



~~SEN~~ - Inedit 1/12/99
State of Wisconsin
1999 - 2000 LEGISLATURE

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

→ Tues, if possible

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

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT ^{Don't Gen Cat.} 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 by the governor. , as created by 1999 Wisconsin act.... (this act),

5 SECTION 2. 15.07 (2) (k) of the statutes is repealed.

6 SECTION 3. 15.105 (10) of the statutes is amended to read:

7 15.105 (10) BOARD ON AGING AND LONG-TERM CARE. There is created a board on
8 aging and long-term care, attached to the department of administration under s.

9 15.03. The board shall consist of 7[✓]9 members appointed for staggered 5-year terms.

shall

1 Members shall have demonstrated a continuing interest in the problems of providing
2 long-term care for the aged or disabled. ~~At least 4~~ All members shall be public
3 members with no interest in or affiliation with any nursing home. At least 5
4 members ~~will~~ be persons aged 65 or older or persons with physical or developmental
5 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?

6 SECTION 4. 15.197 (5) of the statutes is created to read:

7 15.197 (5) COUNCIL ON LONG-TERM CARE. There is created in the department of
8 health and family services a council on long-term care, which shall consist of 15
9 members.

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

10 SECTION 5. 15.197 (5) of the statutes is repealed.

as created by 1999 Wisconsin Act (this act),

11 SECTION 6. 16.009 (2) (b) 1. of the statutes is amended to read:

12 16.009 (2) (b) 1. Investigate complaints from any person concerning improper
13 conditions or treatment of aged or disabled persons who receive care in a long-term
14 care facility or concerning noncompliance with or improper administration of federal
15 statutes or regulations or state statutes or rules related to long-term care ~~for the~~
16 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.

17 SECTION 7. 16.009 (2) (b) 2. of the statutes is amended to read:

18 16.009 (2) (b) 2. Serve as mediator or advocate to resolve any problem or dispute
19 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.

20 SECTION 8. 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.

4 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 9.** 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.~~

8 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 10.** 16.009 (2) (g) of the statutes is amended to read:

9 16.009 (2) (g) Stimulate resident, client and provider participation in the
10 development of programs and procedures involving resident rights and long-term
11 care facility responsibilities, by establishing resident councils and by other means.

12 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.

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

13 16.009 (2) (h) Conduct statewide hearings on issues of concern to aged or
14 disabled persons who are receiving or who may receive care in a long-term care
15 facility.

16 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 12.** 16.009 (2) (i) of the statutes is amended to read:

17 16.009 (2) (i) Report annually to ~~the governor and the chief clerk of each house~~
18 ~~of the legislature for distribution to the appropriate standing committees of the~~
19 legislature under s. 13.172 (3) and to the governor. The report shall set forth the
20 scope of the programs developed in the state for providing long-term care for the
21 aged or disabled ~~developed in the state~~ in long-term care facilities, findings
22 regarding the state's activities ~~in the field of~~ related to long-term care facilities for
23 the aged and disabled, recommendations for a more effective and efficient total

1 program and the actions taken by the agencies of the state to carry out the board's
2 recommendations.

3 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.

3 **SECTION 13. 16.009 (2) (p) of the statutes is created to read:**

4 16.009 (2) (p) Contract with one or more organizations to provide advocacy

5 services to potential or actual recipients of the family care benefit, as defined ~~under~~ ⁱⁿ ~~subchapter~~ ^{s. 46.283} (4) ^{or} their families or guardians. The board and contract organizations

7 under this paragraph shall assist these persons in protecting their rights under all

8 applicable federal statutes and regulations and state statutes and rules. An

9 organizations with which the board contracts for these services may not be a

10 provider, nor an affiliate of a provider, of long-term care services, a resource center

11 under s. 46.283 or a care management organization under s. 46.284. Advocacy

12 services include all of the following: ~~which~~ required under this paragraph shall

13 1. Providing information, technical assistance and training for consumers of

14 long-term care services about how to obtain the services or support items.

15 2. Providing advice and assistance in preparing and filing complaints,

16 grievances and appeals of complaints or grievances.

17 3. Providing negotiation and mediation on behalf of consumers of long-term

18 care services.

19 4. Assuring the availability of and consulting with legal ~~advice~~ ^{stet} services for

20 appropriate interpretation of statutes, rules or regulations.

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

21 5. Providing representation for consumers of long-term care services in

22 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.

1 SECTION 14. 20.435 (4) (g) of the statutes is created to read:

2 20.435 (4) (g) *Family care benefit; cost sharing*. All moneys received from client
3 cost-sharing requirements under s. 46.286 (2) to be expended for the provision of
4 services under the family care benefit under s. 46.284 (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 numbering of this appropriation is dependent upon the creation of s. 20.435 (4) in ~~20~~-0028. If ~~20~~-0028 is not included in the budget bill, this appropriation must be renumbered.

5 SECTION 15. 20.435 (5) (b) of the statutes is amended to read:

6 20.435 (5) (b) *Medical assistance program benefits*. Biennially, the amounts in
7 the schedule to provide the state share of medical assistance program benefits
8 administered under s. 49.45, to provide medical assistance program benefits
9 administered under s. 49.45 that are not also provided under par. (o) and ^e to fund
10 the pilot project under s. 46.27 (9) and (10), to fund services provided by resource
11 centers under s. 46.283 and to provide services under the family care benefit under
12 s. 46.284. Notwithstanding s. 20.002 (1), the department may transfer from this
13 appropriation to the appropriation under sub. (7) (kb) funds in the amount of and for
14 the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002 (1),
15 the department may credit or deposit into this appropriation and may transfer
16 between fiscal years funds that it transfers from the appropriation under sub. (7) (kb)
17 for the purposes specified in s. 46.485 (3r). Notwithstanding s. 20.002 (1), the
18 department may transfer from this appropriation to the appropriation account
19 under sub. (7) (bd) funds in the amount and for the purposes specified in s. 49.45 (6v).

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), (g); 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.

SECTION 16

SECTION 16. 20.435 (5) (p) of the statutes is amended to read:

20.435 (5) (p) *Federal aid; health care for low-income families and the family care benefit.* All federal moneys received for the badger care health care program for low-income families under s. 49.665 and for services ~~under the family care benefit~~ ~~under s. 46.284(4)~~, to be used for ~~that purpose~~ those purposes.

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), (g); 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.

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

*** NOTE: Is this appropriation correct? Should both ~~rs's~~ and ~~ch's~~ be referenced?

SECTION 17. 20.435 (5) (o) of the statutes is amended to read:

20.435 (5) (o) *Federal aid; medical assistance.* All federal moneys received for meeting costs of medical assistance administered under ss. 49.45 ~~and~~ 49.665 ~~and~~ 46.284 (4).

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), (g); 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.

