



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0030/P2
DAK&TAY.....

DOA:.....Fossum - Long-term care redesign

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

*Working copy only
DAK: See this hard copy for
any restoration of language about
local long-term care councils, st
council, ~~st~~ client rights
also X ref changes*

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided for a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 15.07 (2) (k) of the statutes is created to read:

3 15.07 (2) (k) The chairperson of the council on long-term care shall be
4 designated ~~every 8 years~~ by the governor.

SECTION 1. RP; 15.07(2)(K)

5 SECTION 2. 15.105 (10) of the statutes is amended to read:

6 15.105 (10) BOARD ON AGING AND LONG-TERM CARE. There is created a board on
7 aging and long-term care, attached to the department of administration under s.
8 15.03. The board shall consist of 7 9 members appointed for staggered 5-year terms.
9 Members shall have demonstrated a continuing interest in the problems of providing

SECTION 2

1 long-term care for the aged or disabled. ~~At least 4~~ All members shall be public
2 members with no interest in or affiliation with any nursing home. At least 5
3 members shall be persons aged 65 or older or persons with physical or developmental
4 disabilities or their family members, guardians or other advocates.

History: 1971 c. 40, 164, 270; 1973 c. 90, 333; 1975 c. 397; 1977 c. 29 s. 1649; 1977 c. 196 ss. 9, 10; 1977 c. 325, 392, 396, 418, 447; 1981 c. 20, 62, 182, 350, 374; 1983 a. 27, 91; 1983 a. 192 s. 303 (7); 1983 a. 371; 1985 a. 29 ss. 68 to 70, 87, 3202 (27); 1985 a. 180 s. 30m; 1987 a. 27, 142; 1987 a. 147 s. 25; 1987 a. 204, 342; 1989 a. 31, 56, 107, 345; 1991 a. 212, 269; 1993 a. 75, 246, 349, 437, 465, 491; 1995 a. 27 ss. 79 to 118p, 9116 (5), 9126 (19); 1995 a. 221, 225; 1997 a. 3, 27, 247.

****NOTE: Does the requirement for all members to be public members conflict with any current membership of the board on aging and long-term care?

5 SECTION 3. 15.197 (5) of the statutes is created to read:

6 15.197 (5) COUNCIL ON LONG-TERM CARE. There is created in the department of
7 health and family services a council on long-term care, which shall consist of ~~25~~ 15
8 members, ~~appointed for 3-year terms. No member may serve more than 2~~
9 ~~consecutive terms.~~

****NOTE: I did not include "appointed by the governor", since s. 15.09 (1), stats., grants that power.

SECTION RP; 15.197 (5)

10 SECTION 4. 16.009 (2) (b) 1. of the statutes is amended to read:

11 16.009 (2) (b) 1. Investigate complaints from any person concerning improper
12 conditions or treatment of aged or disabled persons who receive care in a long-term
13 care facility or concerning noncompliance with or improper administration of federal
14 statutes or regulations or state statutes or rules related to long-term care ~~for the~~
15 aged or disabled facilities.

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131.

16 SECTION 5. 16.009 (2) (b) 2. of the statutes is amended to read:

17 16.009 (2) (b) 2. Serve as mediator or advocate to resolve any problem or dispute
18 relating to ~~long-term~~ care for the aged or disabled in long-term care facilities.

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131.

19 SECTION 6. 16.009 (2) (d) of the statutes is amended to read:

1 16.009 (2) (d) Promote public education, planning and voluntary acts to resolve
2 problems and improve conditions involving ~~long-term~~ care for the aged or disabled
3 in long-term care facilities.

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131.

4 **SECTION 7.** 16.009 (2) (e) of the statutes is amended to read:

5 16.009 (2) (e) Monitor the development and implementation of federal, state
6 and local laws, regulations, rules, ordinances and policies that relate to long-term
7 care facilities ~~for the aged or disabled.~~

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131.

8 ~~**SECTION 8.** 16.009 (2) (em) of the statutes is repealed.~~

9 **SECTION 9.** 16.009 (2) (g) of the statutes is amended to read:

10 16.009 (2) (g) Stimulate resident, client and provider participation in the
11 development of programs and procedures involving resident rights and long-term
12 care facility responsibilities, by establishing resident councils and by other means.

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131.

13 **SECTION 10.** 16.009 (2) (h) of the statutes is amended to read:

14 16.009 (2) (h) Conduct statewide hearings on issues of concern to aged or
15 disabled persons who are receiving or who may receive care in a long-term care
16 facility.

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131.

17 **SECTION 11.** 16.009 (2) (i) of the statutes is amended to read:

18 16.009 (2) (i) Report annually to ~~the governor and the chief clerk of each house~~
19 ~~of the legislature for distribution to the appropriate standing committees of the~~
20 legislature under s. 13.172 (3) and to the governor. The report shall set forth the
21 scope of the programs developed in the state for providing ~~long-term~~ care for the
22 aged or disabled ~~developed in the state~~ in long-term care facilities, findings
23 regarding the state's activities ~~in the field of~~ related to long-term care facilities for

1 the aged and disabled, recommendations for a more effective and efficient total
2 program and the actions taken by the agencies of the state to carry out the board's
3 recommendations.

History: 1981 c. 20; 1983 a. 524; 1985 a. 29; 1987 a. 27; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 16, 205; 1995 a. 27 s. 9126 (19); 1997 a. 131.

4 **SECTION 12. 16.009 (2) (p) of the statutes is created to read:**

5 16.009 (2) (p) Contract with one or more organizations to provide advocacy
6 services to potential or actual recipients of the family care benefit, as defined under
7 s. 46.28 (4) or their families or guardians. The board and contract organizations
8 under this paragraph shall assist these persons in protecting their rights under all
9 applicable federal statutes and regulations and state statutes and rules. An
10 organizations with which the board contracts for these services may not be a
11 provider, nor an affiliate of a provider, of long-term care services, a resource center
12 under s. 46.283 or a care management organization under s. 46.284. Advocacy
13 services include all of the following:

14 1. Providing information, technical assistance and training for consumers of
15 long-term care services about how to obtain the services or support items.

16 2. Providing advice and assistance in preparing and filing complaints,
17 grievances and appeals of complaints or grievances.

18 3. Providing negotiation and mediation on behalf of consumers of long-term
19 care services.

20 4. Assuring the availability of and consulting with legal backup services for
21 appropriate interpretation of statutes, rules or regulations.

***NOTE: What does "assuring the availability of" mean?

22 5. Providing representation for consumers of long-term care services in
23 administrative hearings and judicial proceedings.

****NOTE: This language would appear to require the services of attorneys; is that contemplated? If so, I understand even less what subd. 4. means.

SECTION 13. 20.435 (7) (ip) of the statutes is created to read:

20.435 (7) (ip) *Family care benefit; recovery of costs of care.* All moneys received from the recovery of costs of care under ss. 46.28⁶ (6) and 867.035, for payments to

***** for provision of the family care benefit as ~~provided in~~ ^{under} s. 46.28⁶ (6) (d). ^{Hb. 284 (4)}

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

****NOTE: The wording of this appropriation is dependent on decisions relating to s. 46.28⁶ (6) (c) and (d); please see s. 20.435 (7) (im), stats., which I used as a model.

SECTION 14. 20.435 (7) (bd) of the statutes is amended to read:

20.435 (7) (bd) *Community options program and long-term support pilot projects.* The amounts in the schedule for assessments, case planning, services and administration and risk reserve escrow accounts under s. 46.27 and for pilot projects under s. 46.271 (1), and the amounts carried forward under 1997 Wisconsin Act 27, section 9123 (2), for the pilot project under s. 46.271 (2m). If the department transfers funds to this appropriation from the appropriation account under sub. (5) (b), the amounts in the schedule for the fiscal year for which the transfer is made are increased by the amount of the transfer for the purposes specified in s. 49.45 (6v). Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may under this paragraph transfer moneys between fiscal years. Except for moneys authorized for transfer under this appropriation, under s. 46.27 (7) (fm) or (g) or under 1997 Wisconsin Act 27, section 9123 (2), all moneys under this appropriation that are allocated under s. 46.27 and are not spent or encumbered by counties or by the department by December 31 of each year shall lapse to the general fund on the

SECTION . CR; 20.435 (4) (g)

upon the creation of s. 20.435 (4) in 99-0028. If 99-0028 is not included in the budget bill, this approp. must be renumbered.

SECTION . AM; 20.435 (5) (b)
(5) (p)
(5) (o)
(7) (b)
(7) (bd)

1 succeeding January 1 unless transferred to the next calendar year by the joint
2 committee on finance.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (e); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293.

INSERT
6-3

3 **SECTION 15.** 46.27 (2) (k) of the statutes is created to read:

4 46.27 (2) (k) Review and approve or disapprove the terms of risk reserve escrow
5 accounts created under sub. (7) (fr) and approve or disapprove disbursements for
6 administrative or staff costs from the risk reserve escrow accounts.

7 **SECTION 16.** 46.27 (4) (a) (intro.) of the statutes is amended to read:

8 46.27 (4) (a) (intro.) The Except as provided in par. (am), the county board of
9 supervisors shall select the county long-term support planning committee, which
10 shall include at a minimum the following members:

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79.

11 **SECTION 17.** ~~46.27 (4) (am) of the statutes is created to read:~~

12 ~~46.27 (4) (am) If a local long-term care council in a county assumes under s.~~
13 ~~46.282 (2) (b) 2. the duties of the county long-term support planning committee~~
14 ~~under this subsection, the county long-term support planning committee for that~~
15 ~~county is dissolved.~~

16 **SECTION 18.** 46.27 (4) (c) (intro.) of the statutes is amended to read:

17 46.27 (4) (c) (intro.) The planning committee or, if a local long-term care council
18 has under s. 46.282 (3) (b) 2. assumed the duties of the planning committee, the local
19 long-term care council shall develop a community options plan for participation in
20 the program. The plan shall include:

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237.

21 **SECTION 19.** 46.27 (4) (c) 5. of the statutes is amended to read:

1 46.27 (4) (c) 5. A description of the method to be used by the committee or, if
2 a local long-term care council has under s. 46.282 (3) (b) 2. assumed the duties of the
3 planning committee, the local long-term care council to monitor the implementation
4 of the program.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 197, 239; 1984 a. 29 ss. 876a to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237.

5 **SECTION 20.** 46.27 (5) (e) of the statutes is renumbered 46.27 (5) (e) 1..

****NOTE: Please see ****Note under s. 46.277 (5) (d) 1n. b.

6 **SECTION 21.** 46.27 (5) (e) 2. of the statutes is created to read:

7 46.27 (5) (e) 2. After the date specified in s. 46.281 (3), subd. 1. does not apply
8 to persons who are aged 65 or older or are physically disabled and who reside in the
9 area that is served by a resource center to which s. 46.281 (3) applies.

****NOTE: Please see ****Note under s. 46.277 (5) (d) 1n. b.

10 **SECTION 22.** 46.27 (6) (a) 2. i. of the statutes is created to read:

11 46.27 (6) (a) 2. i. After the date specified in s. 46.281 (3), persons who are aged
12 65 or older or are physically disabled and who reside in the area that is served by a
13 resource center to which s. 46.281 (3) applies.

****NOTE: Please see ****Note under s. 46.277 (5) (d) 1n. b.

14 **SECTION 23.** 46.27 (6) (a) 3. of the statutes is renumbered 46.27 (6) (a) 3. a..

****NOTE: Please see ****Note under s. 46.277 (5) (d) 1n. b.

15 **SECTION 24.** 46.27 (6) (a) 3. b. of the statutes is created to read:

16 46.27 (6) (a) 3. b. After the date specified in s. 46.281 (3), the requirement to
17 conduct an assessment under subd. 3. a. does not apply to person who are aged 65
18 or older or are physically disabled and who reside in the area that is served by a
19 resource center to which s. 46.281 (3) applies.

