

TODAY - In edit 2/3

1999 - 2000 LEGISLATURE

LRB-0030/

DAK&TAY&RAC:kmg:

D-NOTE

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

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT <sup>Don't
Gen. Act.</sup>; relating to: the budget.

Analysis by the Legislative Reference Bureau

INSERT A

~~This is a preliminary draft. An analysis will be provided for a later version.~~
This bill will be referred to the joint survey committee on retirement systems for a detailed analysis, which will be printed as an appendix to this bill.
For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

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

2 SECTION 1. 13.94 (4) (a) 1. of the statutes is amended to read:
3 13.94 (4) (a) 1. Every state department, board, examining board, affiliated
4 credentialing board, commission, independent agency, council or office in the
5 executive branch of state government; all bodies created by the legislature in the
6 legislative or judicial branch of state government; any public body corporate and
7 politic created by the legislature including specifically a professional baseball park

SECTION 1

1 district and a family care district under s. 46.2895; every Wisconsin works agency
 2 under subch. III of ch. 49; every provider of medical assistance under subch. IV of ch.
 3 49; technical college district boards; development zones designated under s. 560.71;
 4 every county department under s. 51.42 or 51.437; every nonprofit corporation or
 5 cooperative to which moneys are specifically appropriated by state law; and every
 6 corporation, institution, association or other organization which receives more than
 7 50% of its annual budget from appropriations made by state law, including
 8 subgrantee or subcontractor recipients of such funds.

9 SECTION 2. 13.94 (4) (b) of the statutes is amended to read:

10 13.94 (4) (b) In performing audits of family care districts under s. 46.2895,
 11 Wisconsin works agencies under subch. III of ch. 49, providers of medical assistance
 12 under subch. IV of ch. 49, corporations, institutions, associations, or other
 13 organizations, and their subgrantees or subcontractors, the legislative audit bureau
 14 shall audit only the records and operations of such providers and organizations
 15 which pertain to the receipt, disbursement or other handling of appropriations made
 16 by state law.

17 SECTION 3. 15.07 (2) ~~(1)~~ ^(m) of the statutes is created to read:

18 15.07 (2) ~~(1)~~ The chairperson of the council on long-term care shall be
 19 designated by the governor.

20 SECTION 4. 15.07 (2) ~~(1)~~ of the statutes, as created by 1999 Wisconsin Act

21 (this act), is repealed.

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

23 15.105 (10) BOARD ON AGING AND LONG-TERM CARE. There is created a board on
 24 aging and long-term care, attached to the department of administration under s.
 25 15.03. The board shall consist of 7 members appointed for staggered 5-year terms.

1 **SECTION 15.** 20.435 (1) (bm) of the statutes is renumbered 20.435 (4) (bm) and
2 amended to read:

3 20.435 (4) (bm) *Medical assistance administration.* Biennially, the amounts
4 in the schedule to provide the state share of administrative contract costs for the
5 medical assistance program under ss. 49.45 and 49.665, to reimburse insurers for
6 their costs under s. 49.475 and, for costs associated with outreach activities and for
7 services of resource centers under s. 46.283. No state positions may be funded in the
8 department of health and family services from this appropriation, except positions
9 for the performance of duties under a contract in effect before January 1, 1987,
10 related to the administration of the medical assistance program between the subunit
11 of the department primarily responsible for administering the medical assistance
12 program and another subunit of the department. Total administrative funding
13 authorized for the program under s. 49.665 may not exceed 10% of the amounts
14 budgeted under ~~sub. (5) (bc) and (p).~~ para. (pa)

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

✓
****NOTE: The renumbering of this appropriation is dependent on the renumbering in LRB-0028. If LRB-0028 is not included in the budget bill, the renumbering must be deleted.

INSERT 6-14

15 **SECTION 16.** 20.435 (1) (p) of the statutes is renumbered 20.435 (4) (p) and
16 amended to read:

17 20.435 (4) (p) *Federal aid; medical assistance contracts administration.* All
18 federal moneys received for the federal share of the cost of contracting for payment
19 and services administration and reporting, and to reimburse insurers for their costs
20 under s. 49.475 and for services of resource centers under s. 46.283.