SECTION 18. 20.435 (7) (b) of the statutes is amended to read:

20.435 (7) (b) *Community aids.* The amounts in the schedule for human services under s. 46.40, for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22 and for foster care and treatment foster care under s. 49.19 (10). Social services disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds received relating to payments made under s. 46.03 (20) (b) for the provision of services for which moneys are appropriated under this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and family services may transfer

for services provided by resource centers under s. 46.283 (5), for services provided by care management organizations under s. 46.284 (4),

Prof. Lataf

of resource centers under s. 46.283 (5) ✓
and of care management organizations under s. 46.284 (4) ✓

to be used for those purposes

reads striking language

1 funds between fiscal years under this paragraph. The department shall deposit into
 2 this appropriation funds it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior
 3 year audit adjustments including those resulting from audits of services under s.
 4 46.26, 1993 stats., or s. 46.27. Except for amounts authorized to be carried forward
 5 under s. 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all
 6 funds allocated under s. 46.40 and not spent or encumbered by December 31 of each
 7 year shall lapse to the general fund on the succeeding January 1 unless carried
 8 forward to the next calendar year by the joint 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), (g); 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.

****NOTE: Does this appropriation need to be amended in any other way, e.g. to provide for transfer of moneys? ↑ ↷

9 **SECTION 19.** 20.435 (7) (ip) of the statutes is created to read:
 10 20.435 (7) (ip) *Family care benefit; recovery of costs of care.* All moneys received
 11 from the recovery of costs of care under ss. 46.286 (6) and 867.035, for payments to
 12 ***** for provision of the family care benefit under s. 46.284 (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 20. 20.435 (7) (bd) of the statutes is amended to read:

14 20.435 (7) (bd) *Community options program and; long-term support pilot*
 15 *projects; family care benefit.* The amounts in the schedule for assessments, case
 16 planning, services and, administration and risk reserve escrow accounts under s.
 17 46.27 and for pilot projects under s. 46.271 (1), and the amounts carried forward
 18 under 1997 Wisconsin Act 27, section 9123 (2), for the pilot project under s. 46.271
 19 (2m) and for services under the family care benefit under s. 46.284 (4). If the

5 ext. out of order (13)
 (14)
 (17)
 (18)
 (19)
 (2)

JK

SECTION 20

1 department transfers funds to this appropriation from the appropriation account
 2 under sub. (5) (b), the amounts in the schedule for the fiscal year for which the
 3 transfer is made are increased by the amount of the transfer for the purposes
 4 specified in s. 49.45 (6v). Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the
 5 department may under this paragraph transfer moneys between fiscal years. Except
 6 for moneys authorized for transfer under this appropriation, ^{or} under s. 46.27 (7) (fm)
 7 or (g) ~~or under 1997 Wisconsin Act 27, section 9123 (2)~~, all moneys under this
 8 appropriation that are allocated under s. 46.27 and are not spent or encumbered by
 9 counties or by the department by December 31 of each year shall lapse to the general
 10 fund on the succeeding January 1 unless transferred to the next calendar year by the
 11 joint 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), (g); 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.

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

****NOTE: Does this appropriation need to be amended in any other way, e.g., to provide for the transfer of moneys?

12 SECTION 21. 46.215 (1) (r) of the statutes is created to read:
 13 46.215 (1) (r) If authorized under s. 46.283 (1) (a) 1., to apply to the department
 14 to operate a resource center under s. 46.283 and, if the department contracts with
 15 the county under s. 46.283 (2), to operate the resource center.

16 SECTION 22. 46.22 (1) (b) 1. j. of the statutes is created to read:
 17 46.22 (1) (b) 1. j. If authorized under s. 46.283 (1) (a) 1., to apply to the
 18 department to operate a resource center under s. 46.283 and, if the department
 19 contracts with the county under s. 46.283, to operate the resource center.

20 SECTION 23. 46.27 (2) (k) of the statutes is created to read:

(2)

1 46.27 (2) (k) Review and approve or disapprove the terms of risk reserve escrow
2 accounts created under sub. (7) (fr) and approve or disapprove disbursements for
3 administrative or staff costs from the risk reserve escrow accounts.

4 **SECTION 24.** 46.27 (4) (a) (intro.) of the statutes is amended to read:
5 46.27 (4) (a) (intro.) ~~The Except as provided in par. (am),~~ the county board of
6 supervisors shall select the county long-term support planning committee, which
7 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.

8 **SECTION 25.** 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. p.

9 **SECTION 26.** 46.27 (5) (e) 2. of the statutes is created to read:
10 46.27 (5) (e) 2. After the date specified in s. 46.281 (3), subd. 1. does not apply
11 to persons who are aged 65 or older or are physically disabled and who reside in the
12 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. p.

13 **SECTION 27.** 46.27 (6) (a) 2. i. of the statutes is created to read:
14 46.27 (6) (a) 2. i. After the date specified in s. 46.281 (3), persons who are aged
15 65 or older or are physically disabled and who reside in the area that is served by a
16 resource center to which s. 46.281 (3) applies.

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

17 **SECTION 28.** 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. p.

18 **SECTION 29.** 46.27 (6) (a) 3. b. of the statutes is created to read:
19 46.27 (6) (a) 3. b. After the date specified in s. 46.281 (3), the requirement to
20 conduct an assessment under subd. 3. a. does not apply to person who are aged 65

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SECTION 29

aka

1 or older or are physically disabled and who reside in the ~~area~~ that is served by a
2 resource center to which s. 46.281 (3) applies.

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

3 **SECTION 30.** 46.27 (7) (am) of the statutes is amended to read:

4 46.27 (7) (am) From the appropriation under s. 20.435 (7) (bd), the department
5 shall allocate funds to each county or private nonprofit agency with which the
6 department contracts to pay assessment and case plan costs under sub. (6) not
7 otherwise paid by fee or under s. 49.33 (2) or 49.45. The department shall reimburse
8 counties for the cost of assessing persons eligible for medical assistance under s.
9 49.46, 49.468 or 49.47 as part of the administrative services of medical assistance,
10 payable under s. 49.45 (3) (a). Counties may use unspent funds allocated under this
11 paragraph to pay the cost of long-term community support services and for a risk
12 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.

13 **SECTION 31.** 46.27 (7) (b) of the statutes is amended to read:

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

1 accordance with the case plan and service contract created for each person receiving
2 long-term community support services. Counties may use unspent funds allocated
3 under this paragraph from the appropriation under s. 20.435 (7) (bd) for a risk
4 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; 1993 a. 27; 1997 a. 13, 27, 39, 79, 237.

