever is shorter, and shall be
21 eligible for reelection. A majority of the board shall constitute a quorum. The board
22 may act based on the affirmative vote of a majority of a quorum.

23 (4) POWERS. Subject to sub. (1)(a) 1. b., a family care district has all the powers
24 necessary or convenient to carry out the purposes and provisions of ss. 46.2805 to

1 46.2895. In addition to all these powers, a family care district may do all of the
2 following:

3 (a) Adopt and alter, at pleasure, an official seal.

4 (b) Adopt bylaws and policies and procedures for the regulation of its affairs
5 and the conduct of its business. The bylaws, policies and procedures shall be
6 consistent with ss. 46.2085 to 46.2895 and, if the family care district contracts with
7 the department under par. (d), with the terms of that contract.

8 (c) Sue and be sued.

9 (d) Negotiate and enter into leases or contracts, including a contract with the
10 department to operate either a resource center or a portion of its functions under s.
11 46.283 or a care management organization under s. 46.284, but not both a resource
12 center or its functions and a care management organization.

13 (e) Provide services related to services available under the family care benefit,
14 to older persons and persons with disabilities, in addition to the services funded
15 under the contract with the department that is specified under par. (d).

16 (f) Acquire, construct, equip, maintain, improve or manage a resource center
17 under s. 46.283 or a care management organization under s. 46.284, but not both.

18 (g) Subject to sub. (8), employ any agent, employe or special adviser that the
19 family care district finds necessary, fix and regulate his or her compensation and
20 provide, either directly or subject to an agreement under s. 66.30 as a participant in
21 a benefit plan of another governmental entity, any employe benefits, including an
22 employe pension plan.

23 (h) Mortgage, pledge or otherwise encumber the family care district's property
24 or funds.

1 (i) Buy, sell or lease property, including real estate, and maintain or dispose of
2 the property.

3 (j) Invest any funds not required for immediate disbursement in any of the
4 following:

5 1. An interest-bearing escrow account with a financial institution, as defined
6 in s. 69.30 (1) (b).

7 2. Time deposits in any financial institution, as defined in s. 69.30 (1) (b), if the
8 time deposits mature in not more than 2 years.

9 3. Bonds or securities issued or guaranteed as to principal and interest by the
10 federal government or by a commission, board or other instrumentality of the federal
11 government.

12 (k) Create a risk reserve or other special reserve as the family care district
13 board desires or as the department requires under the contract with the department
14 that is specified under par. (d).

15 (L) Accept aid, including loans, to accomplish the purpose of the family care
16 district from any local, state or federal governmental agency or accept gifts, loans,
17 grants or bequests from individuals or entities, if the conditions under which the aid,
18 loan, gift, grant or bequest is furnished are not in conflict with this section.

19 (m) Make and execute other instruments necessary or convenient to exercise
20 the powers of the family care district.

21 **(5) LIMITATION ON POWERS.** A family care district may not issue bonds or levy
22 a tax or assessment.

23 **(6) DUTIES.** The family care district board shall do all of the following:

24 (a) Appoint a director, who shall hold office at the pleasure of the board.

1 (b) Subject to sub. (8), develop and implement a personnel structure and other
2 employment policies for employees of the family care district.

3 (c) Assure compliance with the terms of any contract with the department
4 under sub. (4) (d).

5 (d) Establish a fiscal operating year and annually adopt a budget for the family
6 care district.

7 (e) Contract for any legal services required for the family care district.

8 (f) Subject to sub. (8), procure liability insurance covering its officers, employees
9 and agents, insurance against any loss in connection with its property and other
10 assets and other necessary insurance; establish and administer a plan of
11 self-insurance; or, subject to an agreement under s. 66.30, participate in a
12 governmental plan of insurance or self-insurance.

13 (7) DIRECTOR; DUTIES. The director appointed under sub. (6) (a) shall do all of
14 the following:

15 (a) Manage the property and business of the family care district and manage
16 the employees of the district, subject to the general control of the family care district
17 board.

18 (b) Comply with the bylaws and direct enforcement of all policies and
19 procedures adopted by the family care district board.