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

***NOTE: The renumbering of this appropriation is dependent on the renumbering in LRB-0028. If LRB-0028 is not included in the budget bill, the renumbering must be deleted.

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7-1

1 SECTION 17. 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 (5).

***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 LRB-0028. If LRB-0028 is not included in the budget bill, this appropriation must be renumbered.

5

SECTION 18. 20.435 (5) (b) of the statutes is amended to read:

(4) (b) renumbered 20.435 (4) (b) and

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, to fund the
10 pilot project under s. 46.27 (9) and (10), to fund services provided by resource centers
11 under s. 46.283 and for services under the family care benefit under s. 46.284 (5).

12 Notwithstanding s. 20.002 (1), the department may transfer from this appropriation
13 to the appropriation under sub. (7) (kb) funds in the amount of and for the purposes
14 specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002 (1), the
15 department may credit or deposit into this appropriation and may transfer between
16 fiscal years funds that it transfers from the appropriation under sub. (7) (kb) for the
17 purposes specified in s. 46.485 (3r). Notwithstanding s. 20.002 (1), the department
18 may transfer from this appropriation to the appropriation account under sub. (7) (bd)
19 funds in the amount and for the purposes specified in s. 49.45 (6v).

✓
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20

SECTION 19. 20.435 (5) (o) of the statutes is amended to read:

renumbered 20.435 (4) (o)
and

1 20.435 ~~(5)~~ (o) *Federal aid; medical assistance.* All federal moneys received for
2 meeting costs of medical assistance administered under ss. 46.284 (5), 49.45 and
3 49.665, to be used for those purposes.

4 **INSERT 8-3**

4 **SECTION 20.** 20.435 (7) (b) of the statutes is amended to read:

5 20.435 (7) (b) *Community aids.* The amounts in the schedule for human
6 services under s. 46.40, to fund services provided by resource centers under s. 46.283
7 (5), for services under the family care benefit under s. 46.284 (5), for reimbursement
8 to counties having a population of less than 500,000 for the cost of court attached
9 intake services under s. 48.06 (4), for shelter care under ss. 48.58 and 938.22 and for
10 foster care and treatment foster care under s. 49.19 (10). Social services
11 disbursements under s. 46.03 (20) (b) may be made from this appropriation. Refunds
12 received relating to payments made under s. 46.03 (20) (b) for the provision of
13 services for which moneys are appropriated under this paragraph shall be returned
14 to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the
15 department of health and family services may transfer funds between fiscal years
16 under this paragraph. The department shall deposit into this appropriation funds
17 it recovers under ss. 46.495 (2) (b) and 51.423 (15) from prior year audit adjustments
18 including those resulting from audits of services under s. 46.26, 1993 stats., or s.
19 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds
20 recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s.
21 46.40 and not spent or encumbered by December 31 of each year shall lapse to the
22 general fund on the succeeding January 1 unless carried forward to the next calendar
23 year by the joint committee on finance.

24 **SECTION 21.** 20.435 (7) (bd) of the statutes is amended to read:

and for the payment of premiums
under s. 49.472(5)

1 20.435 (7) (bd) *Community options program and; long-term support pilot*
2 *projects; family care benefit.* The amounts in the schedule for assessments, case
3 planning, services and, administration and risk reserve escrow accounts under s.
4 46.27 and, for pilot projects under s. 46.271 (1), ~~and the amounts carried forward~~
5 ~~under 1997 Wisconsin Act 27, section 9123 (2), for the pilot project under s. 46.271~~
6 (2m), to fund services provided by resource centers under s. 46.283 (5) and for
7 services under the family care benefit under s. 46.284 (5). If the department
8 transfers funds to this appropriation from the appropriation account under sub. (5)
9 (b), the amounts in the schedule for the fiscal year for which the transfer is made are
10 increased by the amount of the transfer for the purposes specified in s. 49.45 (6v).
11 Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may under this
12 paragraph transfer moneys between fiscal years. Except for moneys authorized for
13 transfer under this appropriation, or under s. 46.27 (7) (fm) or (g) or under 1997
14 ~~Wisconsin Act 27, section 9123 (2),~~ all moneys under this appropriation that are
15 allocated under s. 46.27 and are not spent or encumbered by counties or by the
16 department by December 31 of each year shall lapse to the general fund on the
17 succeeding January 1 unless transferred to the next calendar year by the joint
18 committee on finance.