5 **SECTION 32.** 46.27 (7) (cj) 3. ab. of the statutes is created to read:

6 46.27 (7) (cj) 3. ab. After the date specified in s. 46.281 (3), subd. 3. a. does not
7 apply to persons who are aged 65 or older or are physically disabled and who reside
8 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. *ab*

SECTION 33. 46.27 (7) (fm) of the statutes is amended to read:

9
10 46.27 (7) (fm) The department shall, at the request of a county, carry forward
11 up to 10% of the amount allocated under this subsection to the county for a calendar
12 year if up to 10% of the amount so allocated has not been spent or encumbered by the
13 county by December 31 of that year, for use by the county in the following calendar
14 year, except that this amount shall be reduced by the amount of funds remaining in
15 the county's risk reserve ~~escrow account~~ under par. (fr) at the end of the calendar
16 year. The department may transfer funds within s. 20.435 (7) (bd) to accomplish this
17 purpose. An allocation under this paragraph does not affect a county's base
18 allocation under this subsection and shall lapse to the general fund unless expended
19 within the calendar year to which the funds are carried forward. A county may not
20 expend funds carried forward under this paragraph for administrative or staff costs,
21 except administrative or staff costs that are associated with implementation of the
22 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.

23 **SECTION 34.** 46.27 (7) (fr) of the statutes is created to read:

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SECTION 34

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46.27 (7) (fr) 1. A county may ~~decide to~~ place in risk reserve funds that are allocated under par. (am) or (b) or sub. (11) 3. and are not expended or encumbered for services under this subsection or sub. (11). The county shall notify the department of this decision and of the amount to be placed in the risk reserve. The county shall maintain the risk reserve in an interest-bearing escrow account with a financial institution, as defined in s. 69.30 (1) (b), if the department has approved the terms of the escrow.

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

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

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

- a. To defray costs of long-term community support services under this section.
- b. To meet requirements under any contract *that* the county has with the department to operate a care management organization under s. 46.284.
- c. If approved by a resolution of the county *of* board of supervisors, to transfer funds to a *the* agency.
- d. If approved by the department, for administrative or staff costs under this 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 35.** 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 36.** 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. ~~ab~~ ^{ab}

20 **SECTION 37.** 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 persons 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.

 ****NOTE: The amendments to s. 46.27 (6) (a) 2. and 3. conflict with some of the
limited waivers or exemptions in s. 46.289. Please review all of the provisions that are

SECTION 37

keyed to this ****Note, and the treatment of s. 50.06 (7) (a) and (b) and 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.

1 ~~SECTION 38. 46.28 of the statutes is renumbered 46.291.~~

2 SECTION 39. 46.28⁰⁵ of the statutes is created to read:

3 46.28⁰⁵ Definitions; long-term care. In ~~section~~⁵⁵ 46.28⁰⁵ to 46.2895: (1) "Care
4 management organization" means an entity that is certified as meeting
5 ^{the} requirements for a care management organization under s. 46.284 (2) and that has
6 a contract under s. 46.284 (1). "Care management organization" does not mean an
7 entity that contracts with the department to operate one of the following:

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 ~~the~~ manner.

→ the above

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

15 ~~46.285~~ (1) (b). 46.286

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

18 (4) "Family care benefit" means financial assistance for long-term care and
19 support items for an enrollee.

1 (5) "Long-term care system" means the organizations and programs that
 2 provide the family care benefit or other publicly funded long-term care benefits or
 3 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. This term is now used in ss. 46.281 (1) (g) 3. and 4., 46.282 (1)
 and (3), 46.283 (2) (a) and 46.289 (intro.) Are the uses correct?

4 (6) "Nonprofit organization" has the meaning given in s. 108.02 (19).

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

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

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

9 (9) "Tribe or band" means a federally recognized American Indian tribe or
 10 band.

11 SECTION 40. 46.281 of the statutes is created to read:

12 **46.281 Powers and duties of the department and the secretary;**

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

15 (a) Provide training to members of the council on long-term care who are aged
 16 65 or older or who have physical or developmental disabilities or their family
 17 members, guardians or other advocates, to enable these members to participate in
 18 the council's duties.

19 (b) Provide information to the council on long-term care and seek
 20 recommendations of the council.

21 (c) Request from the secretary of the federal department of health and human
 22 services any waivers of federal medicaid laws necessary to permit the use of federal

SECTION 40

1 moneys to provide the family care benefit to recipients of medical assistance. The
2 department shall implement any waiver that is approved. Regardless of whether a
3 waiver is approved, the department may implement operation of resource centers,
④ care management organizations and the family care benefit.

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

8 (e) Contract with one or more entities certified as meeting requirements under
9 s. 46.284 (2) for services of the entity as a care management organization and one or
10 more entities for services specified under s. 46.283 (2).

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

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

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

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

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

21 3. Conduct ongoing evaluations of the long-term care system.

② 22 4. Require that quality assurance and quality improvement efforts ~~are~~ *be*
23 included throughout the long-term care system.

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

5 (h) Include in each contract with a resource center or a care management
6 organization requirements for the protection of the rights specified in s. 46.287 (3).

7 (i) Prescribe criteria to assign priority equitably on any necessary waiting lists
8 for persons who are eligible for the family care benefit but who do not meet the
9 criteria under s. 46.286 (4).

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

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

17 SECTION 41. 46.281 (1) (a) of the statutes is repealed.

18 SECTION 42. 46.281 (1) (b) of the statutes is repealed.

19 SECTION 43. 46.282 of the statutes is created to read:

*as created
by 1999 Wisconsin
act ... (this act)*

X

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20 46.282 Council on long-term care. ~~(1)~~ The council on long-term care

21 appointed under s. 15.197 (5) shall do all of the following:

Set ~~(1)~~

22 Assist the department in developing broad policy issues related to

23 long-term care services and the long-term care system.

SECTION 43

1 Assist the department in developing, implementing, coordinating and
2 guiding the long-term care system, including by reviewing and making non-binding
3 recommendations to the department on all of the following:

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

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

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

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

10 Programs other than those under ~~subd. 3. and 4.~~ that provide home and
11 community-based services.

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

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

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

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

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

20 (7) Review annual reports submitted by local long-term care councils and
21 other information and report annually to the legislature in the manner provided
22 under s. 13.172 (2) and to the governor on the status, significant achievements and
23 problems of resource centers, care management organizations and the family care
24 benefit, including all of the following:

25 (a) Numbers of persons served.

Handwritten annotations: "STEP" with arrows pointing to lines 1-2, 6-7, 8-9, and 10-11. A circled "5" is written over the text "subd. 3. and 4." on line 10.

Handwritten note: "pars. (c) and (d)" with an arrow pointing to the circled "5" on line 10.

1 (b) Costs of long-term care provided under the family care benefit.

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

4 (d) Waiting list information.

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

7 SECTION 44. 46.282 of the statutes is repealed. *as created by 1999 Wisconsin Act*

8 SECTION 45. 46.283 of the statutes is created to read: *... (this act),*

9 **46.283 Resource centers.** (1) APPLICATION FOR CONTRACT. (a) A county board
10 of supervisors and, in a county with a county executive or a county administrator, the
11 county executive or county administrator, may decide all of the following:

12 1. Whether to authorize one or more county departments under s. 46.21,
13 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 to apply to the department for
14 a contract to operate a resource center and, if so, which to authorize and what client
15 group to serve.

16 2. Whether to create a *****agency to apply to the department for a
17 contract to operate a resource center.