****NOTE: Please see ****Note under s. 46.277 (5) (d) 1n. b.

20 **SECTION 25.** 46.27 (7) (am) of the statutes is amended to read:

1 46.27 (7) (am) From the appropriation under s. 20.435 (7) (bd), the department
2 shall allocate funds to each county or private nonprofit agency with which the
3 department contracts to pay assessment and case plan costs under sub. (6) not
4 otherwise paid by fee or under s. 49.33 (2) or 49.45. The department shall reimburse
5 counties for the cost of assessing persons eligible for medical assistance under s.
6 49.46, 49.468 or 49.47 as part of the administrative services of medical assistance,
7 payable under s. 49.45 (3) (a). Counties may use unspent funds allocated under this
8 paragraph to pay the cost of long-term community support services and for a risk
9 reserve under par. (fr).

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237.

10 **SECTION 26.** 46.27 (7) (b) of the statutes is amended to read:

11 46.27 (7) (b) 1m. From the appropriations under s. 20.435 (7) (bd) and (im), the
12 department shall allocate funds to each county to pay the cost of providing long-term
13 community support services under sub. (5) (b) not otherwise paid under s. 49.45 to
14 persons eligible for medical assistance under s. 49.46 or 49.47 or to persons whom
15 the county department or aging unit administering the program finds likely to
16 become medically indigent within 6 months by spending excess income or assets for
17 medical or remedial care. The average per person reimbursement under this
18 paragraph may not exceed the state share of the average per person payment rate
19 the department expects under s. 49.45 (6m). The county department or aging unit
20 administering the program may spend funds received under this paragraph only in
21 accordance with the case plan and service contract created for each person receiving
22 long-term community support services. Counties may use unspent funds allocated

1 under this paragraph from the appropriation under s. 20.435 (7) (bd) for a risk
2 reserve under par. (fr).

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237.

3 **SECTION 27.** 46.27 (7) (cj) 3. ab. of the statutes is created to read:

4 46.27 (7) (cj) 3. ab. After the date specified in s. 46.281 (3), subd. 3. a. does not
5 apply to persons who are aged 65 or older or are physically disabled and who reside
6 in the area that is served by a resource center to which s. 46.281 (3) applies.

****NOTE: Please see the ****Note under s. 46.277 (5) (d) 1n. b.

7 **SECTION 28.** 46.27 (7) (fm) of the statutes is amended to read:

8 46.27 (7) (fm) The department shall, at the request of a county, carry forward
9 up to 10% of the amount allocated under this subsection to the county for a calendar
10 year if up to 10% of the amount so allocated has not been spent or encumbered by the
11 county by December 31 of that year, for use by the county in the following calendar
12 year, except that this amount shall be reduced by the amount of funds remaining in
13 the county's risk reserve escrow account under par. (fr) at the end of the calendar
14 year. The department may transfer funds within s. 20.435 (7) (bd) to accomplish this
15 purpose. An allocation under this paragraph does not affect a county's base
16 allocation under this subsection and shall lapse to the general fund unless expended
17 within the calendar year to which the funds are carried forward. A county may not
18 expend funds carried forward under this paragraph for administrative or staff costs,
19 except administrative or staff costs that are associated with implementation of the
20 waiver under sub. (11) and approved by the department.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237.

21 **SECTION 29.** 46.27 (7) (fr) of the statutes is created to read:

22 46.27 (7) (fr) 1. A county may decide to place in a risk reserve funds that are
23 allocated under par. (am) or (b) or sub. (11) c. 3. and are not expended or encumbered

SECTION 29

1 for services under this subsection or sub. (11). The county shall notify the
2 department of this decision and of the amount to be placed in the risk reserve. The
3 county shall maintain the risk reserve in an interest-bearing escrow account with
4 a financial institution, as defined in s. 69.30 (1) (b), if the department has approved
5 the terms of the escrow.

****NOTE: Please see my change to wording proposed; it follows your explanation.

6 2. The annual amount of a county's expenditure for a risk reserve, as specified
7 in subd. 1., may not exceed 10% of the county's most recent allocation under this
8 paragraph or \$750,000, whichever is greater. The total amount of the risk reserve,
9 including interest, may not exceed 15% of the county's most recent allocation under
10 this subsection.

****NOTE: I have used "not expended or encumbered" rather than "not needed".
With the numbers of waiting lists in counties for services, is it realistic to assume that
\$750,000 (or more) would be available for this account annually in a county?

****NOTE: Your requested language was for an interest-bearing escrow account,
which would yield only interest; therefore, I have not drafted requested language
referring to "other gains accruing from investment of the funds".

11 3. A county may expend funds maintained in a risk reserve, as specified in subd.
12 1., for any of the following purposes:

13 a. To defray costs of long-term community support services under this section.

14 b. To meet requirements under any contract the county has with the
15 department to operate a care management organization under s. 46.284.

16 c. If approved by a resolution of the county's board of supervisors, to transfer
17 funds to a ~~quasi-governmental county authority~~ ^{**** agency} created under *****.

18 d. If approved by the department, for administrative or staff costs under this
19 section.

1 4. A county that maintains a risk reserve, as specified in subd. 1., shall
2 annually, on a form prescribed by the department, submit to the department a record
3 of the status of the risk reserve, including revenues and disbursements.

4 **SECTION 30.** 46.27 (7) (g) (intro.) of the statutes is amended to read:

5 46.27 (7) (g) (intro.) The department may carry forward to the next state fiscal
6 year up to ~~\$500,000~~ of funds allocated under this subsection and not encumbered by
7 counties by December 31 or carried forward under par. (fm). The department may
8 transfer moneys within s. 20.435 (7) (bd) to accomplish this purpose. An allocation
9 under this paragraph shall not affect a county's base allocation for the program. The
10 department may allocate these transferred moneys during the next fiscal year to
11 counties for planning and implementation of aging resource centers under s. 46.283
12 or care management organizations under s. 46.284 and for the improvement or
13 expansion of long-term community support services for clients whose cost of care
14 significantly exceeds the average cost of care provided under this section, including
15 any of the following:

16 **SECTION 31.** 46.27 (11) (c) 5n. ab. of the statutes is created to read:

17 46.27 (11) (c) 5n. ab. After the date specified in s. 46.281 (3), subd. 5n. a. does
18 not apply to persons who are aged 65 or older or are physically disabled and who
19 reside in the area that is served by a resource center to which s. 46.281 (3) applies.

****NOTE: Please see the ****Note under s. 46.277 (5) (d) 1n. b.

20 **SECTION 32.** 46.277 (5) (d) 1n. ab. of the statutes is created to read:

21 46.277 (5) (d) 1n. ab. After the date specified in s. 46.281 (3), subd. 1n. a. does
22 not apply to persopns who are aged 65 or older or are physically disabled and who
23 reside in the area that is served by a resource center to which s. 46.281 (3) applies.

SECTION 32

(b)(a) to 2, and 3.

****NOTE: The amendments to s. 46.27 ~~and 46.28 that are keyed to this~~ Note conflict with ~~some~~ of the limited waivers or exemptions in s. 46.289. Please decide which treatment you prefer.

****NOTE: Numerous provisions should be looked at to determine if they should be amended to provide for functional screening by a resource center as well as COP assessment, including ss. 46.277 (5) (d) 1n., 49.45 (6m) (c) 5., 50.04 (2m) and 50.06 (7), stats.

Review all of these provisions that are keyed to this Note, and the treatment of s. 50.06(7) (a) and (b) and

1 SECTION 33. 46.28 of the statutes is renumbered 46.291.

2 SECTION 34. 46.28 of the statutes is created to read:

46.2895

3 46.28 Definitions; long-term care. In sections 46.28 to ~~46.288~~: (1) "Care
4 management organization" means an entity that is certified as a care management
5 organization under s. 46.284 (2) and that has a contract under s. 46.284 (1). "Care
6 management organization" does not mean an entity that contracts with the
7 department to operate one of the following:

meeting requirements for

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

10 (b) A demonstration program known as the Wisconsin partnership program
11 under a waiver of sections 1813, 1814, 1833, 1886 and 1902 of the federal social
12 security act.

****NOTE: Can you possibly obtain citations to the U. S. Code for these provisions?
We are reluctant to cite in this manner.

the criteria both

13 (2) "Eligible person" means a person who meets the criteria for functional
14 eligibility under s. 46.285 (1) (a) and for financial eligibility under s. 46.285 (1) (b).

15 (3) "Enrollee" means a person who is enrolled in a care management
16 organization.

17 (4). "Family care benefit" means financial assistance for long-term care and
18 support items for a person who meets functional and financial criteria and is enrolled
19 in a care management organization. an enrollee

1 ~~(5) "Local long-term care council" means a long-term care council that is~~
2 ~~appointed under s. 46.282 (2) (a).~~

3 ~~(6)~~ ⁽⁵⁾ "Long-term care system" means the organizations and programs that
4 provide the family care benefit or other publicly-funded long-term care benefits or
5 that provide information about and access to those organizations and programs.

****NOTE: I changed "services" to "organizations and programs" because I was
unsure of the antecedent. I will do a search of the draft for this term later, we must then
see if the definition works. This term is now used in ss. 46.281 (1)(a) 3, and 4, 46.282 (1)

6 ~~(6)~~ ⁽⁶⁾ "Nonprofit organization" has the meaning given in s. 108.02 (19). *Are the uses*
and (3), 46.283 (2)(a) and 46.289 (intro.). Are the uses *correct?*

7 ~~(7)~~ ⁽⁷⁾ "Older person" means a person who is aged at least 65.

8 ~~(8)~~ ⁽⁸⁾ "Resource center" means an entity that meets the standards for operation
9 under s. 46.283 (3) or, if under contract to provide a portion of the services specified
10 under s. 46.283 (3), meets the standards for operation with respect to those services.

****NOTE: Does this language do what you want?

11 ~~(9)~~ ⁽⁹⁾ "Tribe or band" means a federally recognized American Indian tribe or
12 band.

13 SECTION 35. 46.281 of the statutes is created to read:

14 46.281 Powers and duties of the department and the secretary;

15 long-term care. (1) DUTIES OF THE DEPARTMENT. The department shall do all of the
16 following:

17 (a) Provide training to members of the council on long-term care who are aged
18 65 or older or who have physical or developmental disabilities or their family
19 members, guardians or other advocates, to enable these members to participate in
20 the council's duties.

SECTION 35

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

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

10 (d) Implement the operation of resource centers, care management
11 organizations and the family care benefit statewide, on a phased-in basis, by
12 December 31, 2004.

13 (e)
14 Contract with ~~all of the following~~
15 ~~If the local long-term care council for the applicable area has developed the~~
16 ~~initial plan under s. 46.282(3)(a)1., contract with an entity~~ *One or more entities*
17 (2) for services of the entity as a care management organization and one or more
18 entities for services specified under s. 46.283 (2).

as meeting requirements

19 ~~2. An organization that is not a resource center or a care management~~
20 ~~organization, to provide external advocacy services for clients of the long-term care~~
21 ~~system.~~
22 ~~****NOTE: See my **** NOTE re certification of resource centers under s. 46.283 (2).~~
23 ~~****NOTE: How does the role of BOALTC fit in with this subdivision? Definition of~~
~~"external advocacy" is crucial.~~

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

****NOTE: Needs exception from rule-making requirements of ch. 227?

1

(g)

In order to maintain continuous quality assurance and quality improvement for resource centers and care management organizations, do all of the following:

2
3
4 1. Prescribe by rule and by contract and enforce performance standards for operation of resource centers and care management organizations.

5
6 2. Use performance expectations that are related to outcomes for persons receiving long-term care services in contracting with care management organizations and resource centers.

7
8
9 3. Conduct ongoing evaluations of the long-term care system.

10 4. Require that quality assurance and quality improvement efforts are included throughout the long-term care system.

11
12 5. Ensure that reviews of the quality of management and service delivery of resource centers and care management organizations are conducted by external organizations and make information about specific review results available to the public

16

(b)

~~After consulting with the council on long-term care, prescribe criteria for evaluations and determinations under s. 46.282 (3) (a) 2.~~

18

(w)

Include in each contract with a resource center or a care management organization requirements for the protection of the rights specified in s. ~~46.286~~ ^{46.287 (3)}.