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

INSERT 9-18

19 **SECTION 22.** 20.435 (7) (im) of the statutes is amended to read:
20 20.435 (7) (im) *Community options program and family care benefit; recovery*
21 *of costs of care.* From the moneys received from the recovery of costs of care under
22 ss. 46.27 (7g) and 867.035 and rules promulgated under s. 46.286 (7), all moneys not
23 appropriated under sub. (1)(in), for payments to county departments and aging units

(4)

1 under s. 46.27 (7g) (d), payments to care management organizations for provision of
2 the family care benefit under s. 46.284 (5), payment of claims under s. 867.035 (3) and
3 payments for long-term community support services funded under s. 46.27 (7) as
4 provided in ss. 46.27 (7g) (e) and 867.035 (4m).

✓ 4
INSERT 10-4

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

5 SECTION 23. 20.927 (1) of the statutes is amended to read:

6 20.927 (1) Except as provided under subs. (2) and (3), no funds of this state or
7 of any county, city, village or town or family care district under s. 46.2895 or of any
8 subdivision or agency of this state or of any county, city, village or town and no federal
9 funds passing through the state treasury shall be authorized for or paid to a
10 physician or surgeon or a hospital, clinic or other medical facility for the performance
11 of an abortion.

12 SECTION 24. 20.9275 (1) (b) of the statutes is amended to read:

13 20.9275 (1) (b) "Local governmental unit" means a city, village, town or county
14 or family care district under s. 46.2895 or an agency or subdivision of a city, village,
15 town or county.

16 SECTION 25. 25.50 (1) (d) of the statutes is amended to read:

17 25.50 (1) (d) "Local government" means any county, town, village, city, power
18 district, sewerage district, drainage district, town sanitary district, public inland
19 lake protection and rehabilitation district, local professional baseball park district
20 created under subch. III of ch. 229, family care district under s. 46.2895, public
21 library system, school district or technical college district in this state, any
22 commission, committee, board or officer of any governmental subdivision of this

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

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

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

****NOTE: The numbering of s. 20.435 (4) (bm) and (p) is dependent on the
renumbering of s. 20.435 (1) (bm) and (p) in LRB-0028. If LRB-0028 is not included in
the budget bill, these cross-references must be renumbered.

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

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

23 SECTION 61. 46.284 of the statutes is created to read:

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

2 (a) A county board of supervisors and, in a county with a county executive or a county
3 administrator, the county executive or county administrator, may decide all of the
4 following:

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

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

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

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

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

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

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

5 (h) Submit to the department reports and data required or requested by the
6 department.

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

9 (j) Cooperate with external quality assurance reviews.

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

11 (L) Annually submit to the department an independent financial audit that
12 meets federal requirements. (b),

13 (5) FUNDING AND RISK-SHARING. (a) From the appropriation accounts under s.
14 20.435 (4) (g) ~~(5)(m)~~ and (o) and (7) (b) and (bd), the department shall provide funding
15 on a capitated payment basis for the provision of services under this section.
16 Notwithstanding s. 46.036 (3) and (5m), a care management organization that is
17 under contract with the department may expend the funds, consistent with this
18 section, including providing payment, on a capitated basis, to providers of services
19 under the family care benefit.

20 (b) If the expenditures by a care management organization under par. (a)
21 exceed payments received from the department under par. (a), as determined by the
22 department by contract, the department may share the loss with the care
23 management organization, within the limits prescribed under the contract with the
24 department.