18 (b) The governing body of a tribe or band or of the Great Lakes inter-tribal
19 council, inc., may decide whether to authorize a tribal agency to apply to the
20 department for a contract to operate a resource center for tribal members within the
21 boundaries of a county and, if so, ~~what~~ *which* client group to serve.

22 (c) Under the requirements of par. (a), a county board of supervisors may decide
23 to apply to the department for a contract to operate a ~~multiple county~~ resource center
24 in conjunction with the county board or boards of one or more other counties or a

multicounty

SECTION 45

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county-tribal resource center in conjunction with the governing body of a tribe or band or the Great Lakes inter-tribal council, inc.

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

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

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

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(c) After the period specified in par. (a), the department may contract to operate a resource center with counties, *****agencies, the governing body of a tribe or band or the Great Lakes inter-tribal council, inc., or under a joint application of

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1 any of these, or with a private nonprofit organization that is entirely separate from
2 an entity that operates a care management organization.

****NOTE: Are subs. (1) and (2) now accurate? Please note ss. 46.215 (1) (r), 46.22
(1) (b) 1. j. and 46.82 (3) (a) 19.

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

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

7 (b) A determination of functional eligibility for the family care benefit,
8 including the availability of functional screening and a determination of eligibility,
9 on an emergency basis, 24 hours per day.

****NOTE: Is "a determination of eligibility" what is meant by "response"?

10 (c) Prevention and intervention services.

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

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

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

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

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

46.286

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

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

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

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

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

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

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

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

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

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

18 (e) Within 6 months after the family care benefit is available in the area of the
19 resource center, provide information about the services of the resource center,
20 including the services specified in sub. (3) (d), and about the family care benefit to
21 all current residents of nursing homes, community-based residential facilities, adult
22 family homes and resident care apartment complexes in the area of the resource
23 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. (e), 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 accounts under s. 20.435 (5) (p) ^{and} (7) (b)
5 and ~~and~~ (md), the department may contract with organizations that meet standards
6 under sub. (3) and 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 46. 46.284 of the statutes is created to read:

13 46.284 Care management organizations. (1) CONTRACTS. (a) The
14 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
16 operate as a care management organization under the requirements of this section
17 unless so certified and under 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 *****agency if the county elects to
20 operate a care management organization and the care management organization
21 meets the requirements of sub. (2) and performance standards prescribed by the
22 department. A county that contracts under this paragraph may operate the care
23 management organization for all of the target groups or for a selected group or

1 groups. The initial contracts[✓] shall be for 2 years. During the first 2 years in which
2 the county has a contract under which it accepts a per person per month payment
3 for each enrollee in the care management organization, the department may not
4 contract with another organization to operate a care management organization in
5 the county unless any of the following applies:

6 1. The county agrees in writing that at least one additional care management
7 organization is necessary or desirable.

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

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

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

****NOTE: Would it not be appropriate to have a provision⁵⁵ that precedes sub. (1) that
corresponds to s. 46.283 (1)? This also would affect ~~§~~ 46.215 (1) (r), 46.22(1) (b) 1. j. and
46.82 (3) (a) 19. It also would appear to be necessary to be consistent with s. 46.285.

21 (2) CERTIFICATION; REQUIREMENTS. (a) If an entity meets the requirements
22 under par. (b) and applicable rules of the department and submits to the department

1 an application for initial certification or certification renewal, the department shall
2 certify that the entity meets the requirements for a care management organization.

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 *of*
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.

SECTION 46

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 ^{of} 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 ^{the} 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 ^{to} 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. (2) (c).

20 (4) FUNDING AND RISK-SHARING. (a) From the appropriation accounts under s.
 21 20.435 (4) (g), (5) (b) ~~and~~ (o) and (7) (b) and (bd), the department shall provide funding

Handwritten notes:
 (p) and
 (o) and (p) and (q) and (r) and (s) and (t) and (u) and (v) and (w) and (x) and (y) and (z)

SECTION 46

1 on a 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 providers of services under the family care
5 benefit.

****NOTE: Do you really want to notwithstand all of s. 46.036?
*** NOTE: Are the appropriations referenced correct? ✓

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.

excess payments

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 or other gains accruing to the risk reserve
22 remain in the *escrow* risk reserve account. *for the risk reserve*

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 expend 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.

****NOTE: I wasn't sure 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 providers 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).

22 SECTION 47. 46.284 (1) (c) of the statutes, as created by 1999 Wisconsin Act
 23 (this act), is amended to read:

SECTION 47

1 46.284 (1) (c) For contracts following the initial contracts specified in par. (b),
 2 the department shall, ~~after consulting with the council on long-term care~~[✓], prescribe
 3 criteria to determine the number of care management organizations that are
 4 necessary for operation in a county. Under these criteria, the department shall solicit
 5 applications, certify those applicants that meet the requirements specified in sub. (2)
 6 (a), select certified applicants for contract and contract with the selected applicants.

7 **SECTION 48.** 46.285 of the statutes is created to read:

8 **46.285 Joint operation of resource center and care management**
 9 **organization.** ~~(1) TITLE. (a) Title. Title~~ If a county board of supervisors and,
 10 in a county with a county executive or a county administrator, the county executive
 11 or county administrator, decide to authorize a county agency to apply to the
 12 department for both a contract to operate a resource center and a contract to operate
 13 a care management organization, the county board of supervisors and, if applicable,
 14 the county executive or county administrator, may do one of the following:

15 (1) Operate the care management organization and create a
 16 *****agency to operate the resource center.

17 (2) Operate the resource center and create a *****agency to operate the care
 18 management organization.

*create a *** agency to operate*

19 (3) Create a *****agency to operate ~~both~~ the resource center and the care
 20 management organization.

21 ~~(4) Directly operate both the resource center and the care management~~
 22 ~~organization, except with respect to determinations of eligibility, as specified in s.~~
 23 ~~46.286 (1) and with respect to development of enrollees' plans of care.~~

24 **SECTION 49.** 46.286 of the statutes is created to read:

1 **46.286 Family care benefit.** (1) ^{CS} Eligibility. A person is eligible for, but not
2 entitled to, the family care benefit if the person is at least 18 years of age and meets
3 all of the following criteria: (3)

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

 ****NOTE: I added "primary" to "disabling condition", since your instructions for
rulemaking 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.

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

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

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

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

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

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

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

22 d. Community aids under s. 46.40.

23 e. County funding.

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

1 (b) *Financial eligibility*. A person is financially eligible if ~~either~~ ^{any} of the following,
2 as determined by the department or its designee, applies:

3 1. The projected cost of the person's care plan, as calculated by the department
4 or its designee, exceeds the person's gross monthly income, deductions and
5 allowances specified by rule by the department, plus one-twelfth of his or her
6 available assets.

7 2. The person is eligible for medical assistance under s. 46.27 (11), 46.275,
8 46.277, 46.278, 49.46 (1) (a) 4. or 6m., 49.47 (4) (a) 3. or 4. or 49.472.