20 (c) Perform duties in addition to those specified in pars. (a) and (b) as are
21 prescribed by the family care district board.

22 (8) EMPLOYMENT AND EMPLOYEE BENEFITS OF CERTAIN EMPLOYEES. (a) A family care
23 district board shall do all of the following:

24 1. If the family care district offers employment to any individual who was
25 previously employed by the county, who while employed by the county performed

1 duties relating to the same or a substantially similar function for which the
2 individual is offered employment by the district and whose wages, hours and
3 conditions of employment were established in a collective bargaining agreement
4 with the county under subch. IV of ch. 111 that is in effect on the date that the
5 individual commences employment with the district, with respect to that individual,
6 abide by the terms of the collective bargaining agreement concerning the individual's
7 compensation and benefits until the time of the expiration of that collective
8 bargaining agreement or adoption of a collective bargaining agreement with the
9 district under subch. IV of ch. 111 covering the individual as an employe of the
10 district, whichever occurs first.

11 2. If the family care district offers employment to any individual who was
12 previously employed by the county and who while employed by the county performed
13 duties relating to the same or a substantially similar function for which the
14 individual is offered employment by the district, but whose wages, hours and
15 conditions of employment were not established in a collective bargaining agreement
16 with the county under subch. IV of ch. 111 that is in effect on the date the individual
17 commences employment with the district, with respect to that individual, initially
18 provide that individual the same compensation and benefits that he or she received
19 while employed by the county.

20 3. If the family care district offers employment to any individual who was
21 previously employed by the county and who while employed by the county performed
22 duties relating to the same or a substantially similar function for which the
23 individual is offered employment by the district, with respect to that individual,
24 recognize all years of service with the county for any benefit provided or program

1 operated by the district for which an employe's years of service may affect the
2 provision of the benefit or the operation of the program.

3 4. If the county has not established its own retirement system for county
4 employes, adopt a resolution that the family care district be included within the
5 provisions of the Wisconsin retirement system under s. 40.21 (1). In this resolution,
6 the family care district shall agree to recognize 100% of the prior creditable service
7 of its employes earned by the employes while employed by the district.

8 (b) The county board of supervisors of the area of jurisdiction of the family care
9 district shall do all of the following:

10 1. If the county has established its own retirement system for county employes,
11 provide that family care district employes are eligible to participate in the county
12 retirement system.

13 2. Provide that, subject to the terms of any applicable collective bargaining
14 agreement as provided in par. (a) 1., family care district employes are eligible to
15 receive health care coverage under any county health insurance plan that is offered
16 to county employes.

17 3. Provide that, subject to the terms of any applicable collective bargaining
18 agreement as provided in par. (a) 1., family care district employes are eligible to
19 participate in any deferred compensation or other benefit plan offered by the county
20 to county employes, including disability and long-term care insurance coverage and
21 income continuation insurance coverage.

22 (9) CONFIDENTIALITY OF RECORDS. No record, as defined in s. 19.32 (2), of a family
23 care district that contains personally identifiable information, as defined in s. 19.62
24 (5), concerning an individual who receives services from the family care district may

1 be disclosed by the family care district without the individual's informed consent,
2 except as required to comply with s. 16.009 (2) (p) or 49.45 (4).

3 **(10) EXCHANGE OF INFORMATION.** Notwithstanding sub. (9) and ss. 48.78 (2) (a),
4 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c)
5 and 938.78 (2) (a), a family care district acting under this section may exchange
6 confidential information about a client, as defined in s. 46.287 (1), without the
7 informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm),
8 46.23 (3) (e), 46.283 (7), 46.284 (7), 51.42 (3) (e) or 51.437 (4r) (b) in the jurisdiction
9 of the family care district, if necessary to enable the family care district to perform
10 its duties or to coordinate the delivery of services to the client.

11 **(11) OBLIGATIONS AND DEBTS NOT THOSE OF COUNTY.** The obligations and debts
12 of the family care district are not the obligations or debts of the county that created
13 the family care district.