INSERT 36-19

SECTION 9423

(m) ✓

1 **SECTION 9423. Effective dates; health and family services.**

2 (1) ELIMINATION OF COUNCIL ON LONG-TERM CARE. The repeal of sections 15.07 (2)
3 ~~§~~ 15.197 (5), 46.281 (1) (a) and (b) and 46.282 of the statutes and the amendment
4 of section 46.284 (2) (d) of the statutes take effect on July 1, 2001, on the day after
5 publication of the 2001-03 biennial budget act, whichever is later.

6

(END)

INSERT 78-5

D-NOTE

*** NOTE: This is reconciled s. 15.07(2)(m).

This paragraph has been affected by drafts with

the following LRB #'s: LRB-0030/P4 ~~and~~ ⁽²⁾ LRB-1922/4

and LRB-2005/4.

(INSERT 6-14) ✓

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

*** NOTE: This is reconciled s. 20.435(1)(b). ✓

This paragraph has been affected by drafts with

the following LRB #'s: LRB-0028/6 and LRB-0030/P4.

INSERT 7-1 ✓

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

*** NOTE: This is reconciled s. 20.435 (1) (p). ✓

This paragraph has been affected by drafts with

the following LRB #'s: LRB-0028/6 and LRB-0030/P4.

INSERT 7-19 ✓

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

→ *** NOTE: This is reconciled s. 20.435(5)(b).

This paragraph has been affected by drafts with
the following LRB #'s: LRB-0028/G and LRB-0030/P4.

→ *** NOTE: BUD

→ *** NOTE: This is reconciled s. 20.435 (5)(b).

This paragraph has been affected by drafts with
the following LRB #'s: LRB-0028/6 and LRB-0030/P4.

→ *** NOTE: BUD

INSERT 9-18 ✓

*** NOTE: This is reconciled s. 20.435(7)(bd). ✓

This paragraph has been affected by drafts with

the following LRB #'s: LRB-0028/6, LRB-0030/P4

and LRB-1057/1.

INSERT 10-4 ✓

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

*** NOTE: This is reconciled s. 20.435(7)(im).

This paragraph has been affected by drafts with

the following LRB #'s: LRB-0030/P4 and LRB-0028/G.

(INSERT 36-19)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU - LEGAL SECTION
(608-266-3561)

*** NOTE: This is reconciled s. 46.284(s)(a).[✓]

This paragraph has been affected by drafts with

the following LRB #'s: LRB-0028/w and LRB-0030/P4.

(LS)

(2)

SECTION 9433(1).

*** NOTE: This is reconciled

SECTION (LS)

This ~~paragraph~~ has been affected by drafts with

the following LRB #'s: LRB-0030/P4, LRB-1922/4

and LRB 2005/4.

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FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0030/lins
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INSERT A

HEALTH AND HUMAN SERVICES

FAMILY CARE

Subsub

Current law

Currently, home and community-based long-term care is provided to persons who are elderly, physically or developmentally disabled, chronically mentally ill or chemically dependent and to certain children as a benefit under one or more of several different programs under the department of health and family services (DHFS). These programs are funded by federal, state or, in some instances, county moneys, and each program has individualized eligibility criteria and benefit restrictions. For elderly and disabled persons, these programs include medical assistance (MA), the long-term support community options program (COP), three community integration programs (CIPs) and community aids. MA is a comprehensive jointly funded federal-state health program for persons with low income and few assets. COP provides assessments of functionality and home and community-based care to, among others, elderly and physically disabled persons as an alternative to institutionalized care; one part of COP is funded by state moneys and the other part under a joint federal-state program under a waiver of federal medicaid laws. Under another joint federal-state program under a waiver of federal medical assistance laws, CIPs provide home and community-based services and continuity of care for persons relocated from institutions, including state centers for the developmentally disabled, and persons who meet requirements for MA reimbursement in nursing homes.

re-fund

Currently, DHFS is authorized to establish pilot projects under which DHFS contracts with a public or private entity to serve as a clearinghouse of information for individuals who are interested in home or community-based long-term support services or institutional long-term care services and to perform assessments to determine an individual's functional abilities, disabilities, personal preferences and need for home or community-based services or institutional services. DHFS is also authorized to contract with counties or federally recognized American Indian tribes or bands under a pilot project to demonstrate the ability of counties or tribes or bands to manage all long-term care programs under a long-term care management organization.