19

20

(i)

Prescribe criteria to assign priority equitably on any necessary waiting lists for persons who are eligible for the family care benefit but who do not meet the criteria under s. ~~46.285 (3)~~ ^{46.286 (4)}.

22

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

4 (3) DUTY OF THE SECRETARY. The secretary shall certify to each county, nursing
5 home and community-based residential facility the date on which a resource center
6 that serves the area of the county, nursing home or community-based residential
7 facility is first available to provide a functional screen under s. 46.283 (3) (b) and (e).

SECTION 36. RP: 46.281 (1)(a) and (b)

8 SECTION 36. 46.282 of the statutes is created to read:

9 **46.282 Councils on long-term care.** (1) ~~COUNCIL ON LONG-TERM CARE DUTIES~~

10 The council on long-term care appointed under s. 15.197 (5) shall do all of the
11 following:

12 (a) Assist the department in developing broad policy issues related to
13 long-term care services and the long-term care system.

14 (b) Assist the department in developing, implementing, coordinating and
15 guiding the long-term care system, including by reviewing and making non-binding
16 recommendations to the department on all of the following:

17 (a) The department's standard contract provisions for resource centers and care
18 management organizations.

19 (b) The family care benefit, including the per person rate structure for the
20 benefit.

21 (c) The long-term support community options program under s. 46.27.

22 (d) The community integration programs under ss. 46.275, 46.277 and 46.278.

23 (e) Programs other than those under subd. 3 and 4 that provide home and
24 community-based services. *par. (c) and (d)*

25 (f) The provision of medical assistance services under a fee-for-service system.

*SECTION 36 AM. 46.281 (1)(a) (b)
46.281 (4)(h) after consulting with [signature] President [signature]*

1 ³
(~~3~~) Monitor patterns of complaints or grievances and appeals regarding the
2 long-term care system in order to identify issues of statewide importance.

3 ⁴
(~~4~~) Monitor the numbers of persons on waiting lists.

4 ⁵
(~~5~~) Review patterns of utilization of various types of services by care
5 management organizations.

6 ⁶
(~~6~~) Monitor the pattern of care management organization enrollments and
7 disenrollments throughout the state.

8 ⁷
(~~7~~) ~~Review annual reports submitted by local long-term care councils and other~~

9 ~~information and report annually to the legislature in the manner provided under s.~~

10 13.172 (2) and to the governor on the status, significant achievements and problems
11 of resource centers, care management organizations and the family care benefit,
12 including all of the following:

13 ¹
(a) ~~1~~ Numbers of persons served.

14 ²
(b) ~~2~~ Costs of long-term care provided under the family care benefit.

15 ³
(c) ~~3~~ The number and service areas of resource centers and care management
16 organizations.

17 ⁴
(d) ~~4~~ Waiting list information.

18 ⁵
(e) ~~5~~ Results of reviews of quality of services provided by resource centers and care
19 management organizations.

This section does not apply after July 1, 2007.

20 ²
(2) ~~LOCAL LONG-TERM CARE COUNCILS; APPOINTMENT; MEMBERSHIP; TERMS;~~

21 ~~COMPENSATION AND TRAINING; OFFICERS. (a) Appointment. 1. The county board of~~

22 ~~supervisors of a county shall appoint a local long-term care council or the county~~

23 ~~boards of supervisors of 2 or more contiguous counties shall appoint a local long-term~~

24 ~~care council, except as follows:~~

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

5 b. If the lands of any federally recognized American Indian tribe or band are
6 located in the county or contiguous counties to be served by a local long-term care
7 council, each tribe or band with these lands shall appoint at least one member of the
8 local long-term care council.

9 2. A county board of supervisors or, in a county with a county executive or a
10 county administrator, the county executive or county administrator shall appoint
11 members of the local long-term care council who are required to be older persons or
12 persons with physical or developmental disabilities or their family members or
13 guardians or other advocates for these persons from nominations that are submitted
14 to the county board of supervisors or the county executive or county administrator
15 by older persons or persons with physical or developmental disabilities or their
16 family members or guardians and by local organizations that represent older persons
17 or persons with physical or developmental disabilities.

18 3. If a tribe or band or the Great Lakes inter-tribal council, inc., intends to
19 apply for certification as a resource center or a care management organization, the
20 tribe or band or the Great Lakes inter-tribal council, inc., shall as a condition of the
21 certification appoint a local long-term care council.

22 (b) *Membership.* 1. A local long-term care council that serves a single-county
23 area shall consist of 21 members, at least 11 of whom are older persons or persons
24 with physical or developmental disabilities or their family members, guardians or
25 other advocates. The age or disability represented by these 11 members shall

1 correspond to the proportion of numbers, as determined by the department, of
2 persons receiving long-term care in this state who are aged 65 or older or have
3 physical or developmental disabilities. Of those 11 members, at least 8 shall be
4 persons receiving long-term care in this state who are aged 65 or older or have
5 physical or developmental disabilities, and up to 3 may be family members of or
6 guardians or other advocates for these persons. The remaining membership shall
7 consist of providers of long-term care services, persons residing in the county with
8 recognized ability and demonstrated interest in long-term care and up to 3 members
9 of the county board of supervisors or other elected officials.

10 2. A local long-term care council that serves an area of 2 or more contiguous
11 counties shall consist of 25 members, at least 13 of whom are older persons or persons
12 with physical or developmental disabilities or their family members, guardians or
13 other advocates. Of those 13 members, at least 9 shall correspond to the proportion
14 of numbers, as determined by the department, of persons receiving long-term care
15 in this state who are aged 65 or older or have physical or developmental disabilities,
16 and up to 4 may be family members of or guardians or other advocates for these
17 persons. The remaining membership shall consist of providers of long-term care
18 services, persons residing in the county with recognized ability and demonstrated
19 interest in long-term care and either up to 4 members of the county boards of
20 supervisors or other elected officials or, for a council that serves an area of more than
21 4 contiguous counties, up to one member of the county board of supervisors of each
22 county or up to one other elected official in each county area.

23 3. A local long-term care council that is appointed by a tribe or band or by the
24 Great Lakes inter-tribal council, inc., shall consist of 21 members, at least 11 of
25 whom are older persons or persons with physical or developmental disabilities or

1 their family members, guardians or other advocates. Of those 11 members, at least
2 8 shall correspond to the proportion of numbers, as determined by the department,
3 of persons receiving long-term care in this state who are aged at 65 or older or who
4 have physical or developmental disabilities, and up to 3 may be family members of
5 or guardians or other advocates for these persons. The remaining membership shall
6 consist of providers of long-term care services, persons residing in the county with
7 recognized ability and demonstrated interest in long-term care and up to 3 members
8 of the governing board of the tribe or band or the Great Lakes inter-tribal council,
9 inc., that appoints the local long-term care council.

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

14 a. For cause, by a two-thirds vote of each county board of supervisors or
15 governing body of the tribe or band or of the Great Lakes inter-tribal council, inc.,
16 participating in the appointment, on due notice in writing and hearing of the charges
17 against the member.

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

21 (c) *Terms.* The members of the local long-term council appointed under par.
22 (a) shall serve 3-year terms. No member may serve more than 2 consecutive terms.
23 Of the members first appointed under par. (b) 1. or 3., 7 shall be appointed for 3 years;
24 7 shall be appointed for 4 years; and 7 shall be appointed for 5 years. Of the members

1 first appointed under par. (b) 2., 9 shall be appointed for 3 years; 8 shall be appointed
2 for 4 years; and 8 shall be appointed for 5 years.

3 (d) *Compensation and training.* Members of the local long-term care council
4 who are older persons, persons with physical or developmental disabilities or the
5 family members or guardians of these persons shall receive compensation for
6 reasonable expenses associated with membership participation. The county board
7 of supervisors or, in the case of a local long-term care council appointed by a tribe
8 or band or the Great Lakes inter-tribal council, inc., under par. (b) 3., the tribe or
9 band or the Great Lakes inter-tribal council, inc., shall provide training to these
10 members to enable them to participate effectively.

11 (e) *Officers.* At the the first meeting of a long-term care council, members shall
12 elect from their number a chairperson, a secretary and other officers as necessary.
13 Vacancies in these offices shall be filled for the unexpired terms. The chairperson
14 shall preside at all meetings when present and countersign all actions taken by the
15 long-term care council. In case of the absence of the chairperson for any meeting the
16 members present shall choose a temporary chairperson.

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

19 1. Develop the initial plan for the structure of the county, multicounty or tribal
20 resource centers and care management organizations, including formulating
21 recommendations to the county board of supervisors and, in a county with a county
22 executive or a county administrator, to the county executive or county administrator,
23 to the governing body of the tribe or band or of the Great Lakes inter-tribal council,
24 inc., if applicable, and to the department on all of the following:

***NOTE: Is this provision now correct? Is it and a county exec. or county administrator or or?

1 a. Whether or not the county, counties, tribe or band or Great Lakes inter-tribal
2 council, inc., should exercise its right of first election under s. 46.283 (1) (a) to operate
3 an aging or disability resource center or a care management organization and how
4 the operation should proceed.

5 b. Whether local, private organizations other than the county should serve as
6 alternatives or in addition to county-operated entities to operate an aging or
7 disability resource center or a care management organization and, if so, which
8 organizations should be considered.

9 c. If applicable, how county-operated functions should interact with an aging
10 or disability resource center or care management organization that is operated by a
11 federally recognized American Indian tribe or band or by the Great Lakes
12 inter-tribal council, inc.

13 2. Under criteria that the department, after consulting with the council on
14 long-term care, prescribes, evaluate and determine whether additional care
15 management organizations are needed in the area and, if so, recommend this to the
16 department.

***NOTE: We do not draft "in consultation with" because it is then unclear which party has the duty to act. I chose here to leave in, rather than delete, reference to the council.

17 3. a. Within 60 days after receipt of a request by an applicant seeking
18 certification or renewal of certification as a care management organization in the
19 area of the local long-term care council, provide comments and recommendations
20 to the applicant for inclusion in the application, as specified in s. 46.284 (2) (a). The
21 comments shall address the applicant's qualifications and expertise; the extent to
22 which the applicant meets the requirements of s. 46.284 (2) (b); the extent of

1 interaction between the applicant and local providers of long-term care services,
2 volunteer agencies and community institutions; and, if the applicant is operating a
3 care management organization, client experience with its services.

****NOTE: Is this language now correct?

4 b. Advise the department regarding applications for initial certification or
5 certification renewal of a care management organization in the area of the local
6 long-term care council and assist the department in reviewing and evaluating the
7 applications.

****NOTE: Is this language now correct?

8 4. Receive information about and monitor complaints from persons served by
9 any care management organization in the area concerning whether the numbers of
10 providers of long-term care services used by the care management organization are
11 sufficient to ensure convenient and desirable choice for enrollees and provide
12 recommendations to the care management organization under subd. 3. a. and advice
13 to the department under subd. 3. b. about this issue.

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

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

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

SECTION 36

1 8. Monitor the pattern of enrollments and disenrollments in local care
2 management organizations.

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

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

8 11. Annually review interagency agreements between the resource center and
9 care management organizations and make recommendations, as appropriate, on the
10 interaction between the resource center and the care management organizations to
11 assure coordination among them.

12 12. Annually review the number and types of complaints and grievances about
13 the long-term care system by person who receive or may receive care under the
14 system, to determine if a need exists for system changes, and recommend system or
15 other changes if appropriate.

16 13. Identify potential new sources of community resources and funding for
17 needed services for older persons and persons with physical or developmental
18 disabilities.

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

21 15. Annually report to the department and to the long-term care council
22 concerning significant achievements and problems in the local long-term care
23 system.

24 (b) A local long-term care council may assume the duties of the county
25 long-term community support planning committee under s. 46.27 (4).