****NOTE: If LRB ~~00~~⁰² 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.

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

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

13 (b) Funds received under par. (a) shall be used to pay for long-term care
14 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?

15 (3) DIVESTMENT. (a) The department or its designee shall require all persons
16 applying for the family care benefit ^{and}, annually, all persons receiving the benefit to
17 provide a declaration of assets, on a form prescribed by the department. The
18 declaration shall include all of the following:

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

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

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

8 (b) In determining financial eligibility under sub. (1) (a) and in calculating the
9 amount under par. (a), the department or its designee shall include as the assets for
10 any person, except those persons who are eligible for medical assistance under s.
11 49.46, 49.468 or 49.47, any portion of assets that the person or the person's spouse
12 has transferred to another as specified in par. (a), unless one of the following applies:

- 13 1. The transferred asset has no current value.
- 14 2. The department or its designee determines that undue hardship would
15 result to the person or to his or her family from a denial of financial eligibility or from
16 including all or a portion of a transferred asset in the calculation of the amount of
17 cost sharing required.

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

- 22 (a) Is functionally eligible at the comprehensive level.
- 23 (b) Is functionally eligible at the intermediate level and is financially eligible
24 under sub. (1) (b) 2. ✓

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

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

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

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

9 1. "Client" means a person who receives or received the family care benefit.

10 2. "Disabled" has the meaning given in s. 49.468 (1) (a) 1. ✓

11 3. "Home" means property in which a person has an ownership interest
12 consisting of the person's dwelling and the land used and operated in connection with
13 the dwelling.

14 (b) 1. Except as provided in subd. 4., the department shall file a claim against
15 the estate of a client or against the estate of the surviving spouse of a client for the
16 value of services under the family care benefit paid on behalf of the client, unless
17 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?

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

20 3. The court shall reduce the amount of a claim under subd. 1. by up to \$3,000 ✓
21 if necessary to allow the client's heirs or the beneficiaries of the client's will to retain
22 the following personal property:

23 a. The decedent's wearing apparel and jewelry held for personal use.

1 b. Household furniture, furnishings and appliances.

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

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

6 5. If the department's claim is not allowable because of subd. 4. and the estate
7 includes an interest in a home, the court exercising probate jurisdiction shall, in the
8 final judgment, assign the interest in the home subject to a lien in favor of the
9 department for the amount described in subd. 1. The personal representative shall
10 record the final judgment as provided in s. 863.29. ✓

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

13 a. A spouse.

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

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

17 (c) The department may require the resource center in each county to gather
18 and provide the department with information needed to recover payment of the value
19 of services under the family care benefit under this subsection. The department shall
20 pay to the resource center an amount equal to 5% of the recovery collected by the
21 department relating to a client for whom the resource center made the last
22 determination of eligibility under sub. (1). A resource center may use funds received
23 under this paragraph only to pay costs incurred under this paragraph and shall
24 remit the remainder, if any, to the department to be credited to the appropriation
25 account under s. 20.435 (7) (ip). ✓ The department may withhold payments under this

SECTION 49

1 paragraph for failure to comply with the department's requirements under this
2 paragraph. The department shall treat payments made under this paragraph as
3 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?

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

under s. 46.284 (4)

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

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

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

11 (f) If the department determines that the application of this subsection would
12 work an undue hardship in a particular case, under standards prescribed by rule, the
13 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. 46.288 (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 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.

14 SECTION 50. 46.287 of the statutes is created to read:

15 46.287 Rights of clients, eligible persons and enrollees. (1) DEFINITION.

16 In this section, "client" means an eligible person and an enrollee.

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

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

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

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

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

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

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

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

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

17 (4) HEARING. (a) A client may contest any of the following by sending within
18 10 days after receipt of notice of any of the following a written request for hearing
19 under a mechanism for hearing the dispute that is prescribed by the department by
20 rule:

21 1. Denial of eligibility under s. 46.28(1).

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

24 3. Reduction of services or support items under the family care benefit.

25 4. Termination of the family care benefit.

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

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

5 b. The plan of care provides care, treatment or support items that are
6 insufficient to meet the enrollee’s needs, are unnecessarily restrictive or are
7 unwanted by the enrollee.

8 (b) A client may contest the type, amount or quality of service under the family
9 care benefit or may contest the choice of service provider under the procedure
10 specified in par. (a) (intro.) only if the contract monitoring unit of the department has
11 first reviewed and attempted to resolve the dispute.

****NOTE: What event triggers the client’s right to request a s. 227.44, stats.,
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.

(12) (c) Whenever an action that is specified under par. (a) 1. to ~~4.~~ ⁵ is taken or a
13 dispute under par. (b) arises, ***** shall provide the client, in writing, with
14 notice of appeal procedures available, an explanation of how the procedures operate
15 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.?

****NOTE: It is clear that, because 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 comports with your intent.

16 **SECTION 51.** 46.288 of the statutes is created to read:

17 **46.288 Rule-making.** The department shall promulgate as rules all of the
18 following:

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

4 (2) Rights of clients, eligible persons and enrollees that are specified in s.
5 46.286. 7

6 (3) Criteria and procedures for determining functional eligibility under s.
7 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), cost sharing under s. 46.286
8 (2) (a) and entitlement under s. 46.286 (4), including definition of the following terms
9 applicable to s. 46.286: S

10 (a) "Primary disabling condition".

11 (b) "Mental illness".

12 (c) "Substance abuse".

13 (d) "Long-term or irreversible".

14 (e) "Requires ongoing care, assistance or supervision".

15 (f) "Condition that is expected to last at least 90 days or result in death within
16 one year".

****NOTE: This term differs from that proposed; it follows the December 22 language
creating s. 46.286.

17 (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?

18 (h) "Gross monthly income".

19 (i) "Deductions and allowances".

20 (j) "Available assets".

21 (4) Procedures and standards for procedures for s. 46.287 (4). ✓

22 (5) Standards for determining undue hardship under s. 46.286 (6) (f). ✓

sets
quoted text

2895

1 SECTION 52. 46.289 of the statutes is created to read:

2 46.289 Transition. In order to facilitate the transition to the long-term care
3 system specified in ss. ~~46.288~~ ^{46.2805} to 46.2885, all of the following may take place:

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

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

11 SECTION 53. 46.82 (3) (a) 19. of the statutes is created to read:

12 46.82 (3) (a) 19. If authorized under s. 46.283 (1) (a) 1., apply to the department
13 to operate a resource center under s. 46.283 and, if the department contracts with
14 the county under s. 46.283 (2), operate the resource center.

****NOTE: Should s. 49.45, stats., be amended in any way to provide for
administration of the family care benefit as a part of medical assistance?

15 SECTION 54. 50.02 (2) (d) of the statutes is created to read:

16 50.02 (2) (d) The department shall promulgate rules that prescribe the time
17 periods specified in ss. 50.033 (2r) and (2s), 50.034 (5m) and (5n), 50.035 (4m) and
18 (4n) and 50.04 (2g) (a) and (2h) (a).