Currently, nursing homes are prohibited from admitting patients until a physician has completed a plan of care and the patient is assessed under COP or the long-term care pilot project or waives the assessment.

Subsub

Creation of family care benefit, resource centers and care management organizations

The bill establishes a program of financial assistance for long-term care and support items, termed a "family care benefit", for persons who are eligible and are enrolled in a care management organization. The family care benefit is funded by general purpose revenues appropriated for MA, for COP and for community aids. DHFS must request from the secretary of health and human services any waivers

federal



p. 2
p

of federal medicaid laws necessary to permit use of federal moneys to provide the family care benefit to recipients of MA; however, regardless of whether a waiver is approved, DHFS may implement the family care benefit. Persons are eligible for, but not necessarily entitled to, the family care benefit if they are at least 18 years of age, do not have a primary disabling condition of mental illness, substance abuse or developmental disability and meet functional and financial eligibility criteria. Functional eligibility criteria require functional capacity at either the comprehensive or intermediate level, as specified in the bill, or a condition that is expected to last at least 90 days or result in death within a year for a person who was a resident in a nursing home or was receiving long-term care services funded under COP, one of the CIP programs, the Alzheimer's family caregiver support program, community aids or county funding. In general, financial eligibility criteria conform to the eligibility criteria for MA. A person is entitled to the family care benefit and may enroll in a care management organization if he or she is financially eligible, meets cost-sharing requirements and meets any of several functional eligibility requirements or if he or she has a primary disabling condition of developmental disability and was a resident of a county or member of a tribe or band that operated a care management organization under a pilot project. Divestment prohibitions, prohibitions on treatment of certain trusts, provisions on protection of income and resources of a couple for maintenance of a spouse in the community, and estate recovery provisions, all of which correspond to similar prohibitions and provisions under MA, apply to enrollees, under rules that DHFS must promulgate. A client may contest denial of eligibility, the determination of cost sharing, denial of entitlement, failure to provide timely services and support items in the plan of care, reduction of services or support items, development of an unacceptable plan of care and termination of the family care benefit, by filing a written request for a hearing within 45 days after receipt of notice of the contested matter. The hearing must be held under procedures that are prescribed by ~~the department~~ by rule. DHFS



The bill establishes requirements for a resource center, which, among other things, must provide under a contract with DHFS information and referral services, determinations of functional and financial eligibility for the family care benefit, assistance in enrolling in a care management organization if the person chooses to do so, and eligibility for certain other benefits, including MA. Within six months after the family care benefit is available to all eligible persons in the area of the resource center, the resource center must provide information about its services to all older persons and persons with a physical disability who reside in nursing homes, community-based residential facilities, adult family homes and residential care apartment complexes in the area of the resource center. A resource center must have a governing board that reflects the ethnic and economic diversity of the geographic area served by the resource center, and at least one-fourth of the governing board's members must be older persons or persons with physical or developmental disabilities or their family members, guardians or other advocates.

The bill establishes requirements for a care management organization, which ~~shall~~ under a contract with DHFS that provides payment on a capitated basis, accept enrollment of persons who are entitled to the family care benefit, as well as of persons

must

enrollment

P. 3
70

who are eligible for the family care benefit and for whom funding is available. Under the contract, the care management organization must, among other things, conduct a comprehensive assessment for each enrollee, develop a comprehensive care plan for the enrollee and provide or contract for the provision of necessary services. DHFS may, by contract, impose solvency protections on a care management organization, including the requirement that a care management organization segregate a risk reserve from other funds of the care management organization or its authorizing body and that the care management organization maintain a risk reserve in an interest-bearing escrow account with a financial institution. A care management organization must have a governing board under requirements that are similar to those for the governing board of a resource center. The bill specifically exempts a care management organization from requirements for licensure as a home health agency.

must

Under the bill, DHFS must prescribe and implement a per person monthly rate structure for costs of the family care benefit. DHFS also must, among other duties, prescribe by rule and enforce performance standards for operation of resource centers and care management organizations, conduct ongoing evaluations of the system implementing the family care benefit and ensure that external organizations conduct reviews of the quality of management and service delivery of resource centers and care management organizations.

subsub Family care district

The bill authorizes county boards of supervisors to create, on a single county or multicounty basis, special purpose districts that are termed family care districts. Under the bill, a family care district is a local unit of government, separate and distinct from the state and a county, for which the primary purpose is to operate a resource center or a care management organization, but not both. The jurisdiction of the family care district is the county or counties of the county board or boards of supervisors who created the district. The family care district's board is appointed for three-year terms by the county board of supervisors and must consist of fifteen persons for a single county and, for a multicounty family care district, an additional member for each county in excess of two. Board members must be residents of the family care district's jurisdiction. At least one-fourth of the members must be representative of the client group or groups whom it is the family care district's primary propose to serve or those clients' family members, guardians or other advocates. No member may be an elected or appointed official or an employe of the county and no member may have a private financial interest in or profit from any contract or other business of the family care district.

15

The bill authorizes a family care district to carry out the provisions of the bill related to the family care benefit, resource centers and care management organizations. In addition, the bill grants to family care districts the powers to adopt and alter an official seal; adopt bylaws and policies and procedures to regulate its affairs; sue and be sued; negotiate and enter into leases and contracts; provide services related to services available under the family care benefit, to older persons and persons with disabilities, in addition to the services funded under the contract to operate a resource center or care management organization; acquire, construct,

↘

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equip, maintain, improve or manage a resource center or a care management organization, but not both; employ agents, employees or special advisers, fix and regulate their compensation and provide employee benefits; mortgage, pledge or otherwise encumber the family care district's property or funds; buy, sell or lease property and maintain or dispose of it; create a risk reserve or special reserve, including as DHFS requires by contract; accept aid; and make instruments necessary to exercise its powers. In addition, the family care district may invest funds in an interest-bearing escrow account, in time deposits with a maturity of not more than two years and in federal bonds or securities. However, a family care district may neither issue bonds nor levy a tax or assessment.

Under the bill, a family care district must appoint a director, who ~~shall~~ manage the family care district's property, business and employees. The family care district must also develop and implement a personnel structure and other employment policies. However, with respect to the hiring of employees who formerly were county employees to perform the same or substantially similar functions, they previously performed, the family care district must do the following:

1. For an employee whose wages, hours and conditions of employment were established in a collective bargaining agreement with the county that is in effect on the date the individual commences employment with the district, abide by the terms of the collective bargaining agreement concerning the individual's compensation and benefits until the expiration of that collective bargaining agreement or adoption of a collective bargaining agreement with the district covering the individual as an employee of the district, whichever occurs first.

on which

2. For an employee whose wages, hours and conditions of employment were not established in a collective bargaining agreement with the county that is in effect on the date the individual commenced employment with the district, initially provide that individual the same compensation and benefits that he or she received while employed by the county.

3. Recognize all years of service with the county for any benefit provided or program operated by the district for which an employee's years of service may affect the provision of the benefit or the operation of the program.

(WRS)

4. If the county has not established its own retirement system for county employees, adopt a resolution to be included under the Wisconsin retirement system.

If the county has established its own retirement system for county employees, the county must do all the following:

1. Provide that family care district employees are eligible to participate in the county retirement system.

2. Provide that family care district employees are eligible to receive health care coverage under any county health insurance plan that is offered to county employees.

3. Provide that family care district employees are eligible to participate in any deferred compensation or other benefit plan offered by the county to county employees, including disability and long-term care insurance coverage and income continuation insurance coverage.

Numerous laws that apply to special purpose districts and local units of government apply to the family care district, including, among others:



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1. The members of the family care district governing board and the director of the family care district are subject to the code of ethics for local government officials.

2. The family care district is exempt from the sales and use ~~taxes~~.

taxes

3. The family care district is subject to public employe occupational safety and health laws.

4. The family care district is governed by unemployment compensation laws.

5. The family care district may participate in the local governmental property insurance fund.

6. The family care district is governed by municipal administrative procedures concerning constitutionally protected rights.

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8. The family care district is subject to laws restricting employers from testing employes and prospective employes for human immunodeficiency virus (HIV) or an antibody to HIV.

9. The family care district is exempt from treble damages in any suit brought for its operation as a monopoly.

10. Persons attempting to sue the family care district are subject to limitations on actions that may be brought against it and limitations as to the filing of the notice of the injury and recoverable damages.

The bill provides that a family care district:

1. Must adhere to the open records laws, except that the family care district may exchange confidential information about a client without the client's informed consent with a county department of social services, human services, developmental disabilities services or community programs or with a resource center or a care management organization, if the county department, resource center or care management organization is in the jurisdiction of the family care district and the exchange is necessary to enable performance of duties or coordinate service delivery to the client.

2. Must adhere to the open meetings laws.

3. Is subject to auditing by the legislative audit bureau and review of its performance by the joint legislative audit committee.

4. Is an employer for all purposes of the municipal employment relations laws; as such, employes of the district may organize and seek to establish all terms of wages, hours and conditions of employment through collective bargaining.

5. Is subject to prohibitions on public funding for abortions and for abortion-related activities.

6. May participate ⁱⁿ on the local government pooled-investment fund.

7. May contract with other municipalities and with federally recognized American Indian tribes and bands in this state for the receipt or furnishing of services or the joint exercise of required or authorized powers or duties.

8. Is exempt from local property tax and income tax.

9. Is subject to laws regulating buildings and safety.

10. Is governed by state minimum wage and hour and family and medical leave laws and is subject to worker's compensation laws.

11. May participate in programs of state retirement, health and long-term care benefits, disability benefits and survivor benefits, deferred compensation plans,



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employe-funded reimbursement accounts and health insurance premium credits and be included as a coverage group under social security.

12. Is an "employer" for the purposes of coverage for group and individual health benefits and for small employer health insurance.

13. Is a "municipality" for the purposes of laws relating to the publication of legal notices.

Under the bill, obligations and debts of a family care district are not the obligations or debts of the county that created the family care district. A family care district may be dissolved by joint action of the family care district board and the county board or boards of supervisors that created the district, subject to performance of its contractual obligations and if first approved by the secretary of health and family services. If the family care district was created by more than one county, the county boards of supervisors must agree on the apportioning of the district's property before dissolution takes place.

5 sub sub

Expansion of pilot projects

The bill authorizes DHFS to continue contracting with counties or tribes or bands under the current pilot projects until July 1, 2001. After that date, DHFS may contract with one or more entities certified as meeting requirements for a resource center and for services of an entity as a care management organization. During the first 24 months in which a county has a contract with DHFS under which the county accepts a per person per month payment for each enrollee in the county's care management organization, DHFS may not contract with another organization to operate a care maintenance organization in that county unless the county agrees in writing that at least one additional care management organization is necessary or desirable or the governing body of a tribe or band or the Great Lakes inter-tribal council, inc., elects to operate a care management organization within the area and is certified by DHFS.

Under the bill, a county, a tribe or band, a family care district or an organization may not directly operate both a resource center and a care management organization. If a county board of supervisors and, if applicable, a county executive or county administrator elect to apply to DHFS for a contract to operate a resource center, the county board may create a family care district to apply to DHFS for a contract to operate a care management organization; if the county board and county executive or county administrator elect to apply for a contract to operate a care management organization, the county board may create a family care district to apply for a contract to operate a resource center. If the governing body of a tribe or band elects to apply for a contract to operate a resource center, the tribe or band members may form a separate corporation to apply for a contract to operate a care management organization; if the governing body elects to apply for a contract to operate a care management organization, the tribe or band members may form a separate corporation to apply for a contract to operate a resource center. A county or family care district may apply jointly with a tribe or band or tribal or band corporation for a contract to operate a care management organization or resource center.

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The bill authorizes a county department of social services, human services, developmental disabilities services or community programs or an aging unit authorized by the applicable county board of supervisors to apply to DHFS to operate a resource center or a care management organization. The bill also authorizes the secretary of health and family services, in order to facilitate the transition to the family care benefit system, to grant a county limited waivers to certain COP and CIP statutes and rules promulgated under those statutes.

subsub Requirements of care facilities

The bill requires the secretary of health and family services to certify to each county, nursing home, community-based residential facility, adult family home and residential care apartment complex the date on which a resource center that serves the area of the county, home, facility or complex is first available, with respect to specific groups of eligible individuals or for specified facilities, to provide a functional and financial screen. Within a time period prescribed by DHFS by rule, if the certification has taken place, each affected ~~nursing home, community-based residential facility, adult family home, residential care apartment complex~~ *and* must inform prospective residents of the facility about the services of a resource center, the family care benefit and the availability of a functional and financial screen to determine eligibility. Also, these facilities and ~~hospitals~~ *ok* must refer to the resource center persons who seek admission and who are aged at least 65 years or have physical disability unless the person has received a screen for functional eligibility within the previous six months, is entering the facility only for respite care or is an enrollee of a care management organization. Failure to comply with these requirements subjects the facility to an administrative forfeiture. Current prohibitions on the admittance to nursing homes of persons without a COP or other assessment do not apply to persons for whom the secretary of health and family services has certified that a resource center is available.

subsub Council on long-term care and board on aging and long-term care

The bill creates in DHFS a 15-member council on long-term care that terminates on July 1, 2001. The council must assist DHFS in developing policy related to long-term care issues. The council also must review and make nonbinding recommendations to DHFS concerning the DHFS standard contract provisions for resource centers and care management organizations, the family care benefit and other matters, and must monitor patterns of complaints, persons on waiting lists and patterns of enrollments and disenrollments.

The bill provides for two additional members for the current seven-member board on aging and long-term care and requires that at least five members of the council be aged 65 or older, have physical or developmental disabilities or be family members, guardians or other advocates of the persons. Further, the bill requires the board on aging and long-term care to contract with organizations to provide advocacy services, including negotiation, mediation and assistance in administrative hearings or judicial proceedings, to potential or actual recipients of the family care benefit or their families or guardians.

End B
INSERT A

D-NOTE

This draft reconciles LRB-0028/6, LRB-0030/P4,
LRB-1057/1, LRB-1922/4 and LRB-2005/4. LRB-0028,
LRB-0030, LRB-1057, LRB-1922 and LRB-2005
all should continue to appear in the
compiled bills

DAK

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0030/1dn
DAK:kmg:hmh

Wednesday, February 3, 1999

This draft reconciles LRB-0028/6, LRB-0030/P4, LRB-1057/1, LRB-1922/4 and LRB-2005/4. LRB-0028, LRB-0030, LRB-1057, LRB-1922 and LRB-2005 all should continue to appear in the compiled bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137

Kennedy, Debora

From: Fossum, Gretchen
Sent: Friday, February 05, 1999 10:48 AM
To: Kennedy, Debora
Subject: Family Care Draft

Here is Lorraine's sentence "The county does not have the capacity to serve all county residents who are entitled to the Family Care benefit in the client or client groups that it services and cannot develop the capacity".

From Gretchen 2/5: also

change (7) (bd) and (im) to reduce title length.

Delete 46.284 (2) (c)