14 **(12) ASSISTANCE TO FAMILY CARE DISTRICT.** From moneys in the county treasury
15 that are not appropriated to some other purpose, the county board of supervisors
16 under sub. (1) (a) or the county boards of supervisors under sub. (1) (b) may
17 appropriate moneys to the family care district as a gift or may lend moneys to the
18 family care district.

19 **(13) DISSOLUTION.** Subject to the performance of the contractual obligations of
20 a family care district and if first approved by the secretary of the department, the
21 family care district may be dissolved by the joint action of the family care district
22 board and county board of supervisors under sub. (1) (a) or the county boards of
23 supervisors under sub. (1) (b) that created the family care district. If the family care
24 district is dissolved, the property of the district shall be transferred to the county
25 board of supervisors that created the family care district except as follows:

1 (a) If the family care district was created under sub. (1) (b), the county boards
2 of supervisors shall agree on the apportioning of the family care district's property
3 before the district may be dissolved.

4 (b) If the family care district operates a care management organization under
5 s. 46.284, disposition of any remaining funds in the risk reserve under s. 46.284 (5)
6 (e) shall be made under the terms of the district's contract with the department.

7 **SECTION 1083.** 46.29 (1) (intro.) of the statutes is amended to read:

8 46.29 (1) (intro.) From the appropriation under s. 20.435 (6) ~~(d)~~ (a), the
9 department shall allocate up to \$10,000 in each fiscal year for operation of the council
10 on physical disabilities. The council on physical disabilities shall do all of the
11 following:

12 **SECTION 1084.** 46.40 (1) (a) of the statutes is amended to read:

13 46.40 (1) (a) Within the limits of available federal funds and of the
14 appropriations under s. 20.435 (3) (o) and (7) (b), (kw) and (o), the department shall
15 distribute funds for community social, mental health, developmental disabilities and
16 alcohol and other drug abuse services and for services under ss. 46.51, 46.87, 46.985
17 and 51.421 to county departments under ss. 46.215, 46.22, 46.23, 51.42 and 51.437
18 and to county aging units, as provided in subs. (2), (2m) and (7) to ~~(8)~~ (9).

19 **SECTION 1086.** 46.40 (2) of the statutes is amended to read:

20 46.40 (2) BASIC COUNTY ALLOCATION. ~~For~~ Subject to sub. (9), for social services
21 under s. 46.495 (1) (d) and services under s. 51.423 (2), the department shall
22 distribute not more than ~~\$285,081,000~~ \$284,978,800 for fiscal year ~~1997-98~~
23 1999-2000 and ~~\$284,948,500~~ \$285,511,800 for fiscal year ~~1998-99~~ 2000-01.

24 **SECTION 1087.** 46.40 (2m) (a) of the statutes is amended to read:

1 46.40 (2m) (a) *Prevention and treatment of substance abuse.* For prevention
2 and treatment of substance abuse under 42 USC 300x-21 to 300x-35, the
3 department shall distribute not more than ~~\$10,493,900 in fiscal year 1997-98 and~~
4 ~~not more than \$10,224,100 in fiscal year 1998-99~~ \$11,318,700 in each fiscal year.

5 **SECTION 1088.** 46.40 (8) of the statutes is amended to read:

6 46.40 (8) ALZHEIMER'S FAMILY AND CAREGIVER SUPPORT ALLOCATION. ~~For~~ Subject
7 to sub. (9), for services to persons with Alzheimer's disease and their caregivers
8 under s. 46.87, the department shall distribute not more than ~~\$1,877,000 for each~~
9 ~~fiscal year~~ \$1,993,400 for fiscal year 1999-2000 and \$2,226,300 for fiscal year
10 2000-01.

11 **SECTION 1089.** 46.40 (9) of the statutes is created to read:

12 46.40 (9) TRANSFER OR ADJUSTMENT OF COMMUNITY AIDS ALLOCATIONS. (a)
13 *Transfer to family care program and adult protective services allocation.* If a care
14 management organization under s. 46.285 is available in a county, the department
15 may dispose of the amount allocated under sub. (8) to that county and not more than
16 21.3% of the amount allocated under sub. (2) to that county as follows:

17 1. By transferring a portion of those amounts, as determined by the
18 department, to the family care program to fund the services of resource centers under
19 s. 46.283 (5) and the services of care management organizations under s. 46.284 (4).