19 SECTION 55. 50.033 (2r) of the statutes is created to read:

20 50.033 (2r) PROVISION OF INFORMATION REQUIRED. An adult family home shall,
21 within the time period after inquiry by a prospective resident that is prescribed by
22 the department by rule, inform the prospective resident of the services of a resource
23 center under s. 46.283, the family care benefit under s. 46.286 and the availability

1 of an assessment to determine the prospective resident's eligibility for the family care
2 benefit under s. 46.286 (1). ✓

3 **SECTION 56.** 50.033 (2s) of the statutes is created to read:

4 **50.033 (2s) REQUIRED REFERRAL.** An adult family home shall, within the time
5 period prescribed by the department by rule, refer to a resource center under s.
6 46.283 ✓ a person who is seeking admission, who is at least 65 years of age or has a
7 physical disability and whose disability or condition is expected to last at least 90
8 days, unless any of the following applies:

9 (a) The person has received an assessment of functional eligibility under s.
10 46.286 (1) (a) ✓ within the previous 6 months.

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

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

13 **SECTION 57.** 50.034 (5m) of the statutes is created to read:

14 **50.034 (5m) PROVISION OF INFORMATION REQUIRED.** A residential care apartment
15 complex shall, within the time period after inquiry by a prospective resident that is
16 prescribed by the department by rule, inform the prospective resident of the services
17 of a resource center under s. 46.283 ✓, the family care benefit under s. 46.286 ✓ and the
18 availability of an assessment to determine the prospective resident's eligibility for
19 the family care benefit under s. 46.286 (1). ✓

20 **SECTION 58.** 50.034 (5n) of the statutes is created to read:

21 **50.034 (5n) REQUIRED REFERRAL.** A residential care apartment complex shall,
22 within the time period prescribed by the department by rule, refer to a resource
23 center under s. 46.283 a person who is seeking admission, who is at least 65 years
24 of age or has a physical disability and whose disability or condition is expected to last
25 at least 90 days, unless any of the following applies:

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 residential care apartment complex only for
4 respite care.

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

6 **SECTION 59.** 50.034 (8) of the statutes is created to read:

7 50.034 (8) FORFEITURES. (a) Whoever violates sub. (5m) [✓] or (5n) [✓] or rules
8 promulgated under sub. (5m) [✓] or (5n) [✓] may be required to forfeit not more than \$500.

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

15 (c) A residential care apartment complex may contest an assessment of ^a
16 forfeiture by sending, within 10 days after receipt of notice under par. (b), a written
17 request for ^a hearing under s. 227.44 [✓] to the division of hearings and appeals created
18 under s. 15.103 (1) [✓]. The administrator of the division may designate a hearing
19 examiner to preside over the case and recommend a decision to the administrator
20 under s. 227.46 [✓]. The decision of the administrator of the division shall be the final
21 administrative decision. The division shall commence the hearing within 30 days
22 after receipt of the request for ^a hearing and shall issue a final decision within 15 days
23 after the close of the hearing. Proceedings before the division are governed by ch.
24 227. In any petition for judicial review of a decision by the division, the party, other

1 than the petitioner, who was in the proceeding before the division shall be the named
2 respondent.

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

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

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

12 **SECTION 60.** 50.035 (4m) of the statutes is created to read:

13 50.035 (4m) PROVISION OF INFORMATION REQUIRED. A community-based
14 residential facility shall, within the time period after inquiry by a prospective
15 resident that is prescribed by the department by rule, inform the prospective
16 resident of the services of a resource center under s. 46.283, the family care benefit
17 under s. 46.286 and the availability of an assessment to determine the prospective
18 resident's eligibility for the family care benefit under s. 46.286 (1).

19 **SECTION 61.** 50.035 (4n) of the statutes is created to read:

20 50.035 (4n) REQUIRED REFERRAL. A community-based residential facility shall,
21 within the time period prescribed by the department by rule, refer to a resource
22 center under s. 46.283 a person who is seeking admission, who is at least 65 years
23 of age or has a physical disability and whose disability or condition is expected to last
24 at least 90 days, unless any of the following applies:

SECTION 61

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 community-based residential facility only for
4 respite care.

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

6 **SECTION 62.** 50.035 (11) of the statutes is created to read:

7 50.035 (11) FORFEITURES. (a) Whoever violates sub. (4m) or (4n) or rules
8 promulgated under sub. (4m) or (4n) may be required to forfeit not more than \$500.

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

15 (c) A community-based residential facility may contest an assessment of
16 forfeiture by sending, within 10 days after receipt of notice under par. (b), a written
17 request for^a hearing under s. 227.44 to the division of hearings and appeals created
18 under s. 15.103 (1). The administrator of the division may designate a hearing
19 examiner to preside over the case and recommend a decision to the administrator
20 under s. 227.46. The decision of the administrator of the division shall be the final
21 administrative decision. The division shall commence the hearing within 30 days
22 after receipt of the request for^a hearing and shall issue a final decision within 15 days
23 after the close of the hearing. Proceedings before the division are governed by ch.
24 227. In any petition for judicial review of a decision by the division, the party, other

1 than the petitioner, who was in the proceeding before the division shall be the named
2 respondent.

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

8 (e) The attorney general may bring an action in the name of the state to collect
9 any forfeiture imposed under this section if the forfeiture has not been paid following
10 the exhaustion of all administrative and judicial reviews. The only issue to be
11 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.



12 **SECTION 63.** 50.04 (2g) of the statutes is created to read:

13 50.04 (2g) PROVISION OF INFORMATION REQUIRED. (a) A nursing 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 (b) Failure to comply with this subsection is a class "C" violation under sub. (4)

20 (b) 3.

21 **SECTION 64.** 50.04 (2h) of the statutes is created to read:

1 50.04 (2h) REQUIRED REFERRAL. (a) A nursing home shall, within the time
2 period prescribed by the department by rule, refer to a resource center under s.
3 46.283 a person who is seeking admission, who is at least 65 years of age or has
4 developmental disability or physical disability and whose disability or condition is
5 expected to last at least 90 days, unless any of the following applies:

6 1. The person has received an assessment of functional eligibility under s.
7 46.286 (1) (a) within the previous 6 months.

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

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

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

11 (b) 3.

12 **SECTION 65.** 50.06 (7) of the statutes is renumbered 50.06 (7) (a) and amended
13 to read:

14 50.06 (7) (a) ~~An~~ Except as provided in par. (b), an individual who consents to
15 an admission under this section may request that an assessment be conducted for
16 the incapacitated individual under the long-term support community options
17 program under s. 46.27 (6).

18 **History:** 1993 a. 187.

18 **SECTION 66.** 50.06 (7) (b) of the statutes is created to read:

19 50.06 (7) (b) After the date specified in s. 46.281 (3), par. (a) does not apply to
20 persons who are aged 65 or older or are physically disabled and who reside in the area
21 that is served by a resource center to which s. 46.281 (3) applies.

22 **SECTION 67.** 50.36 (2) (c) of the statutes is created to read:

23 50.36 (2) (c) The department shall promulgate rules that require that a
24 hospital, before discharging a patient who is aged 65 or older or who has

1 developmental disability or physical disability and whose disability or condition
2 requires long-term care that is expected to last at least 90 days, refer the patient
3 to the resource center under s. 46.283.

4 SECTION 68. 50.38 of the statutes is created to read:

5 50.38 Forfeitures. (1) Whoever violates rules promulgated under s. 50.36 (2)
6 (c) may be required to forfeit not more than \$500.

7 (2) The department may directly assess forfeitures provided for under sub. (1).
8 If the department determines that a forfeiture should be assessed for a particular
9 violation or for failure to correct it, ^{the department} it shall send a notice of assessment to the hospital. ✓
10 The notice shall specify the amount of the forfeiture assessed, the violation and the
11 statute or rule alleged to have been violated, and shall inform the hospital of the right
12 to a hearing under sub. (4). (3)

13 (3) A hospital may contest an assessment of forfeiture by sending, within 10
14 days after receipt of notice under sub. (2), a written request for ^a hearing under s.
15 227.44 to the division of hearings and appeals created under s. 15.103 (1). The
16 administrator of the division may designate a hearing examiner to preside over the
17 case and recommend a decision to the administrator under s. 227.46. The decision
18 of the administrator of the division shall be the final administrative decision. The
19 division shall commence the hearing within 30 days after receipt of the request for
20 ^a hearing and shall issue ^e a final decision within 15 days after the close of the hearing.
21 Proceedings before the division are governed by ch. 227. In any petition for judicial
22 review of a decision by the division, the party, other than the petitioner, who was in
23 the proceeding before the division shall be the named respondent.

24 (4) All forfeitures shall be paid to the department within 10 days after receipt
25 of notice of assessment or, if the forfeiture is contested under sub. (3), within 10 days

(3)

SECTION 68

1 after receipt of the final decision after exhaustion of administrative review, unless
2 the final decision is appealed and the order is stayed by court order. The department
3 shall remit all forfeitures paid to the state treasurer for deposit in the school fund.

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

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

8 **SECTION 69.** 50.49 (4) of the statutes is amended to read:

9 50.49 (4) LICENSING, INSPECTION AND REGULATION. The Except as provided in sub.
10 (6m), the department may register, license, inspect and regulate home health
11 agencies as provided in this section. The department shall ensure, in its inspections
12 of home health agencies, that a sampling of records from private pay patients are
13 reviewed. The department shall select the patients who shall receive home visits as
14 a part of the inspection. Results of the inspections shall be made available to the
15 public at each of the regional offices of the department.

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.

16 **SECTION 70.** 50.49 (6m) of the statutes is created to read:

17 50.49 (6m) EXCEPTIONS. None of the following is required to be licensed as a
18 home health agency under sub. (4), regardless of whether any of the following
19 provides services that are similar to services provided by a home health agency:

- 20 (a) A care management organization, as defined in s. 46.28⁰⁵(1).
- 21 (b) A program specified in s. 46.28⁰⁵(1) (a).
- 22 (c) A demonstration program specified in s. 46.28⁰⁵(1) (b).

23 ~~**SECTION 71.** 294.03 () of the statutes is amended to read:~~

1 234.03 (13) To purchase and enter into commitments for the purchase of
 2 mortgages and securities if the authority shall first determine that the proceeds of
 3 the sale of such mortgages and securities to the authority will be utilized for the
 4 purpose of residential housing for occupancy by persons or families of low and
 5 moderate income and to enter into agreements with sponsors of residential facilities,
 6 as defined in s. ~~46-28~~ 46-291 (1) (d) and (e), and with eligible sponsors, mortgagors
 7 or issuers of securities for the purpose of regulating the planning, development and
 8 management of housing projects financed in whole or in part by the proceeds of the
 9 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 c. 27, 399; 1993 a. 16, 112, 437; 1997 a. 27.

10 **SECTION 72.** ~~234.03 (13)~~ of the statutes is amended to read:

11 234.03 (15) To acquire or contract to acquire from any person by grant,
 12 purchase or otherwise, leaseholds, real or personal property or any interest therein,
 13 only when the authority finds that ~~low-~~ low-income or moderate-income housing
 14 cannot be developed privately without an acquisition by the authority, or when the
 15 authority acquires property by reason of default by a sponsor of a residential facility,
 16 as defined in s. ~~46-28~~ 46-291 (1) (d) and (e), or by an eligible sponsor; to own, hold,
 17 clear, improve and rehabilitate and to sell, assign, exchange, transfer, convey, lease,
 18 mortgage or otherwise dispose of or encumber the same. Nothing in this chapter
 19 shall be deemed to impede the operation and effect of local zoning, building and
 20 housing ordinances or ordinances relating to subdivision control, land development,
 21 fire prevention or other ordinances having to do with housing or housing
 22 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 c. 27, 399; 1993 a. 16, 112, 437; 1997 a. 27.

23 **SECTION 73.** ~~234.03 (15)~~ of the statutes is amended to read:

SECTION 73

1 ~~234.61 (1)~~ Upon the authorization of the department of health and family
 2 services, the authority may issue bonds or notes and make loans for the financing of
 3 housing projects which are residential facilities as defined in s. ~~46.28~~ 46.291 (1) (d)
 4 and the development costs of those housing projects, if the department of health and
 5 family services has approved the residential facilities for financing under s. ~~46.28~~
 6 46.291 (2). The limitations in ss. 234.18 (1), 234.40, 234.50, 234.60, 234.65 and
 7 234.66 do not apply to bonds or notes issued under this section. The definition of
 8 "nonprofit corporation" in s. 234.01 (9) does not apply to this section.

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.

9 **SECTION 74.** ~~234.61 (2) (b)~~ of the statutes is amended to read:

10 234.61 (2) (b) Of the amount specified in par. (a), \$30,000,000 may only be used
 11 to finance residential facilities serving 15 or fewer persons who are chronically
 12 disabled, as defined in s. ~~46.28~~ 46.291 (1) (b).

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.

13 **SECTION 75.** ~~234.61 (2) (c) 1.~~ of the statutes is amended to read:

14 234.61 (2) (c) 1. Of the amount specified in par. (a), \$48,580,000 may only be
 15 used to finance residential facilities with 100 or fewer units for elderly persons, as
 16 defined in s. ~~46.28~~ 46.291 (1) (c) or to finance additional residential facilities serving
 17 15 or fewer persons who are chronically disabled.

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.

18 **SECTION 76.** ~~234.61 (2) (c) 2.~~ of the statutes is amended to read:

19 234.61 (2) (c) 2. The remainder of the amount specified in par. (a) may only be
 20 used to finance residential facilities with 50 or fewer units for elderly persons, as
 21 defined in s. ~~46.28~~ 46.291 (1) (c), or to finance additional residential facilities serving
 22 15 or fewer persons who are chronically disabled.

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.

23 **SECTION 77.** 600.01 (1) (b) 10. of the statutes is created to read:

WPD: keep line 23



1 600.01 (1) (b) 10. Long-term care services funded by the family care benefit,
 2 as defined ^{under} s. 46.28(4), that are provided by a care management organization
 3 that contracts with the department of health and family services under s. 46.284 and
 4 enrolls only individuals who are eligible under s. 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 surplusage.

5 **SECTION 78.** 701.065 (1) (b) 1. of the statutes is amended to read:

6 701.065 (1) (b) 1. The claim is a claim based on tort, on a marital property
 7 agreement that is subject to the time limitations under s. 766.58 (13) (b) or (c), on
 8 Wisconsin income, franchise, sales, withholding, gift or death taxes, or on
 9 unemployment compensation contributions due or benefits overpaid, a claim for
 10 funeral or administrative expenses, a claim of this state under s. 46.27 (7g), 46.286
 11 (6), 49.496 or 49.682 or a claim of the United States.

History: 1997 a. 188.

12 **SECTION 79.** 705.04 (2g) of the statutes is amended to read:

13 705.04 (2g) Notwithstanding subs. (1) and (2), the department of health and
 14 family services may collect, from funds of a decedent that are held by the decedent
 15 immediately before death in a joint account or a P.O.D. account, an amount equal to
 16 the medical assistance that is recoverable under s. 49.496 (3) (a), an amount equal
 17 to aid under 49.68, 49.683 or 49.685 that is recoverable under s. 49.682 (2) (a) ~~or~~ ^{or} an
 18 amount equal to long-term community support services under s. 46.27 that is
 19 recoverable under s. 46.27 (7g) (c) 1. and that was paid on behalf of the decedent or
 20 the decedent's spouse or an amount equal to the family care benefit under s. 46.286
 21 that is recoverable under s. 46.286 (6) (b) 1. and that was paid on behalf of the
 22 decedent or the decedent's spouse.

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

SECTION 80

1 **SECTION 80.** 859.02 (2) (a) of the statutes is amended to read:

2 859.02 (2) (a) It is a claim based on tort, on a marital property agreement that
3 is subject to the time limitations under s. 766.58 (13) (b) or (c), on Wisconsin income,
4 franchise, sales, withholding, gift or death taxes, or on unemployment insurance
5 contributions due or benefits overpaid, a claim for funeral or administrative
6 expenses, a claim of this state under s. 46.27 (7g), 46.286 (6), 49.496 or 49.682 or a
7 claim of the United States; or

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

8 **SECTION 81.** 867.035 (1) (a) (intro.) of the statutes is amended to read:

9 867.035 (1) (a) (intro.) Except as provided in par. (bm), the department of
10 health and family services may collect from the property of a decedent, including
11 funds of a decedent that are held by the decedent immediately before death in a joint
12 account or a P.O.D. account, by affidavit under this section an amount equal to the
13 medical assistance that is recoverable under s. 49.496 (3) (a), the long-term
14 community support services under s. 46.27 that is recoverable under s. 46.27 (7g) (c)
15 1. the family care benefit under s. 46.286 (6) (b) 1. or the aid under s. 49.68, 49.683
16 or 49.685 that is recoverable under s. 49.682 (2) (a) and that was paid on behalf of
17 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.

18 **SECTION 82.** 867.035 (4n) of the statutes is created to read:

19 867.035 (4n) From the appropriation under s. 20.435 (7) (ip), with respect to
20 funds collected by the department under sub. (1) related to the family care benefit
21 funded under s. 46.284 (4) paid on behalf of the decedent or the decedent's spouse,
22 the department of health and family services shall pay claims under sub. (3) and
23 shall spend the remainder of the funds recovered under this ~~section~~ for the family
24 care benefit funded under s. 46.284 (4).

Subsection

****NOTE: Are the references to s. 46.284 (4) what you intend?.

~~SECTION 83. 1997 Wisconsin Act 237 of the statutes is repealed and recreated~~

to read:

SECTION 84. 1997 Wisconsin Act 237, section 9122 (4) of the statutes is repealed

and recreated to read:

[1997 Wisconsin Act 237] Section 9122 (4) PILOT PROJECT FOR COUNTY OR TRIBAL

MANAGEMENT OF LONG-TERM CARE PROGRAMS. (a) The department of health and family

services shall contract with counties or tribes under a pilot project to demonstrate

the ability of counties or tribes to manage all long-term care programs under a

long-term care management organization.

(b) Notwithstanding the exclusion in section 46.286 (1) (a) (intro.) of the

statutes, as created by (this act), from functional eligibility of a person whose primary

disabling condition is developmental disability, such a person is functionally eligible

for the family care benefit if the person is a resident of a county or is a member of a

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.

SECTION 9122. ⁰³ aging and long-term care board ~~Nonstatutory provisions; health and family services.~~

(1) LENGTH OF INITIAL TERMS OF MEMBERS OF BOARD ON AGING AND LONG-TERM CARE.

Notwithstanding the length of terms specified for members of the board on aging and

long-term care appointed under section 15.105 (10) of the statutes, as affected by this

act, one of the 2 additional initial members appointed under that subsection shall be

appointed for a term expiring on May 1, 2005, and the other of the 2 additional initial

members appointed under that subsection shall be appointed for a term expiring on

May 1, 2006.

Moreover, these provisions are very confusing. From what appropriation are they funded? It may be inaccurate to refer to the family care benefit, because the pilot projects do not fulfill all the requirements under ss. 46.2805 to 46.2895. Please review.

fix component
fix component

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requirements

SECTION 9123

~~#~~ SECTION 9123. Nonstatutory provisions; health and family services.

① ~~RULES~~ ^(*) RULES FOR FAMILY CARE BENEFIT. Using the procedure under section 227.24
 2 of the statutes, the department of health and family services shall promulgate the
 3 rules required under sections 46.288 (1) to (5) and 50.02 (2) (d) of the statutes, as
 4 created by this act, for the period before the effective date of the permanent rules
 5 promulgated under sections 46.288 (1) to (5) and 50.02 (2) (d) of the statutes, as
 6 created by this act, but not to exceed the period authorized under section 227.24 (1)
 7 (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3) of
 8 the statutes, the department is not required to provide evidence that promulgating
 9 a rule under this subsection as an emergency rule is necessary for the preservation
 10 of the public peace, health, safety or welfare and is not required to provide a finding
 11 of emergency for a rule promulgated under this subsection.

SECTION 9423. Effective dates; health and family services.

13 (1) ELIMINATION OF COUNCIL ON LONG-TERM CARE. The repeal of sections 15.07 (2)
 14 (k), 46.281 (1) (a) and (b) and 46.282 ^{of the statutes} and the amendment of section 46.284 (1) (c) of
 15 the statutes take effect on July 1, 2001.

(END)

15.197 (5),