SECTION . RP; 46.282

1 SECTION 37. 46.283 of the statutes is created to read:

2 46.283 Resource centers. (1) APPLICATION FOR CONTRACT. (a) After
3 ~~considering recommendations of the local long-term care council under s. 46.282 (a)~~

4 ~~to~~ a county board of supervisors and, in a county with a county executive or a county
5 administrator, the county executive or county administrator, may decide all of the
6 following:

7 1. Whether to authorize one or more county departments under s. 46.21,
8 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 to apply to the department for
9 a contract to operate a resource center and, if so, which to authorize and what client
10 group to serve.

11 2. Whether to create a ***** ~~district~~ ^{agency} to apply to the department for a
12 contract to operate a resource center.

13 (b) ~~After considering recommendations of the local long-term care council~~
14 ~~under s. 46.282 (a) 1,~~ the governing body of a tribe or band or of the Great Lakes
15 inter-tribal council, inc., may decide whether to authorize a tribal agency to apply
16 to the department for a contract to operate a resource center for tribal members
17 within the boundaries of a county and, if so, what client group to serve.

18 (c) Under the requirements of par. (a), a county board of supervisors may decide
19 to apply to the department for a contract to operate a multiple county resource center
20 in conjunction with the county board or boards of one or more other counties or a
21 county-tribal resource center in conjunction with the governing body of a tribe or
22 band or the Great Lakes inter-tribal council, inc.

23 (d) Under the requirements of par. (b), the governing body of a tribe or band may
24 decide to apply to the department for a contract to operate a resource center in
25 conjunction with the governing body or governing bodies of one or more other tribes

1 or bands or the Great Lakes inter-tribal council, inc., or with a county board of
2 supervisors.

3 (2) EXCLUSIVE CONTRACT. (a) Except as provided in par. (b), during the first 54
4 months after the effective date of this paragraph [revisor inserts date] or the first 54
5 months after the approval by the secretary of the federal department of health and
6 human services of all waivers of federal medicaid laws that are necessary to
7 implement the long-term care system, as determined by the department, whichever
8 is later, the department may contract only with a county, a ^{district} ~~agency~~ ^{*****}, the
9 governing body of a tribe or band or the Great Lakes inter-tribal council, inc., or
10 under a joint application of any of these, to operate a resource center.

11 (b) During the period specified in par. (a), the department may contract with
12 a private nonprofit organization that is entirely separate from an entity that
13 operates a care management organization to operate a resource center if a county
14 board of supervisors or the governing body of a tribe or band or the Great Lakes
15 inter-tribal council, inc., declines to apply for a contract to operate a resource center
16 or fails to meet the standards specified in sub. (3).

17 (c) After the period specified in par. (a), the department may contract to operate
18 a resource center with counties, ~~*****districts~~ ^{agencies}, the governing body of a tribe
19 or band or the Great Lakes inter-tribal council, inc., or under a joint application of
20 any of these, or with a private nonprofit organization that is entirely separate from
21 an entity that operates a care management organization.

****NOTE: Are subs. (1) and (2) now accurate? If so, the above referenced statutes
should also be amended to provide for this. Please note my amendments of ss. 46.215(1)(r),
46.22(1)(b) 1. j. and
46.82(3)(a) 19.

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

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

3 (b) The availability of functional screening and ~~response~~ ^{a determination of eligibility} on an emergency
4 basis, 24 hours per day.

****NOTE: What is meant by "response"?

Is "a determination of eligibility" what was meant by

5 ^b (c) Prevention and intervention services.

6 ^c (d) Counseling concerning public and private benefits programs.

7 ^d (e) A determination of functional eligibility for the family care benefit.

8 ^e (f) A determination of the maximum amount of cost sharing required for a
9 person who is seeking long-term care services, under standards prescribed by the
10 department.

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

15 ^g (h) Assistance in enrolling in a care management organization for persons who
16 choose to enroll.

17 ^h (i) Equitable assignment of priority on any necessary waiting lists, consistent
18 with criteria prescribed by the department, for persons who are eligible for the family
19 care benefit but who do not meet the criteria under s. 46.285 ~~(3)~~ ⁽⁴⁾

****NOTE: It was unclear to me what "management" meant in the language proposed for this paragraph. Is my language accurate?

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

SECTION 37

1 (K) ^j Transitional services to families whose children with physical or
2 developmental disabilities are preparing to enter the adult service system.

3 (L) ^k Services under s. 46.90 and ch. 55, if a person is eligible for the services.

4 (m) ^L A determination of eligibility for state supplemental payments under s.
5 49.77, medical assistance under s. 49.46, 49.47 or 49.468 or the federal food stamp
6 program under 7 USC 2011 to 2029.

7 (4) RESOURCE CENTER; DUTIES. A resource center shall do all of the following:

8 (a) Provide services within the entire minimum geographic area prescribed for
9 the resource center by the department.

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

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

14 (d) Cooperate with any review by an external advocacy organization, ~~as~~
15 ~~specified under s. 46.28(2)(b)(ii).~~

16 (e) Within 6 months after the family care benefit is available in the area of the
17 resource center, provide information about the services of the resource center,
18 including the services specified in sub. (3) ~~and (4)~~ ^(d), and about the family care
19 benefit to all current residents of nursing homes, community-based residential
20 facilities, adult family homes and resident care apartment complexes in the area of
21 the resource center.

****NOTE: Instructions for this paragraph required informing a resident about the availability of the "assessment and care plan"; these are not part of the duties of a resource center; correct? Do you want me to add anything else?

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

4 (5) FUNDING. From the appropriation under s. 20.435 (*****) (*****)^{accounts}, the
5 department ~~shall~~ ^{may} contract with organizations that meet standards under ^{sub. (3)} ~~*****~~ and
6 shall distribute funds for services provided by resource centers.

7 (6) GOVERNING BOARD; MEMBERSHIP; DUTIES. A resource center shall have a
8 governing board that reflects the ethnic and economic diversity of the geographic
9 area served by the resource center. At least one-fourth of the members of the
10 governing board shall be older persons or persons with physical or developmental
11 disabilities or their family members, guardians or other advocates.

12 SECTION 38. 46.284 of the statutes is created to read:

13 46.284 Care management organizations.

14 (1) CONTRACTS. (a) The department may contract for operation of a care management organization only with
15 an entity that is certified ^{as meeting the requirements} under sub. (2) No entity may operate as a care management
16 organization under the requirements of this section unless ^(so) certified and under
17 contract with the department.

18 (b) Within each county, the department shall initially contract to operate a care
19 management organization with the county or a ~~quasi-governmental organization~~
20 ~~established by the county under s. *****~~ ^{agency} if the county elects to operate a care
21 management organization and the care management organization meets the
22 requirements of sub. (2) and performance standards prescribed by the department.
23 A county that contracts under this paragraph may operate the care management
24 organization for all of the target groups or for a selected group or groups. The initial
25 contracts shall be for 2 years. During the first 2 years in which the county has a

(g)
(5)(p), (7)(b) and (7)(hd)
NOTE: Would it not be appropriate to have a provision here that correspond
to s. 46.283 (1)? This also would affect s. 46.2150 (r), 46.22 (1)(b), 46.82 (3)(a), 19. It also would appear to be necessary to be consistent with s. 46.285.

SECTION 38

1 contract under which it accepts a per person per month payment for each enrollee
2 in the care management organization, the department may not contract with
3 another organization to operate a care management organization in the county
4 unless any of the following applies:

5 1. The county ~~and the local long-term care council~~ agree in writing that at least
6 one additional care management organization is necessary or desirable.

7 2. Because the county does not elect to serve both older persons and persons
8 with a physical disability or is unable to meet requirements for both these client
9 groups, an additional care management organization is necessary to serve the group
10 that is not served by the county.

11 3. The governing body of a tribe or band or the Great Lakes inter-tribal council,
12 inc., elects to operate a care management organization within the area and is
13 certified under sub. (2).

~~***NOTE. To DAK: Delete "quasi-governmental organization" if not established~~

14 (c) For contracts following the initial contracts specified in par. (b), the
15 department shall, after consulting with the council on long-term care, prescribe
16 criteria to determine the number of care management organizations that are
17 necessary for operation in a county. Under these criteria, the department shall solicit
18 applications, certify those applicants that meet the requirements specified in sub. (2)
19 (a), select certified applicants for contract and contract with the selected applicants.

20 (2) CERTIFICATION; REQUIREMENTS. (a) If an entity meets the requirements
21 under par. (b) and applicable rules of the department and submits to the department
22 an application for initial certification or certification renewal, the department shall
23 certify that the entity meets the requirements for a care management organization.

24 ~~An application shall include comments about the applicant and recommendations~~

1 about the application that are provided by the appropriate local long-term care
2 council, as specified under s. 46.282 (3) (a) 3.

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

5 1. Adequate availability of providers with the expertise and ability to provide
6 services that are responsive to the disabilities or conditions of all of the applicant's
7 proposed enrollees and sufficient representation of programmatic philosophies and
8 cultural orientations to accommodate a variety of enrollee preferences and needs.

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

12 3. Adequate availability of providers that are able and willing to perform all
13 the tasks that are identified in proposed enrollees' service and care plans.

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

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

18 6. Expertise in determining and meeting the needs of every target population
19 that the applicant proposes to serve and connections to the appropriate service
20 providers.

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

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

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

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

4 11. The ability to develop strong linkages with systems and services that are
5 not directly within the scope of the applicant's responsibility but that are important
6 to the target group that it proposes to serve, including primary and acute health care
7 services.

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

10 **(3) DUTIES OF THE CARE MANAGEMENT ORGANIZATION.** A care management
11 organization that is under contract with the department shall do all of the following:

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

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

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

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

1 (e) Provide, within guidelines established by the department, a mechanism by
2 which an enrollee may arrange for, manage and monitor his or her family care benefit
3 directly or with the assistance of another person chosen by the enrollee. The care
4 management organization shall monitor the enrollee's use of a fixed budget for
5 purchase or services or support items from any qualified provider, monitor the health
6 and safety of the enrollee and provide supportive services uniquely tailored to meet
7 needs of these enrollees.

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

10 (g) Meet all performance standards required by the federal government and
11 promulgated by the department by rule.

****NOTE: I did not draft "or by contract", as requested, because it is unnecessary;
if the CMO fails to meet those standards, it is a breach of contract.

12 (h) Submit in the manner prescribed by the department by rule any
13 information or reports required by the department.

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

****NOTE: Please see the ****Note under par. (g).

16 (j) Cooperate with external quality assurance reviews.

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

18 (L) Annually submit the department a financial audit that meets the
19 requirements of 42 CFR ****.

****NOTE: The proposed CFR cite is incorrect; most likely it is 42 CFR ____?

****NOTE: Paragraphs (g) to (L) were formerly located in sub. (c). 2

20 (4) FUNDING AND RISK-SHARING. (a) From the appropriation accounts under s.
21 20.435 (5) (b) and (o) and (***) (***) , the department shall provide funding on a

(4)(a), (7)(b) and (7)(bd)

1 capitated payment basis for the provision of services under this section.
2 Notwithstanding s. 46.036, a care management organization that is under contract
3 with the department may expend the funds, consistent with this section, including
4 providing payment, on a capitated basis, to provides of services under the family care
5 benefit.

 ****NOTE: Appropriation? Do you really want to notwithstand all of s. 46.036?

6 (b) If the expenditures by a care management organization under par. (a)
7 exceed payments received from the department under par. (a), the department may
8 share the loss with the care management organization, within the limits prescribed
9 under the contract with the department.

10 (c) If the payments received from the department under par. (a) exceed the
11 expenditures by a care management organization under par. (a), the care
12 management organization may retain a portion of the savings, within the limits
13 prescribed under the contract with the department, and shall return the remainder
14 to the department.

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

18 1. The requirement that a care management organization segregate a risk
19 reserve from other funds of the care management organization or the authorizing
20 body for the care management organization.

21 2. The requirement that interest of other gains accruing to the risk reserve
22 remain in the risk reserve account.

23 (e) A county may place funds in a risk reserve and maintain the risk reserve
24 in an interest-bearing escrow account with a financial institution, as defined in s.

1 69.30 (1) (b). Moneys in the risk reserve may be expended only for the provision of
2 services under this section. If a care management organization ceases participation
3 under this section, the funds in the risk reserve, minus any contribution of moneys
4 other than those specified in par. (a), shall be returned to the department. The
5 department shall expnd the moneys for the payment of outstanding debts to
6 providers of family care benefit services and for the continuation of family care
7 benefit services to enrollees.

wasn't sure
***NOTE: I ~~didn't know~~ how to characterize "non-family care funds"; please review
to see if my characterization is accurate.

8 (f) 1. Subject to subd. 2., a care management organization may enter into
9 contracts with providers of family care benefit services and may limit profits of the
10 provides^r under the contracts.

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

15 (g) A care management organization shall annually be subject to an
16 independent financial audit that the department shall obtain.

17 (5) GOVERNING BOARD. (a) A care management organization shall have a
18 governing board that reflects the ethnic and economic diversity of the geographic
19 area served by the care management organization. At least one-fourth of the
20 members of the governing board shall be older persons or persons with physical or
21 developmental disabilities or their family members, guardians or other advocates.

***NOTE: Note that I deleted sub. (6); please see s. 50.49 (6m).

SECTION . AM; 46.284 (1)(c) - delete consult w/ council 7/1/01

22 SECTION 39. 46.285 of the statutes is created to read:

1 **46.285 Joint operation of resource center and care management**
 2 **organization.** (1) TITLE. (a) *Title.* 1. 'Title.' If a county board of supervisors and,
 3 in a county with a county executive or a county administrator, the county executive
 4 or county administrator, decide to authorize a county agency to apply to the
 5 department for both a contract to operate a resource center and a contract to operate
 6 a care management organization, the county board of supervisors and, if applicable,
 7 the county executive or county administrator, may do one of the following:

8 (1) Operate the care management organization and create a
 9 *****~~district~~ ^{agency} to operate the resource center.

10 (2) Operate the resource center and create a *****~~district~~ ^{agency} to operate the care
 11 management organization.

12 (3) Create a *****~~district~~ ^{agency} to operate both the resource center and the
 13 care management organization.

14 (4) Directly operate both the resource center and the care management
 15 organization, except with respect to determinations of eligibility, as specified in s.
 16 46.286 (1) and with respect to development of enrollees' plans of care, ~~as specified in~~
 17 ~~46.287 (2)(b).~~

18 **SECTION 40.** 46.286 of the statutes is created to read:

19 **46.286 Family care benefit.** (1) **Eligibility.** A person is eligible for, but not
 20 entitled to, the family care benefit if the person is at least 18 years of age and meets
 21 all of the following criteria.

22 (a) *Functional eligibility.* A person is functionally eligible if, due to a primary
 23 disabling condition other than mental illness, substance abuse or developmental
 24 disability, any of the following applies, as determined by the department or its
 25 designee:

****NOTE: I added “primary” to “disabling condition”, since your instructions for rule-making included the whole term. Is this accurate? Another problem: Is the “condition” referred to in par. (a) 1. a. and b. the same as the “primary disabling condition”? If so, it should be termed that.

1 1. The person’s functional capacity is at either of the following:

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

5 b. The intermediate level, if the person has a condition that is expected to last
6 at least 90 days or result in death within one year after the date of application, and
7 is at risk of losing his or her independence or functional capacity unless he or she
8 receives assistance from others.

9 2. The person was receiving long-term care services funded under any of the
10 following or was a resident in a nursing home on the date that the family care benefit
11 became available in the person’s county of residence:

12 a. The long-term support community options program under s. 46.27 (7) or (11).

13 b. A community integration program under s. 46.275, 46.277 or 46.278.

14 c. The Alzheimer’s family caregiver support program under s. 46.87.

15 d. Community aids under s. 46.40.

16 e. County funding.

****NOTE: Would personal care or other MA services be appropriate to be included here?

17 (b) *Financial eligibility.* A person is financially eligible if either of the following,
18 as determined by the department or its designee, applies:

19 1. The projected cost of the person’s care plan, as calculated by the department
20 or its designee, exceeds the person’s gross monthly income, deductions and

1 allowances specified by rule by the department, plus one-twelfth of his or her
2 available assets.

3 2. The person is eligible for medical assistance under s. 46.27 (11), 46.275,
4 46.277, 46.278, 49.46 (1) (a) 4. or 6m., 49.47 (4) (a) 3. or 4. or 49.472.

****NOTE: If LRB 99-0266 (the Pathways to Independence draft) is not included in
the budget bill, the reference to s. 49.472 in par. (b) 2. must be eliminated.

5 (2) COST SHARING. (a) Persons who are determined to be financially eligible
6 under sub. (1) (b) shall contribute to the cost of their care an amount calculated by
7 the department or its designee, after subtracting from the person's gross income the
8 deductions and allowances permitted by the department by rule.

**** NOTE: The cost-sharing applies to all of sub. (1)(b), correct?

9 (b) Funds received under par. (a) shall be used to pay for long-term care
10 services.

****NOTE: How is this intended to work? Who "uses" the money? The CMO? The
resource center? Or does the department credit it to the program revenue appropriation?

11 (3) DIVESTMENT. (a) The department or its designee shall require all persons
12 applying for the family care benefit an, annually, all persons receiving the benefit to
13 provide a declaration of assets, on a form prescribed by the department. The
14 declaration shall include all of the following:

15 1. All assets that the person or his or her spouse transferred to another for less
16 than fair market value at any time within the 36-month period immediately before
17 the date of the declaration.

18 2. All payments made from a trust or portions of a trust established by the
19 person or his or her spouse that would be treated as assets transferred by an
20 individual under s. 49.454 (2) (c) or (3) (b), if made within the 60-month period
21 immediately before the date of the declaration.

****NOTE: Note my changes to the language proposed. Is the draft accurate?

1 (b) In determining financial eligibility under sub. (1) (a) and in calculating the
2 amount under par. (a), the department or its designee shall include as the assets for
3 any person, except those persons who are eligible for medical assistance under s.
4 49.46, 49.468 or 49.47, any portion of assets that the person or the person's spouse
5 has transferred to another as specified in par. (a), unless one of the following applies:

6 1. The transferred asset has no current value.

7 2. The department or its designee determines that undue hardship would
8 result to the person or to his or her family from a denial of financial eligibility or from
9 including all or a portion of a transferred asset in the calculation of the amount of
10 cost sharing required.

11 **(4) ENTITLEMENT.** A person is entitled to and may receive the family care benefit
12 through enrollment in a care management organization if he or she is financially
13 eligible, participates in cost sharing, if applicable, and meets any of the following
14 criteria:

15 (a) Is functionally eligible at the comprehensive level.

16 (b) Is functionally eligible at the intermediate level and is financially eligible
17 under sub. (1) (b) 2.

18 (c) Is functionally eligible at the intermediate level and is determined by an
19 agency under s. 46.90 (2) or s. 55.05 (1) to be in need of protective services under s.
20 55.05 or protective placement under s. 55.06.

21 (d) Is functionally eligible under sub. (1) (a) 2.

22 **(5) RECOVERY OF COSTS OF CARE; MEDICAL ASSISTANCE ELIGIBILITY.** For a person
23 who is eligible for medical assistance under s. 49.46, 49.468 or 49.47 and receives the
24 family care benefit, s. 49.496 applies.

25 **(6) RECOVERY OF COSTS OF CARE; OTHER ELIGIBILITY.** (a) In this subsection:

1 1. “Client” means a person who receives or received the family care benefit.

2 2. “Disabled” has the meaning given in s. 49.468 (1) (a) 1.

3 3. “Home” means property in which a person has an ownership interest
4 consisting of the person’s dwelling and the land used and operated in connection with
5 the dwelling.

6 (b) 1. Except as provided in subd. 4., the department shall file a claim against
7 the estate of a client or against the estate of the surviving spouse of a client for the
8 value of services under the family care benefit paid on behalf of the client, unless
9 already recovered by the department under this subsection.

 ***NOTE: I deleted “after the client attained 55 years of age”, which is contained in
s. 46.27 (7g) (c) 1. Okay?

10 2. The affidavit of a person designated by the secretary to administer this
11 paragraph is evidence of the amount of the claim.

12 3. The court shall reduce the amount of a claim under subd. 1. by up to \$3,000
13 if necessary to allow the client’s heirs or the beneficiaries of the client’s will to retain
14 the following personal property:

15 a. The decedent’s wearing apparel and jewelry held for personal use.

16 b. Household furniture, furnishings and appliances.

17 c. Other tangible personal property not used in trade, agriculture or other
18 business, not to exceed \$1,000 in value.

19 4. A claim under subd. 1. is not allowable if the decedent has a surviving child
20 who is under age 21 or disabled or a surviving spouse.

21 5. If the department’s claim is not allowable because of subd. 4. and the estate
22 includes an interest in a home, the court exercising probate jurisdiction shall, in the
23 final judgment, assign the interest in the home subject to a lien in favor of the

1 department for the amount described in subd. 1. The personal representative shall
2 record the final judgment as provided in s. 863.29.

3 6. The department may not enforce the lien under subd. 5. as long as any of the
4 following survive the decedent:

5 a. A spouse.

6 b. A child who is under age 21 or disabled.

7 7. The department may enforce a lien under subd. 5. by foreclosure in the same
8 manner as a mortgage on real property.

9 (c) The department may require the resource center in each county to gather
10 and provide the department with information needed to recover payment of the value
11 of services under the family care benefit under this subsection. The department shall
12 pay to the resource center an amount equal to 5% of the recovery collected by the
13 department relating to a client for whom the resource center made the last
14 determination of eligibility under sub. (1). A resource center may use funds received
15 under this paragraph only to pay costs incurred under this paragraph and shall
16 remit the remainder, if any, to the department to be credited to the appropriation
17 account under s. 20.435 (7) (ip). The department may withhold payments under this
18 paragraph for failure to comply with the department's requirements under this
19 paragraph. The department shall treat payments made under this paragraph as
20 costs of administration of the program.

****NOTE: Are the provisions under this paragraph with respect to the share of the
department vis-a-vis that of the resource center to be deleted? Does all of the money go
for the costs of the family care benefit and none for administration in collecting the liens?

21 (d) From the appropriation under s. 20.435 (7) (ip), the department shall pay
22 the amount of the payments under par. (c) and shall spend the remainder of the funds
23 recovered under this subsection for the family care benefit.

under
s. 46.284(4)

***NOTE: See questions under par. (c).

1 (e) 1. The department may recover amounts under this subsection for the
2 provision of the family care benefit paid on and after *****.

3 2. The department may file a claim under par. (b) only with respect to a client
4 who dies after *****.

5 (f) If the department determines that the application of this subsection would
6 work an undue hardship in a particular case, under standards prescribed by rule, the
7 department shall waive application of this subsection in that case.

***NOTE: Please read this subsection very carefully, in tandem with s. 46.27 (7g),
stats., to ascertain that it does what you want. I lack information to complete certain
provisions and have so indicated with *****. I changed par. (f) because I have added
a requirement for rule-making to s. 46.28~~7~~⁸ (6). 5

***NOTE: I do not understand the instructions about spousal impoverishment. If
a person is eligible under medical assistance, s. 49.455, stats., applies. But for persons
on receiving the family care benefit, is this relevant? "Spousal impoverishment" is
supposed to protect the community spouse when the other spouse is institutionalized. I'm
having difficulty figuring out how the concept works with respect to community
long-term care.

8 SECTION 41. 46.287 of the statutes is created to read:

9 46.287 Rights of clients, eligible persons and enrollees. (1) DEFINITION.

10 In this section, "client" means ~~an older person or a person who has a physical or~~
11 ~~developmental disability who has contact with a resource center or a care~~
12 ~~management organization and includes~~ an eligible person and an enrollee.

13 (2) RIGHTS OF CLIENTS. A client has the right to all of the following:

14 (a) Receipt of complete and accurate information that is provided in an
15 understandable and culturally appropriate manner and that will enable the client
16 to make informed choices about possible receipt of long-term care services under the
17 family care benefit or under other benefit programs.

18 (b) Receipt of a prompt determination as to whether he or she is an eligible
19 person.

****NOTE: Provided by what (whom)?

1 (c) Accuracy of information about the client that is collected by a resource
2 center, a care management organization or a contractor with a resource center or a
3 care management organization and treatment of that information in a confidential
4 manner.

5 (d) Access to all information about the client that is maintained by a resource
6 center, a care management organization or a contractor with a resource center or a
7 care management organization.

8 (e) Treatment that is respectful, fair and free of discrimination.

9 (f) Assistance in understanding his or her rights under this section and in
10 resolving any dispute that he or she may have concerning his or her contact with a
11 resource center or a care management organization.

12 (g) Fair and equitable procedures for resolving complaints or disputes.

13 (h) Freedom from reprisal or the overt or implied threat of reprisal for
14 registering complaints or grievances or participating in procedures under par. (g).

15 ²
~~(2)~~ RIGHTS OF ELIGIBLE PERSONS. An eligible person has the right to enroll in a
16 care management organization and receive the family care benefit.

17 ³
~~(4)~~ RIGHTS OF ENROLLEES. An enrollee has the right to all of the following:

18 (a) Full participation in planning and evaluating the treatment and services
19 he or she receives.

20 (b) Development of a plan of care that does all of the following:

21 1. Is tailored to meet his or her unique needs and circumstances as indicated
22 by performance of an individualized assessment.

23 2. As much as possible, enables the enrollee to preserve his or her health, safety
24 and well being.

SECTION 41

1 3. As much as possible, enables the enrollee to be free from abuse or neglect.

2 (c) Prompt receipt of services and support items that are included in the plan
3 of care and that are adequate and appropriate in meeting the enrollee's individual
4 needs.

5 (d) Choice as to whether to disenroll from a care management organization for
6 any reason.

7 ⁴ (5) HEARING. (a) A client may contest any of the following by sending within
8 10 days after receipt of notice of any of the following a written request for hearing
9 under ~~s. 227.44 to the division of hearings and appeals created under 15.103(14):~~

10 1. Denial of eligibility under s. 46.285 (1).

11 2. Denial of timely services.

under a mechanism for hearing the dispute that is prescribed by the department by rule

****NOTE: What is meant here? Both services under the family care benefit and administrative services? What is meant by denial? Untimely delivery?*

Failure to provide timely services and support items that are included in the plan of care and that are adequate and appropriate in meeting the enrollee's individual needs.

12 3. Reduction of services under the family care benefit.

13 4. Termination of the family care benefit.

14 5. Development of a plan of care that is unacceptable for any of the following
15 reasons:

16 a. The plan of care requires the enrollee to live in a place that is unacceptable
17 to the enrollee.

18 b. The plan of care provides care, treatment or support items that are
19 insufficient to meet the enrollee's needs, are unnecessarily restrictive or are
20 unwanted by the enrollee.

21 (b) A client may contest the type, amount or quality of service under the family
22 care benefit or may contest the choice of service provider under the procedure

1 specified in par. (a) (intro.) only if the contract monitoring unit of the department has
2 first reviewed and attempted to resolve the dispute.

****NOTE: What event triggers the client's right to request a s. ~~227.44, state,~~
hearing under this subsection? Note that I have included language about resolving the
issue. Should the contract monitoring unit be required to issue a written response to the
client's complaint?

****NOTE: I am told by the civil procedures drafter, Bob Nelson, that the proposal
to require that the hearing under s. 227.44 be a *de novo* review is unnecessary.

3 (c) Whenever an action that is specified under par. (a) 1. to 4. is taken or a
4 dispute under par. (b) arises, ~~*****~~ shall provide the client, in writing, with
5 notice of appeal procedures available, an explanation of how the procedures operate
6 and a recommendation about the most appropriate procedure for the client to pursue.

****NOTE: Who (what) is to provide the client with this information? What if the
recommendation is misleading, inaccurate, etc.?

7 (d) Upon receipt of a written request for hearing as specified in par. (a) or (b),
8 the division of hearings and appeals created under s. 15.103 (1) shall notify the
9 contract monitoring unit of the department, which shall conduct a concurrent
10 grievance review and attempt to resolve the dispute prior to the date of the hearing.

11 **(6) CIVIL LIABILITY**

****NOTE: I am not at all sure that I have captured your intent with sub. (6). Please
review.

12 **SECTION 42.** 46.288 of the statutes is created to read:

13 **46.288 Rule-making.** The department shall promulgate as rules all of the
14 following:

15 (1) Standards for performance by resource centers and care management
16 organizations, including requirements for maintaining quality assurance and
17 quality improvement.

18 (2) ~~Requirements for the provision of services by advocacy organizations~~
19 ~~contracting with the department under s. 46.281 (1) (f) 2.~~

NOTE: It is clear that, because ~~the~~ receipt of the family care
benefit is an entitlement, certain procedural due process requirements
must be met. Please review to determine if this changed section
now conforms with your intent.

SECTION 42

1 ~~(3)~~ Rights of clients, eligible persons and enrollees that are specified in s.
2 46.286 ~~and procedures for determining functional eligibility under s. 46.286 (4)~~

3 (4) Criteria and procedures for determining functional eligibility under s.
4 46.285 (1) (a), financial eligibility under s. 46.285 (1) (b) and entitlement under s.
5 46.285 (4), including definition of the following terms applicable to s. 46.285:

- 6 (a) "primary disabling condition".
- 7 (b) "Mental illness".
- 8 (c) "Substance abuse".
- 9 (d) "Long-term or irreversible".
- 10 (e) "Requires ongoing care, assistance or supervision".
- 11 (f) "Condition that is expected to last at least 90 days or result in death within
- 12 one year".

1 cost sharing under s. 46.286 (2)(a)

****NOTE: This term differs from that proposed; it follows the December 22 language creating s. 46.285.

13 (g) "At risk of losing independence or functional capacity".

****NOTE: I did not draft "publicly-funded long-term care services"; where is this term used?

14 (h) "Gross monthly income".

15 (i) "Deductions and allowances".

16 (j) "Available assets".

17 (5) Procedures and standards for procedures for s. 46.286 (5).

18 (6) Standards for determining undue hardship under s. 46.286 (6) (f).

19 SECTION 43. 46.289 of the statutes is created to read:

20 46.289 Transition. In order to facilitate the transition to the long-term care
21 system specified in ss. 46.28 to ^{46.2895} ~~46.287~~, all of the following may take place:

1 **(1)** The department may waive, on a county-specific basis and within the limits
2 of applicable federal statutes and regulations, all rules promulgated under ss. 46.27
3 and 46.277.

4 **(2)** If the secretary of health and family services finds it necessary, he or she
5 may grant a county limited waivers to or exemptions from ss. 46.27 (3) (e) (intro.),
6 1. and 2. and (f), (5) (d), (6) (a) 1., 2. and 3., (b) (intro.), 1. and 2., (6r) (c), (7) (b) and
7 (cm) and (11) (c) 5m. (intro.) and 6. and 46.277 (3) (a), (4) (a) and (5) (d) 1m. and 2.

8 **SECTION 44.** 50.02 (2) (d) of the statutes is created to read:

9 50.02 (2) (d) The department shall promulgate rules that prescribe the time
10 periods specified in ss. 50.033 (2r) and (2s), 50.034 (5m) and (5n), 50.035 (4m) and
11 (4n) and 50.04 (2g) (a) and (2h) (a).

12 **SECTION 45.** 50.033 (2r) of the statutes is created to read:

13 50.033 (2r) **PROVISION OF INFORMATION REQUIRED.** An adult family home shall,
14 within the time period after inquiry by a prospective resident that is prescribed by
15 the department by rule, inform the prospective resident of the services of a resource
16 center under s. 46.283, the family care benefit under s. 46.286 and the availability
17 of an assessment to determine the prospective resident's eligibility for the family care
18 benefit under s. 46.286 (1).

19 **SECTION 46.** 50.033 (2s) of the statutes is created to read:

20 50.033 (2s) **REQUIRED REFERRAL.** An adult family home shall, within the time
21 period prescribed by the department by rule, refer to a resource center under s.
22 46.283 a person who is seeking admission, who is at least 65 years of age or has a
23 physical disability and whose disability or condition is expected to last at least 90
24 days, unless any of the following applies:

SECTION 46

1 (a) The person has received an assessment of functional eligibility under s.
2 46.286 (1) (a) within the previous 6 months.

3 (b) The person is entering the adult family home only for respite care.

4 (c) The person is an enrollee of a care management organization.

5 **SECTION 47.** 50.034 (5m) of the statutes is created to read:

6 50.034 (5m) PROVISION OF INFORMATION REQUIRED. A residential care apartment
7 complex shall, within the time period after inquiry by a prospective resident that is
8 prescribed by the department by rule, inform the prospective resident of the services
9 of a resource center under s. 46.283, the family care benefit under s. 46.286 and the
10 availability of an assessment to determine the prospective resident's eligibility for
11 the family care benefit under s. 46.286 (1).

12 **SECTION 48.** 50.034 (5n) of the statutes is created to read:

13 50.034 (5n) REQUIRED REFERRAL. A residential care apartment complex shall,
14 within the time period prescribed by the department by rule, refer to a resource
15 center under s. 46.283 a person who is seeking admission, who is at least 65 years
16 of age or has a physical disability and whose disability or condition is expected to last
17 at least 90 days, unless any of the following applies:

18 (a) The person has received an assessment of functional eligibility under s.
19 46.286 (1) (a) within the previous 6 months.

20 (b) The person is entering the residential care apartment complex only for
21 respite care.

22 (c) The person is an enrollee of a care management organization.

23 **SECTION 49.** 50.034 (8) of the statutes is created to read:

24 50.034 (8) FORFEITURES. (a) Whoever violates sub. (5m) or (5n) or rules
25 promulgated under sub. (5m) or (5n) may be required to forfeit not more than \$500.

1 (b) The department may directly assess forfeitures provided for under par. (a).
2 If the department determines that a forfeiture should be assessed for a particular
3 violation, it shall send a notice of assessment to the residential care apartment
4 complex. The notice shall specify the amount of the forfeiture assessed, the violation
5 and the statute or rule alleged to have been violated, and shall inform the residential
6 care apartment complex of the right to a hearing under par. (c).

7 (c) A residential care apartment complex may contest an assessment of
8 forfeiture by sending, within 10 days after receipt of notice under par. (b), a written
9 request for hearing under s. 227.44 to the division of hearings and appeals created
10 under s. 15.103 (1). The administrator of the division may designate a hearing
11 examiner to preside over the case and recommend a decision to the administrator
12 under s. 227.46. The decision of the administrator of the division shall be the final
13 administrative decision. The division shall commence the hearing within 30 days
14 after receipt of the request for hearing and shall issue a final decision within 15 days
15 after the close of the hearing. Proceedings before the division are governed by ch.
16 227. In any petition for judicial review of a decision by the division, the party, other
17 than the petitioner, who was in the proceeding before the division shall be the named
18 respondent.

19 (d) All forfeitures shall be paid to the department within 10 days after receipt
20 of notice of assessment or, if the forfeiture is contested under par. (c), within 10 days
21 after receipt of the final decision after exhaustion of administrative review, unless
22 the final decision is appealed and the order is stayed by court order. The department
23 shall remit all forfeitures paid to the state treasurer for deposit in the school fund.

24 (e) The attorney general may bring an action in the name of the state to collect
25 any forfeiture imposed under this section if the forfeiture has not been paid following

1 the exhaustion of all administrative and judicial reviews. The only issue to be
2 contested in any such action shall be whether the forfeiture has been paid.

****NOTE: Please see ****Note under s. 50.035 (11).

3 **SECTION 50.** 50.035 (4m) of the statutes is created to read:

4 **50.035 (4m) PROVISION OF INFORMATION REQUIRED.** A community-based
5 residential facility shall, within the time period after inquiry by a prospective
6 resident that is prescribed by the department by rule, inform the prospective
7 resident of the services of a resource center under s. 46.283, the family care benefit
8 under s. 46.286 and the availability of an assessment to determine the prospective
9 resident's eligibility for the family care benefit under s. 46.286 (1).

10 **SECTION 51.** 50.035 (4n) of the statutes is created to read:

11 **50.035 (4n) REQUIRED REFERRAL.** A community-based residential facility shall,
12 within the time period prescribed by the department by rule, refer to a resource
13 center under s. 46.283 a person who is seeking admission, who is at least 65 years
14 of age or has a physical disability and whose disability or condition is expected to last
15 at least 90 days, unless any of the following applies:

16 (a) The person has received an assessment of functional eligibility under s.
17 46.286 (1) (a) within the previous 6 months.

18 (b) The person is entering the community-based residential facility only for
19 respite care.

20 (c) The person is an enrollee of a care management organization.

21 **SECTION 52.** 50.035 (11) of the statutes is created to read:

22 **50.035 (11) FORFEITURES.** (a) Whoever violates sub. (4m) or (4n) or rules
23 promulgated under sub. (4m) or (4n) may be required to forfeit not more than \$500.

1 (b) The department may directly assess forfeitures provided for under par. (a).
2 If the department determines that a forfeiture should be assessed for a particular
3 violation or for failure to correct it, it shall send a notice of assessment to the
4 community-based residential facility. The notice shall specify the amount of the
5 forfeiture assessed, the violation and the statute or rule alleged to have been
6 violated, and shall inform the licensee of the right to a hearing under par. (c).

7 (c) A community-based residential facility may contest an assessment of
8 forfeiture by sending, within 10 days after receipt of notice under par. (b), a written
9 request for hearing under s. 227.44 to the division of hearings and appeals created
10 under s. 15.103 (1). The administrator of the division may designate a hearing
11 examiner to preside over the case and recommend a decision to the administrator
12 under s. 227.46. The decision of the administrator of the division shall be the final
13 administrative decision. The division shall commence the hearing within 30 days
14 after receipt of the request for hearing and shall issue a final decision within 15 days
15 after the close of the hearing. Proceedings before the division are governed by ch.
16 227. In any petition for judicial review of a decision by the division, the party, other
17 than the petitioner, who was in the proceeding before the division shall be the named
18 respondent.

19 (d) All forfeitures shall be paid to the department within 10 days after receipt
20 of notice of assessment or, if the forfeiture is contested under par. (c), within 10 days
21 after receipt of the final decision after exhaustion of administrative review, unless
22 the final decision is appealed and the order is stayed by court order. The department
23 shall remit all forfeitures paid to the state treasurer for deposit in the school fund.

24 (e) The attorney general may bring an action in the name of the state to collect
25 any forfeiture imposed under this section if the forfeiture has not been paid following

1 the exhaustion of all administrative and judicial reviews. The only issue to be
2 contested in any such action shall be whether the forfeiture has been paid.

****NOTE: Because of due process and certainty requirements, it is inappropriate for the department to promulgate a penalty by rule. Please review s. 50.035 (11). I have drafted an administrative forfeiture, but the forfeiture could be court-imposed if you prefer. The amount of the forfeiture is the same as that of a class "C" violation by a nursing home.

3 **SECTION 53.** 50.04 (2g) of the statutes is created to read:

4 **50.04 (2g) PROVISION OF INFORMATION REQUIRED.** (a) A nursing home shall,
5 within the time period after inquiry by a prospective resident that is prescribed by
6 the department by rule, inform the prospective resident of the services of a resource
7 center under s. 46.283, the family care benefit under s. 46.286 and the availability
8 of an assessment to determine the prospective resident's eligibility for the family care
9 benefit under s. 46.286 (1).

10 (b) Failure to comply with this subsection is a class "C" violation under sub. (4)

11 (b) 3.

12 **SECTION 54.** 50.04 (2h) of the statutes is created to read:

13 **50.04 (2h) REQUIRED REFERRAL.** (a) A nursing home shall, within the time
14 period prescribed by the department by rule, refer to a resource center under s.
15 46.283 a person who is seeking admission, who is at least 65 years of age or has
16 developmental disability or physical disability and whose disability or condition is
17 expected to last at least 90 days, unless any of the following applies:

18 1. The person has received an assessment of functional eligibility under s.
19 46.286 (1) (a) within the previous 6 months.

20 2. The person is seeking admission to the nursing home only for respite care.

21 3. The person is an enrollee of a care management organization.

1 (b) Failure to comply with this subsection is a class “C” violation under sub. (4)

2 (b) 3.

3 **SECTION 55.** 50.06 (7) of the statutes is renumbered 50.06 (7) (a) and amended
4 to read:

5 50.06 (7) (a) ~~An Except as provided in par. (b), an~~ individual who consents to
6 an admission under this section may request that an assessment be conducted for
7 the incapacitated individual under the long-term support community options
8 program under s. 46.27 (6).

9 History: 1993 a. 187.

9 **SECTION 56.** 50.06 (7) (b) of the statutes is created to read:

10 50.06 (7) (b) After the date specified in s. 46.281 (3), par. (a) does not apply to
11 persons who are aged 65 or older or are physically disabled and who reside in the area
12 that is served by a resource center to which s. 46.281 (3) applies.

13 **SECTION 57.** 50.36 (2) (c) of the statutes is created to read:

14 50.36 (2) (c) The department shall promulgate rules that require that a
15 hospital, before discharging a patient who is aged 65 or older or who has
16 developmental disability or physical disability and whose disability or condition
17 requires long-term care that is expected to last at least 90 days, refer the patient
18 to the resource center under s. 46.283.

19 **SECTION 58.** 50.38 of the statutes is created to read:

20 **50.38 Forfeitures.** (1) Whoever violates rules promulgated under s. 50.36 (2)
21 (c) may be required to forfeit not more than \$500.

22 (2) The department may directly assess forfeitures provided for under sub. (1).
23 If the department determines that a forfeiture should be assessed for a particular
24 violation or for failure to correct it, it shall send a notice of assessment to the hospital.

1 The notice shall specify the amount of the forfeiture assessed, the violation and the
2 statute or rule alleged to have been violated, and shall inform the hospital of the right
3 to a hearing under sub. (4).

4 (3) A hospital may contest an assessment of forfeiture by sending, within 10
5 days after receipt of notice under sub. (3), a written request for hearing under s.
6 227.44 to the division of hearings and appeals created under s. 15.103 (1). The
7 administrator of the division may designate a hearing examiner to preside over the
8 case and recommend a decision to the administrator under s. 227.46. The decision
9 of the administrator of the division shall be the final administrative decision. The
10 division shall commence the hearing within 30 days after receipt of the request for
11 hearing and shall issued a final decision within 15 days after the close of the hearing.
12 Proceedings before the division are governed by ch. 227. In any petition for judicial
13 review of a decision by the division, the party, other than the petitioner, who was in
14 the proceeding before the division shall be the named respondent.

15 (4) All forfeitures shall be paid to the department within 10 days after receipt
16 of notice of assessment or, if the forfeiture is contested under sub. (4), within 10 days
17 after receipt of the final decision after exhaustion of administrative review, unless
18 the final decision is appealed and the order is stayed by court order. The department
19 shall remit all forfeitures paid to the state treasurer for deposit in the school fund.

20 (5) The attorney general may bring an action in the name of the state to collect
21 any forfeiture imposed under this section if the forfeiture has not been paid following
22 the exhaustion of all administrative and judicial reviews. The only issue to be
23 contested in any such action shall be whether the forfeiture has been paid.

NOTE: Please see *Note under s. 50.035 (11).

24 **SECTION 59.** 50.49 (4) of the statutes is amended to read:

1 50.49 (4) LICENSING, INSPECTION AND REGULATION. ~~The~~ Except as provided in sub.
2 (6m), the department may register, license, inspect and regulate home health
3 agencies as provided in this section. The department shall ensure, in its inspections
4 of home health agencies, that a sampling of records from private pay patients are
5 reviewed. The department shall select the patients who shall receive home visits as
6 a part of the inspection. Results of the inspections shall be made available to the
7 public at each of the regional offices of the department.

8 ^{History: 1981 c. 93 ss. 162 to 166, 184; 1989 a. 31, 316; 1993 a. 27 s. 279; Stats. 1993 s. 50.49; 1993 a. 482; 1995 a. 225; 1997 a. 27, 237.}

8 **SECTION 60.** 50.49 (6m) of the statutes is created to read:

9 **50.49 (6m) EXCEPTIONS.** None of the following is required to be licensed as a
10 home health agency under sub. (4), regardless of whether any of the following
11 provides services that are similar to services provided by a home health agency:

12 (a) A care management organization, as defined in s. 46.28 (1).

13 (b) A program specified in s. 46.28 (1) (a).

14 (c) A demonstration program specified in s. 46.28 (1) (b).

15 **SECTION 61.** 234.03 (13) of the statutes is amended to read:

16 **234.03 (13)** To purchase and enter into commitments for the purchase of
17 mortgages and securities if the authority shall first determine that the proceeds of
18 the sale of such mortgages and securities to the authority will be utilized for the
19 purpose of residential housing for occupancy by persons or families of low and
20 moderate income and to enter into agreements with sponsors of residential facilities,
21 as defined in s. ~~46.28~~ 46.291 (1) (d) and (e), and with eligible sponsors, mortgagors
22 or issuers of securities for the purpose of regulating the planning, development and

SECTION 61

1 management of housing projects financed in whole or in part by the proceeds of the
2 mortgages or securities purchased by the authority.

History: History: 1971 c. 287; 1973 c. 208, 333; 1975 c. 221; 1977 c. 418; 1981 c. 349 ss. 12, 32; 1983 a. 27 ss. 1622e to 1622m, 2202 (20); 1983 a. 81; 1983 a. 83 ss. 7, 8, 22; 1983 a. 192; 1985 a. 29 ss. 2242, 3200 (28); 1985 a. 334; 1987 a. 27, 399; 1993 a. 16, 112, 437; 1997 a. 27.

3 **SECTION 62.** 234.03 (15) of the statutes is amended to read:

4 234.03 (15) To acquire or contract to acquire from any person by grant,
5 purchase or otherwise, leaseholds, real or personal property or any interest therein,
6 only when the authority finds that ~~low-~~ low-income or moderate-income housing
7 cannot be developed privately without an acquisition by the authority, or when the
8 authority acquires property by reason of default by a sponsor of a residential facility,
9 as defined in s. ~~46.28~~ 46.291 (1) (d) and (e), or by an eligible sponsor; to own, hold,
10 clear, improve and rehabilitate and to sell, assign, exchange, transfer, convey, lease,
11 mortgage or otherwise dispose of or encumber the same. Nothing in this chapter
12 shall be deemed to impede the operation and effect of local zoning, building and
13 housing ordinances or ordinances relating to subdivision control, land development,
14 fire prevention or other ordinances having to do with housing or housing
15 development.

History: History: 1971 c. 287; 1973 c. 208, 333; 1975 c. 221; 1977 c. 418; 1981 c. 349 ss. 12, 32; 1983 a. 27 ss. 1622e to 1622m, 2202 (20); 1983 a. 81; 1983 a. 83 ss. 7, 8, 22; 1983 a. 192; 1985 a. 29 ss. 2242, 3200 (28); 1985 a. 334; 1987 a. 27, 399; 1993 a. 16, 112, 437; 1997 a. 27.

16 **SECTION 63.** 234.61 (1) of the statutes is amended to read:

17 234.61 (1) Upon the authorization of the department of health and family
18 services, the authority may issue bonds or notes and make loans for the financing of
19 housing projects which are residential facilities as defined in s. ~~46.28~~ 46.291 (1) (d)
20 and the development costs of those housing projects, if the department of health and
21 family services has approved the residential facilities for financing under s. ~~46.28~~
22 46.291 (2). The limitations in ss. 234.18 (1), 234.40, 234.50, 234.60, 234.65 and

1 234.66 do not apply to bonds or notes issued under this section. The definition of
2 “nonprofit corporation” in s. 234.01 (9) does not apply to this section.

3 **History: History:** 1983 a. 27; 1983 a. 81 s. 13; 1983 a. 83 s. 22; 1983 a. 192; 1985 a. 29, 334; 1993 a. 437; 1995 a. 27 s. 9126 (19); 1997 a. 27 s. 3355c; Stats. 1997 s. 234.61.

3 **SECTION 64.** 234.61 (2) (b) of the statutes is amended to read:

4 234.61 (2) (b) Of the amount specified in par. (a), \$30,000,000 may only be used
5 to finance residential facilities serving 15 or fewer persons who are chronically
6 disabled, as defined in s. ~~46.28~~ 46.291 (1) (b).

7 **History: History:** 1983 a. 27; 1983 a. 81 s. 13; 1983 a. 83 s. 22; 1983 a. 192; 1985 a. 29, 334; 1993 a. 437; 1995 a. 27 s. 9126 (19); 1997 a. 27 s. 3355c; Stats. 1997 s. 234.61.

7 **SECTION 65.** 234.61 (2) (c) 1. of the statutes is amended to read:

8 234.61 (2) (c) 1. Of the amount specified in par. (a), \$48,580,000 may only be
9 used to finance residential facilities with 100 or fewer units for elderly persons, as
10 defined in s. ~~46.28~~ 46.291 (1) (c) or to finance additional residential facilities serving
11 15 or fewer persons who are chronically disabled.

12 **History: History:** 1983 a. 27; 1983 a. 81 s. 13; 1983 a. 83 s. 22; 1983 a. 192; 1985 a. 29, 334; 1993 a. 437; 1995 a. 27 s. 9126 (19); 1997 a. 27 s. 3355c; Stats. 1997 s. 234.61.

12 **SECTION 66.** 234.61 (2) (c) 2. of the statutes is amended to read:

13 234.61 (2) (c) 2. The remainder of the amount specified in par. (a) may only be
14 used to finance residential facilities with 50 or fewer units for elderly persons, as
15 defined in s. ~~46.28~~ 46.291 (1) (c), or to finance additional residential facilities serving
16 15 or fewer persons who are chronically disabled.

17 **History: History:** 1983 a. 27; 1983 a. 81 s. 13; 1983 a. 83 s. 22; 1983 a. 192; 1985 a. 29, 334; 1993 a. 437; 1995 a. 27 s. 9126 (19); 1997 a. 27 s. 3355c; Stats. 1997 s. 234.61.

17 **SECTION 67.** 600.01 (1) (b) 10. of the statutes is created to read:

18 600.01 (1) (b) 10. Long-term care services funded by the family care benefit,
19 as defined under s. 46.28 (45), that are provided by a care management organization
20 that contracts with the department of health and family services under s. 46.284 and
21 enrolls only individuals who are eligible under s. ~~46.285~~ 46.286

***NOTE: I reworded this language to fit more grammatically within s. 600.01 (1)
(b). Note that I omitted “for long-term care services”; I did not understand its meaning

and it
is
probably
unnecessary

22 **SECTION 68.** 701.065 (1) (b) 1. of the statutes is amended to read:

1 701.065 (1) (b) 1. The claim is a claim based on tort, on a marital property
2 agreement that is subject to the time limitations under s. 766.58 (13) (b) or (c), on
3 Wisconsin income, franchise, sales, withholding, gift or death taxes, or on
4 unemployment compensation contributions due or benefits overpaid, a claim for
5 funeral or administrative expenses, a claim of this state under s. 46.27 (7g), ~~46.285~~⁶
6 ~~(6)~~, 49.496 or 49.682 or a claim of the United States.

7 **History:** 1997 a. 188.

7 **SECTION 69.** 705.04 (2g) of the statutes is amended to read:

8 705.04 (2g) Notwithstanding subs. (1) and (2), the department of health and
9 family services may collect, from funds of a decedent that are held by the decedent
10 immediately before death in a joint account or a P.O.D. account, an amount equal to
11 the medical assistance that is recoverable under s. 49.496 (3) (a), an amount equal
12 to aid under 49.68, 49.683 or 49.685 that is recoverable under s. 49.682 (2) (a) ~~or~~, an
13 amount equal to long-term community support services under s. 46.27 that is
14 recoverable under s. 46.27 (7g) (c) 1. and that was paid on behalf of the decedent or
15 the decedent's spouse or an amount equal to the family care benefit under s. 46.285⁶
16 that is recoverable under s. 46.285 ~~(6) (b) 1.~~⁶ and that was paid on behalf of the
17 decedent or the decedent's spouse.

18 **History:** 1973 c. 291; 1983 a. 186; 1985 a. 37 s. 187; 1995 a. 27 ss. 7065 to 7065c, 9126 (19).

18 **SECTION 70.** 859.02 (2) (a) of the statutes is amended to read:

19 859.02 (2) (a) It is a claim based on tort, on a marital property agreement that
20 is subject to the time limitations under s. 766.58 (13) (b) or (c), on Wisconsin income,
21 franchise, sales, withholding, gift or death taxes, or on unemployment insurance
22 contributions due or benefits overpaid, a claim for funeral or administrative

1 expenses, a claim of this state under s. 46.27 (7g), ~~46.285~~⁶ (6), 49.496 or 49.682 or a
2 claim of the United States; or

History: 1989 a. 96; 1991 a. 39, 89, 301; 1995 a. 27; 1997 a. 39.

3 **SECTION 71.** 867.035 (1) (a) (intro.) of the statutes is amended to read:

4 867.035 (1) (a) (intro.) Except as provided in par. (bm), the department of
5 health and family services may collect from the property of a decedent, including
6 funds of a decedent that are held by the decedent immediately before death in a joint
7 account or a P.O.D. account, by affidavit under this section an amount equal to the
8 medical assistance that is recoverable under s. 49.496 (3) (a), the long-term
9 community support services under s. 46.27 that is recoverable under s. 46.27 (7g) (c)
10 1., the family care benefit under s. 46.28~~5~~⁶ (6) (b) 1. or the aid under s. 49.68, 49.683
11 or 49.685 that is recoverable under s. 49.682 (2) (a) and that was paid on behalf of
12 the decedent or the decedent's spouse, if all of the following conditions are satisfied:

History: 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27 ss. 7199y to 7206g, 9126 (19); 1997 a. 27.

13 **SECTION 72.** 867.035 (4n) of the statutes is created to read:

14 867.035 (4n) From the appropriation under s. 20.435 (7) (ip), with respect to
15 funds collected by the department under sub. (1) related to the family care benefit
16 funded under s. ~~46.285~~^{46.284(4)} ~~(*****))~~ paid on behalf of the decedent or the
17 decedent's spouse, the department of health and family services shall pay claims
18 under sub. (3) and shall spend the remainder of the funds recovered under this
19 section for the family care benefit funded under s. ~~46.285~~^{46.284(4)} ~~(*****))~~.

****NOTE: ~~As yet, there is not a provision in s. 46.285 that corresponds to s. 46.27~~
~~(7), stats. the number of that provision should be inserted in this subsection.~~
~~And the references to s. 46.284(4) correct what you intend?~~

20 **SECTION 73.** 1997 Wisconsin Act 237 of the statutes is repealed and recreated
21 to read:

22 TITLE.

SECTION 74

1 **SECTION 74.** 1997 Wisconsin Act 237 section 9122 (4) of the statutes is repealed
2 and recreated to read:

3 [1997 Wisconsin Act 237] Section 9122 (4) PILOT PROJECT FOR COUNTY OR TRIBAL
4 MANAGEMENT OF LONG-TERM CARE PROGRAMS. (a) The department of health and family
5 services shall contract with counties or tribes under a pilot project to demonstrate
6 the ability of counties or tribes to manage all long-term care programs under a
7 long-term care management organization.

8 (b) Notwithstanding the exclusion in section 46.286 (1) (a) (intro.) of the
9 statutes, as created by this act, from functional eligibility of a person whose primary
10 disabling condition is developmental disability, such a person is functionally eligible
11 for the family care benefit if the person is a resident of a county or is a member of a
12 tribe operating a care management organization under this subsection.

****NOTE: Is it correct, in par. (b) to refer to "a member of a tribe"? If the intent is to
provide funding for the entire 2-year period of the budget, i.e., 1999-2001, this
nonstatutory provision should probably be renumbered into the statutes.

13 **SECTION 9123. Nonstatutory provisions; health and family services.**

14 (1) ~~LENGTH OF INITIAL TERMS OF MEMBERS OF COUNCIL ON LONG-TERM CARE.~~
15 ~~Notwithstanding the length of terms specified for the members of the council on~~
16 ~~long-term care appointed under section 15.197 (5) of the statutes, as created by this~~
17 ~~act, the initial members of the council shall be appointed under that subsection for~~
18 ~~the following terms:~~

- 19 ~~(a) Nine of the members, for terms expiring on July 1, 2002.~~
- 20 ~~(b) Eight of the members, for terms expiring on July 1, 2003.~~
- 21 ~~(c) Eight of the members, for terms expiring on July 1, 2004.~~

22 (2) LENGTH OF INITIAL TERMS OF MEMBERS OF BOARD ON AGING AND LONG-TERM CARE.
23 Notwithstanding the length of terms specified for members of the board on aging and

1 long-term care appointed under section 15.105 (10) of the statutes, as affected by this
2 act, one of the 2 additional initial members appointed under that subsection shall be
3 appointed for a term expiring on May 1, 2005, and the other of the 2 additional initial
4 members appointed under that subsection shall be appointed for a term expiring on
5 May 1, 2006.

6 (6) ² (6) RULES FOR FAMILY CARE BENEFIT. Using the procedure under section 227.24
7 of the statutes, the department of health and family services shall promulgate the
8 rules required under section ^{5 288} ~~46.287~~ (1) to ^{5 and 50.02(2)(d)} (6) of the statutes, as created by this act,
9 for the period before the effective date of the permanent rules promulgated under
10 section ^{5 288} ~~46.287~~ (1) to ^{5 and 50.02(2)(d)} (6) of the statutes, as created by this act, but not to exceed the
11 period authorized under section 227.24 (1) (c) and (2) of the statutes.
12 Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of the statutes, the department
13 is not required to provide evidence that promulgating a rule under this subsection
14 as an emergency rule is necessary for the preservation of the public peace, health,
15 safety or welfare and is not required to provide a finding of emergency for a rule
16 promulgated under this subsection.

17

(END)

CR; 46.215 (1)(r)

46.215 (1)(r) If authorized under s. 46.283 (1)(a) 1., to apply to the department to operate a resource center under s. 46.283 and, if the department contracts with the county under s. 46.283 (2), to operate the resource center.

Same provision

CR; 46.22 (1)(b) 1.g.

Same provision

CR; 46.82 (3)(a) 19. (Eliminate "to" bec. of intro.)

1999

Nonstat File Sequence: **FFF**

LRB _____ / _____
_____ : _____ : _____

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: **create** → **action:** → *NS: → **effdate**
For the text, execute: **create** → **text:** → *NS: → **effdateA**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective date.

(#1) () This act takes effect
on

1. In the component bar: For the action phrase, execute: .. **create** → **action:** → *NS: → **effdateE**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # _____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) () The treatment of
sections
of the statutes takes effect on

1. In the component bar: For the budget action phrase, execute:.. **create** → **action:** → *NS: → **94XX**
For the text, execute: **create** → **text:** → *NS: → **effdate**
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the **9400** department code; and fill in "()" only if a "frozen" number is needed.

SECTION 94 23 . Effective dates; *health and family...*

services
(#1) *420* **ELIMINATION OF COUNCIL ON LONG-TERM** ^{CARE} **The treatment** ^{repeal} of
sections *.15:07(2)(K), 46.281(1)(a) and (b) and 46.282 and the*
amendment of sections 46.281(1)(h) and 46.284(1)(c)
of the statutes takes effect on *July 1, 2001*