20 2. By transferring a portion of those amounts, as determined by the
21 department, to the county's adult protective services allocation under par. (b).

22 (b) *Adult protective services allocation.* For adult protective services, the
23 department shall distribute the amounts transferred under par. (a) 2. in each fiscal
24 year.

1 (c) *Adjustment for medical assistance buy-in program.* If a former recipient of
2 services funded under the allocation under sub. (2) is a participant in the medical
3 assistance buy-in program under s. 49.472, the department may decrease that
4 allocation by the amount that the department estimates it will incur in providing
5 services to that participant under s. 49.472.

6 **SECTION 1091d.** 46.45 (2) (a) of the statutes is amended to read:

7 46.45 (2) (a) If on December 31 of any year there remains unspent or
8 unencumbered in the allocation under s. 46.40 (2) an amount that exceeds the
9 amount received under 42 USC 670 to 679a and allocated under s. 46.40 (2) in that
10 year, the department shall carry forward the excess moneys and distribute not less
11 than 50% of the excess moneys to counties having a population of less than 500,000
12 that are making a good faith effort, as determined by the department, to comply with
13 s. 46.22 (1) (c) 8. f. for services and projects to assist children and families,
14 notwithstanding the percentage limit specified in sub. (3) (a). A county shall use not
15 less than 50% of the moneys distributed to the county under this subsection for
16 services for children who are at risk of abuse or neglect to prevent the need for child
17 abuse and neglect intervention services. If a county does not comply with s. 46.22
18 (1) (c) 8. f. before July 1, 2005, the department may recover any amounts distributed
19 to that county under this paragraph after June 30, 2001, by billing the county or
20 deducting from that county's allocation under s. 46.40 (2).

21 **SECTION 1091k.** 46.46 (1) of the statutes is amended to read:

22 46.46 (1) The department shall perform activities to augment the amount of
23 moneys received under 42 USC 670 to 679a, 42 USC 1395 to 1395ddd and 42 USC
24 1396 to 1396v. The department shall perform those income augmentation activities
25 itself and may not contract with any person to perform those income augmentation

1 activities. From the appropriation account under s. 20.435 (8) (mb), the department
2 shall support costs that are exclusively related to the operational costs of
3 ~~augmenting the amount of moneys received under 42 USC 670 to 679a, 42 USC 1395~~
4 ~~to 1395ddd and 42 USC 1396 to 1396v~~ performing those income augmentation
5 activities. In addition, the department may expend moneys from the appropriation
6 account under s. 20.435 (8) (mb) as provided in sub. (2).

7 **SECTION 1091m.** 46.46 (2) of the statutes is amended to read:

8 46.46 (2) If the department proposes to use any moneys from the appropriation
9 account under s. 20.435 (8) (mb) for any purpose other than the purpose specified in
10 sub. (1), the department shall submit a plan for the proposed use of those moneys to
11 the secretary of administration by September 1 of the fiscal year after the fiscal year
12 in which those moneys were received. If the secretary of administration approves the
13 plan, he or she shall submit the plan to the joint committee on finance by October 1
14 of the fiscal year after the fiscal year in which those moneys were received. If the
15 cochairpersons of the committee do not notify the secretary of administration within
16 14 working days after the date of submittal of the plan that the committee has
17 scheduled a meeting for the purpose of reviewing the plan, the department may
18 implement the plan. If within 14 working days after the date of the submittal by the
19 secretary of administration the cochairpersons of the committee notify him or her
20 that the committee has scheduled a meeting for the purpose of reviewing the plan,
21 the department may implement the plan only with the approval of the committee.

22 **SECTION 1092d.** 46.47 of the statutes is repealed.

23 **SECTION 1093.** 46.48 (3) of the statutes is renumbered 46.481 (1).

24 **SECTION 1094.** 46.48 (6) of the statutes is amended to read: