



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0030/4

DAK:kmg:lp

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

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

FAMILY CARE

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 is funded 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.

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.

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 federal secretary of health and human services any waivers 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. Persons are financially eligible if they are eligible for MA or if the cost of their care plan exceeds countable income and assets. 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 DHFS by rule.

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 must, 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 enrollment of persons 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 must segregate a risk reserve from other funds of the care management organization or its authorizing body and that the care management organization must 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.

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.

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 15 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.

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 a family care district 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, equip, maintain, improve or manage a resource center or a care management organization, but not both; employ agents, employes or special advisers, fix and regulate their compensation and provide employe 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 must manage the family care district's property, business and employes. The family care district must also develop and implement a personnel structure and other employment policies. However, with respect to the hiring of employes who formerly were county employes to perform the same or substantially similar functions that they previously performed, the family care district must do the following:

1. For an employe whose wages, hours and conditions of employment were established in a collective bargaining agreement with the county that is in effect on the date on which 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 employe of the district, whichever occurs first.

2. For an employe 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 on which 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 employe's years of service may affect the provision of the benefit or the operation of the program.

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

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

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

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

3. Provide that family care district employes are eligible to participate in any deferred compensation or other benefit plan offered by the county to county employes, 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:

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.

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.

7. 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.

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

9. 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 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, 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.

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, the county does not have the capacity to serve all county residents who are entitled to the family care benefit in the client group or groups that the county serves and cannot develop the capacity 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.

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.

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 and residential care apartment complex 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 must refer to the resource center persons who seek admission and who are aged at least 65 years or have a 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.

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.

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:

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

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.** 15.105 (10) of the statutes is amended to read:

18 15.105 (10) BOARD ON AGING AND LONG-TERM CARE. There is created a board on
19 aging and long-term care, attached to the department of administration under s.
20 15.03. The board shall consist of 79 members appointed for staggered 5-year terms.
21 Members shall have demonstrated a continuing interest in the problems of providing
22 long-term care for the aged or disabled. ~~At least 4~~ All members shall be public
23 members with no interest in or affiliation with any nursing home. At least 5
24 members shall be persons aged 65 or older or persons with physical or developmental
25 disabilities or their family members, guardians or other advocates.

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

2 15.197 (5) **COUNCIL ON LONG-TERM CARE.** There is created in the department of
3 health and family services a council on long-term care, which shall consist of 15
4 members. The governor shall designate the chairperson of the council on long-term
5 care.

6 **SECTION 5.** 15.197 (5) of the statutes, as created by 1999 Wisconsin Act (this
7 act), is repealed.

8 **SECTION 6.** 16.009 (2) (p) of the statutes is created to read:

9 16.009 (2) (p) Contract with one or more organizations to provide advocacy
10 services to potential or actual recipients of the family care benefit, as defined in s.
11 46.2805 (4), or their families or guardians. The board and contract organizations
12 under this paragraph shall assist these persons in protecting their rights under all
13 applicable federal statutes and regulations and state statutes and rules. An
14 organization with which the board contracts for these services may not be a provider,
15 nor an affiliate of a provider, of long-term care services, a resource center under s.
16 46.283 or a care management organization under s. 46.284. For potential or actual
17 recipients of the family care benefit, advocacy services required under this
18 paragraph shall include all of the following:

19 1. Providing information, technical assistance and training about how to obtain
20 needed services or support items.

21 2. Providing advice and assistance in preparing and filing complaints,
22 grievances and appeals of complaints or grievances.

23 3. Providing negotiation and mediation.

24 4. Providing individual case advocacy assistance regarding the appropriate
25 interpretation of statutes, rules or regulations.

1 5. Providing individual case advocacy services in administrative hearings and
2 legal representation for judicial proceedings regarding family care services or
3 benefits.

4 **SECTION 7.** 17.13 (intro.) of the statutes is amended to read:

5 **17.13 Removal of village, town, town sanitary district, school district**
6 **and, technical college and family care district officers.** (intro.) Officers of
7 towns, town sanitary districts, villages, school districts and, technical college
8 districts and family care districts may be removed as follows:

9 **SECTION 8.** 17.13 (4) of the statutes is created to read:

10 **17.13 (4) APPOINTIVE OFFICERS OF A FAMILY CARE DISTRICT.** Any member of a
11 family care district board appointed under s. 46.2895 (3) (a) 1., by the appointing
12 authority for cause.

13 **SECTION 9.** 17.15 (5) of the statutes is created to read:

14 **17.15 (5) FAMILY CARE DISTRICT.** Any member of a family care district governing
15 board appointed under s. 46.2895 (3) (a) 2. may be removed by the appointing
16 authority for cause.

17 **SECTION 10.** 17.27 (3m) of the statutes is created to read:

18 **17.27 (3m) FAMILY CARE DISTRICT BOARD.** If a vacancy occurs in the position of
19 any appointed member of a family care district board, the appointing authority shall
20 appoint to serve for the residue of the unexpired term a person who meets the
21 applicable requirements under s. 46.2895 (3) (b).

22 **SECTION 11.** 19.32 (1) of the statutes is amended to read:

23 **19.32 (1) "Authority"** means any of the following having custody of a record: a
24 state or local office, elected official, agency, board, commission, committee, council,
25 department or public body corporate and politic created by constitution, law,

1 ordinance, rule or order; a governmental or quasi-governmental corporation except
2 for the Bradley center sports and entertainment corporation; a local exposition
3 district under subch. II of ch. 229; a family care district under s. 46.2895; any court
4 of law; the assembly or senate; a nonprofit corporation which receives more than 50%
5 of its funds from a county or a municipality, as defined in s. 59.001 (3), and which
6 provides services related to public health or safety to the county or municipality; a
7 nonprofit corporation operating the Olympic ice training center under s. 42.11 (3);
8 or a formally constituted subunit of any of the foregoing.

9 **SECTION 12.** 19.82 (1) of the statutes is amended to read:

10 19.82 (1) “Governmental body” means a state or local agency, board,
11 commission, committee, council, department or public body corporate and politic
12 created by constitution, statute, ordinance, rule or order; a governmental or
13 quasi-governmental corporation except for the Bradley center sports and
14 entertainment corporation; a local exposition district under subch. II of ch. 229; a
15 family care district under s. 46.2895; a nonprofit corporation operating the Olympic
16 ice training center under s. 42.11 (3); or a formally constituted subunit of any of the
17 foregoing, but excludes any such body or committee or subunit of such body which
18 is formed for or meeting for the purpose of collective bargaining under subch. I, IV
19 or V of ch. 111.

20 **SECTION 13.** 20.435 (1) (bm) of the statutes is renumbered 20.435 (4) (bm) and
21 amended to read:

22 20.435 (4) (bm) *Medical assistance administration.* Biennially, the amounts
23 in the schedule to provide the state share of administrative contract costs for the
24 medical assistance program under ss. 49.45 and 49.665, to reimburse insurers for
25 their costs under s. 49.475 and, for costs associated with outreach activities and for

1 services of resource centers under s. 46.283. No state positions may be funded in the
2 department of health and family services from this appropriation, except positions
3 for the performance of duties under a contract in effect before January 1, 1987,
4 related to the administration of the medical assistance program between the subunit
5 of the department primarily responsible for administering the medical assistance
6 program and another subunit of the department. Total administrative funding
7 authorized for the program under s. 49.665 may not exceed 10% of the amounts
8 budgeted under ~~sub. (5) pars.~~ (bc) and (p).

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

****NOTE: This is reconciled s. 20.435 (1) (bm). This paragraph has been affected by drafts with the following LRB numbers: LRB-0028/6 and LRB-0030/P4. The paragraph has been further affected by drafts with the following LRB numbers: LRB-0028/8 and LRB-0030/2.

9 **SECTION 14.** 20.435 (1) (p) of the statutes is renumbered 20.435 (4) (pa) and
10 amended to read:

11 20.435 (4) (pa) *Federal aid; medical assistance contracts administration.* All
12 federal moneys received for the federal share of the cost of contracting for payment
13 and services administration and reporting, and to reimburse insurers for their costs
14 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: This is reconciled s. 20.435 (1) (p). This paragraph has been affected by drafts with the following LRB numbers: LRB-0028/6 and LRB-0030/P4.

15 **SECTION 15.** 20.435 (4) (g) of the statutes is created to read:

16 20.435 (4) (g) *Family care benefit; cost sharing.* All moneys received from client
17 cost-sharing requirements under s. 46.286 (2) to be expended for the provision of
18 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.

1 **SECTION 16.** 20.435 (5) (b) of the statutes is renumbered 20.435 (4) (b) and
2 amended to read:

3 20.435 (4) (b) *Medical assistance program benefits.* Biennially, the amounts in
4 the schedule to provide the state share of medical assistance program benefits
5 administered under s. 49.45, to provide medical assistance program benefits
6 administered under s. 49.45 that are not also provided under par. (o) ~~and~~, to fund the
7 pilot project under s. 46.27 (9) and (10), to fund services provided by resource centers
8 under s. 46.283 and for services under the family care benefit under s. 46.284 (5).

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

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

****NOTE: This is reconciled s. 20.435 (5) (b). This paragraph has been affected by drafts with the following LRB numbers: LRB-0028/6 and LRB-0030/P4.

17 **SECTION 17.** 20.435 (5) (o) of the statutes is renumbered s. 20.435 (4) (o) and
18 amended to read:

19 20.435 (4) (o) *Federal aid; medical assistance.* All federal moneys received for
20 meeting costs of medical assistance administered under ss. 46.284 (5), 49.45 and
21 49.665, to be used for those purposes.

***NOTE: This is reconciled s. 20.435 (5) (o). This paragraph has been affected by drafts with the following LRB numbers: LRB-0028/6 and LRB-0030/P4.

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

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

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

21 **SECTION 19.** 20.435 (7) (bd) of the statutes is amended to read:

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), for services~~
7 ~~under the family care benefit under s. 46.284 (5) and for the payment of premiums~~
8 ~~under s. 49.472 (5).~~ If the department transfers funds to this appropriation from the
9 appropriation account under sub. ~~(5)~~ (4) (b), the amounts in the schedule for the fiscal
10 year for which the transfer is made are increased by the amount of the transfer for
11 the purposes specified in s. 49.45 (6v). Notwithstanding ss. 20.001 (3) (a) and 20.002
12 (1), the department may under this paragraph transfer moneys between fiscal years.
13 Except for moneys authorized for transfer under this appropriation, or under s. 46.27
14 (7) (fm) or (g) ~~or under 1997 Wisconsin Act 27, section 9123 (2)~~, all moneys under this
15 appropriation that are allocated under s. 46.27 and are not spent or encumbered by
16 counties or by the department by December 31 of each year shall lapse to the general
17 fund on the succeeding January 1 unless transferred to the next calendar year by the
18 joint 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.

****NOTE: This is reconciled s. 20.435 (7) (bd). This paragraph has been affected by drafts with the following LRB numbers: LRB-0028/6, LRB-0030/P4 and LRB-1057/1.

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

20 20.435 (7) (im) *Community options program; family care benefit; recovery of*
21 *costs of care.* From the moneys received from the recovery of costs of care under ss.
22 46.27 (7g) and 867.035 and rules promulgated under s. 46.286 (7), all moneys not

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

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

****NOTE: This is reconciled s. 20.435 (7) (im). This paragraph has been affected by drafts with the following LRB numbers: LRB-0030/P4 and LRB-0028/6.

6 **SECTION 21.** 20.927 (1) of the statutes is amended to read:

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

13 **SECTION 22.** 20.9275 (1) (b) of the statutes is amended to read:

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

17 **SECTION 23.** 25.50 (1) (d) of the statutes is amended to read:

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

1 commission, committee, board or officer of any governmental subdivision of this
2 state, any court of this state, other than the court of appeals or the supreme court,
3 or any authority created under s. 231.02, 233.02 or 234.02.

4 **SECTION 24.** 40.02 (28) of the statutes is amended to read:

5 40.02 (28) "Employer" means the state, including each state agency, any
6 county, city, village, town, school district, other governmental unit or
7 instrumentality of 2 or more units of government now existing or hereafter created
8 within the state and any federated public library system established under s. 43.19
9 whose territory lies within a single county with a population of 500,000 or more,
10 except as provided under ss. 40.51 (7) and 40.61 (3), ~~or~~ a local exposition district
11 created under subch. II of ch. 229 or a family care district created under s. 46.2895.
12 Each employer shall be a separate legal jurisdiction for OASDHI purposes.

13 **SECTION 25.** 40.02 (36) of the statutes is amended to read:

14 40.02 (36) "Governing body" means the legislature or the head of each state
15 agency with respect to employes of that agency for the state, the common council in
16 cities, the village board in villages, the town board in towns, the county board in
17 counties, the school board in school districts, or the board, commission or other
18 governing body having the final authority for any other unit of government, for any
19 agency or instrumentality of 2 or more units of government, for any federated public
20 library system established under s. 43.19 whose territory lies within a single county
21 with a population of 500,000 or more ~~or~~, for a local exposition district created under
22 subch. II of ch. 229 or for a family care district created under s. 46.2895.

23 **SECTION 26.** 46.21 (2m) (c) of the statutes is amended to read:

24 46.21 (2m) (c) *Exchange of information.* Notwithstanding ss. 46.2895(9), 48.78
25 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7) and

1 253.07 (3) (c), any subunit of the county department of human services acting under
2 this subsection may exchange confidential information about a client, without the
3 informed consent of the client, with any other subunit of the same county department
4 of human services, with a resource center, care management organization or family
5 care district, or with any person providing services to the client under a purchase of
6 services contract with the county department of human services or with a resource
7 center, care management organization or family care district, if necessary to enable
8 an employe or service provider to perform his or her duties, or to enable the county
9 department of human services to coordinate the delivery of services to the client.

10 **SECTION 27.** 46.215 (1) (r) of the statutes is created to read:

11 46.215 (1) (r) If authorized under s. 46.283 (1) (a) 1., to apply to the department
12 of health and family services to operate a resource center under s. 46.283 and, if the
13 department contracts with the county under s. 46.283 (2), to operate the resource
14 center.

15 **SECTION 28.** 46.215 (1) (s) of the statutes is created to read:

16 46.215 (1) (s) If authorized under s. 46.284 (1) (a) 1., to apply to the department
17 of health and family services to operate a care management organization under s.
18 46.284 and, if the department contracts with the county under s. 46.284 (2), to
19 operate the care management organization and, if appropriate, place funds in a risk
20 reserve.

21 **SECTION 29.** 46.215 (1m) of the statutes is amended to read:

22 46.215 (1m) EXCHANGE OF INFORMATION. Notwithstanding ss. 46.2895 (9), 48.78
23 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
24 (3) (c) and 938.78 (2) (a), any subunit of the county department of social services
25 acting under this section may exchange confidential information about a client,

1 without the informed consent of the client, with any other subunit of the same county
2 department of social services, with a resource center, care management organization
3 or family care district, or with any person providing services to the client under a
4 purchase of services contract with the county department of social services or with
5 a resource center, care management organization or family care district, if necessary
6 to enable an employe or service provider to perform his or her duties, or to enable the
7 county department of social services to coordinate the delivery of services to the
8 client.

9 **SECTION 30.** 46.22 (1) (b) 1. j. of the statutes is created to read:

10 46.22 (1) (b) 1. j. If authorized under s. 46.283 (1) (a) 1., to apply to the
11 department of health and family services to operate a resource center under s. 46.283
12 and, if the department contracts with the county under s. 46.283 (2), to operate the
13 resource center.

14 **SECTION 31.** 46.22 (1) (b) 1. k. of the statutes is created to read:

15 46.22 (1) (b) 1. k. If authorized under s. 46.284 (1) (a) 1., to apply to the
16 department of health and family services to operate a care management organization
17 under s. 46.284 and, if the department contracts with the county under s. 46.284 (2),
18 to operate the care management organization and, if appropriate, place funds in a
19 risk reserve.

20 **SECTION 32.** 46.22 (1) (dm) of the statutes is amended to read:

21 46.22 (1) (dm) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
22 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
23 (3) (c) and 938.78 (2) (a), any subunit of the county department of social services
24 acting under this subsection may exchange confidential information about a client,
25 without the informed consent of the client, with any other subunit of the same county

1 department of social services, with a resource center, care management organization
2 or family care district, or with any person providing services to the client under a
3 purchase of services contract with the county department of social services or with
4 a resource center, care management organization or family care district, if necessary
5 to enable an employe or service provider to perform his or her duties, or to enable the
6 county department of social services to coordinate the delivery of services to the
7 client.

8 **SECTION 33.** 46.23 (3) (e) of the statutes is amended to read:

9 46.23 (3) (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
10 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
11 (3) (c) and 938.78 (2) (a), any subunit of a county department of human services
12 acting under this section may exchange confidential information about a client,
13 without the informed consent of the client, with any other subunit of the same county
14 department of human services, with a resource center, care management
15 organization or family care district, or with any person providing services to the
16 client under a purchase of services contract with the county department of human
17 services or with a resource center, care management organization or family care
18 district, if necessary to enable an employe or service provider to perform his or her
19 duties, or to enable the county department of human services to coordinate the
20 delivery of services to the client.

21 **SECTION 34.** 46.27 (1) (bm) of the statutes is amended to read:

22 46.27 (1) (bm) “Private nonprofit agency” means a nonprofit corporation, as
23 defined in s. 181.0103 (17), which provides ~~comprehensive health care services to~~
24 elderly persons a program of all-inclusive care for persons aged 65 or older

1 authorized under 42 USC 1395 to 1395ggg and which participates in the On Lok
2 replication initiative.

3 **SECTION 35.** 46.27 (2) (k) of the statutes is created to read:

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

7 **SECTION 36.** 46.27 (4) (c) (intro.) of the statutes is amended to read:

8 46.27 (4) (c) (intro.) The planning committee shall ~~develop~~ do all of the
9 following:

10 1. Develop a community options plan for participation in the program. The
11 plan shall include:

12 **SECTION 37.** 46.27 (4) (c) 1. to 7. of the statutes are renumbered 46.27 (4) (c) 1.
13 a. to g.

14 **SECTION 38.** 46.27 (4) (c) 2. of the statutes is created to read:

15 46.27 (4) (c) 2. Advise the county board of supervisors and, if applicable, the
16 county administrator or county executive on whether to apply to the department for
17 a contract to operate a resource center or a care management organization and
18 whether to create a family care district to apply to the department for such a contract.

19 **SECTION 39.** 46.27 (4) (c) 3. of the statutes is created to read:

20 46.27 (4) (c) 3. Review initial plans and existing provider networks of any care
21 management organization in the area to assist the care management organization
22 in developing a network of service providers that includes a sufficient number of
23 accessible, convenient and desirable services.

24 **SECTION 40.** 46.27 (4) (c) 4. of the statutes is created to read:

1 46.27 (4) (c) 4. Advise care management organizations about whether to offer
2 optional acute and primary health care services and, if so, how these benefits should
3 be offered.

4 **SECTION 41.** 46.27 (4) (c) 8. of the statutes is renumbered 46.27 (4) (c) 1. h. and
5 amended to read:

6 46.27 (4) (c) 1. h. If a pilot project under s. ~~46.271 (2m)~~ 46.281 (1) (d) is
7 established in the county, a description of how the activities of the pilot project relate
8 to and are coordinated with the county's proposed program.

9 **SECTION 42.** 46.27 (5) (am) of the statutes is amended to read:

10 46.27 (5) (am) Organize assessment activities specified in sub. (6). The county
11 department or aging unit shall utilize persons for each assessment who can
12 determine the needs of the person being assessed and who know the availability
13 within the county of services alternative to placement in a nursing home. If any
14 hospital patient is referred to a nursing home for admission, these persons shall work
15 with the hospital discharge planner in performing the activities specified in sub. (6).
16 The county department or aging unit shall coordinate the involvement of
17 representatives from the county departments under ss. 46.215, 46.22, 51.42 and
18 51.437, health service providers and the county commission on aging in the
19 assessment activities specified in sub. (6), as well as the person being assessed and
20 members of the person's family or the person's guardian. This paragraph does not
21 apply to a county department or aging unit in a county where a pilot project under
22 s. ~~46.271 (2m)~~ 46.281 (1) (d) is established.

23 **SECTION 43.** 46.27 (6) (a) 3. of the statutes is amended to read:

24 46.27 (6) (a) 3. In each participating county, except in counties where a pilot
25 project under s. ~~46.271 (2m)~~ 46.281 (1) (d) is established, assessments shall be

1 conducted for those persons and in accordance with the procedures described in the
2 county's community options plan. The county may elect to establish assessment
3 priorities for persons in target groups identified by the county in its plan regarding
4 gradual implementation. If a person who is already admitted to a nursing home
5 requests an assessment and if funds allocated for assessments under sub. (7) (am)
6 are available, the county shall conduct the assessment.

7 **SECTION 44.** 46.27 (6g) (intro.) of the statutes is amended to read:

8 46.27 (6g) FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and
9 within the limitations under sub. (7) (b), the fiscal responsibility of a county for an
10 assessment, unless the assessment is performed by an entity under s. ~~46.271 (2m)~~
11 46.281 (1) (d), case plan or services provided to a person under this section is as
12 follows:

13 **SECTION 45.** 46.27 (7) (am) of the statutes is amended to read:

14 46.27 (7) (am) From the appropriation under s. 20.435 (7) (bd), the department
15 shall allocate funds to each county or private nonprofit agency with which the
16 department contracts to pay assessment and case plan costs under sub. (6) not
17 otherwise paid by fee or under s. 49.33 (2) or 49.45. The department shall reimburse
18 counties for the cost of assessing persons eligible for medical assistance under s.
19 49.46, 49.468 or 49.47 as part of the administrative services of medical assistance,
20 payable under s. 49.45 (3) (a). Counties may use unspent funds allocated under this
21 paragraph to pay the cost of long-term community support services and for a risk
22 reserve under par. (fr).

23 **SECTION 46.** 46.27 (7) (b) of the statutes is amended to read:

24 46.27 (7) (b) 1m. From the appropriations under s. 20.435 (7) (bd) and (im), the
25 department shall allocate funds to each county to pay the cost of providing long-term

1 community support services under sub. (5) (b) not otherwise paid under s. 49.45 to
2 persons eligible for medical assistance under s. 49.46 or 49.47 or to persons whom
3 the county department or aging unit administering the program finds likely to
4 become medically indigent within 6 months by spending excess income or assets for
5 medical or remedial care. The average per person reimbursement under this
6 paragraph may not exceed the state share of the average per person payment rate
7 the department expects under s. 49.45 (6m). The county department or aging unit
8 administering the program may spend funds received under this paragraph only in
9 accordance with the case plan and service contract created for each person receiving
10 long-term community support services. Counties may use unspent funds allocated
11 under this paragraph from the appropriation under s. 20.435 (7) (bd) for a risk
12 reserve under par. (fr).

13 **SECTION 47.** 46.27 (7) (fm) of the statutes is amended to read:

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

1 administrative or staff costs, except administrative or staff costs that are associated
2 with implementation of the waiver under sub. (11) and approved by the department.

3 **SECTION 48.** 46.27 (7) (fr) of the statutes is created to read:

4 46.27 (7) (fr) 1. Notwithstanding s. 46.036 (3) and (5m), a county may place in
5 a risk reserve funds that are allocated under par. (am) or (b) or sub. (11) (c) 3. and
6 are not expended or encumbered for services under this subsection or sub. (11). The
7 county shall notify the department of this decision and of the amount to be placed in
8 the risk reserve. The county shall maintain the risk reserve in an interest-bearing
9 escrow account with a financial institution, as defined in s. 69.30 (1) (b), if the
10 department has approved the terms of the escrow. All interest from the principal
11 shall be reinvested in the escrow account.

12 2. The annual amount of a county's expenditure for a risk reserve, as specified
13 in subd. 1., may not exceed 10% of the county's most recent allocation under pars.
14 (am) and (b) and sub. (11) (c) 3. or \$750,000, whichever is less. The total amount of
15 the risk reserve, including interest, may not exceed 15% of the county's most recent
16 allocation under this subsection.

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

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

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

22 c. If approved by a resolution of the county board of supervisors, to transfer
23 funds to a family care district.

24 d. If approved by the department, for administrative or staff costs under this
25 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 49.** 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 resource centers under s. 46.283 or care
12 management organizations under s. 46.284 and for the improvement or expansion
13 of long-term community support services for clients whose cost of care significantly
14 exceeds the average cost of care provided under this section, including any of the
15 following:

16 **SECTION 50.** 46.27 (9) (c) of the statutes is amended to read:

17 46.27 (9) (c) All long-term community support services provided under this
18 pilot project in lieu of nursing home care shall be consistent with those services
19 described in the participating county's community options plan under sub. (4) (c) 1.
20 and provided under sub. (5) (b). Unless the department has contracted under s.
21 ~~46.271 (2m)~~ 46.281 (1) (d) with an entity other than the county department, each
22 county participating in the pilot project shall assess persons under sub. (6).

23 **SECTION 51.** 46.271 (2m) of the statutes is repealed.

24 **SECTION 52.** 46.2805 of the statutes is created to read:

25 **46.2805 Definitions; long-term care.** In ss. 46.2805 to 46.2895:

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

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

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

10 (2) “Eligible person” means a person who meets all eligibility criteria under s.
11 46.286 (1) or (1m).

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

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

16 (5) “Family care district” means a special purpose district created under s.
17 46.2895 (1).

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

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

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

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

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

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

6 **SECTION 53.** 46.281 of the statutes is created to read:

7 **46.281 Powers and duties of the department and the secretary;**
8 **long-term care. (1) DUTIES OF THE DEPARTMENT.** The department shall do all of the
9 following:

10 (a) Provide training to members of the council on long-term care who are aged
11 65 or older or who have physical or developmental disabilities or their family
12 members, guardians or other advocates, to enable these members to participate in
13 the council’s duties.

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

16 (c) Request from the secretary of the federal department of health and human
17 services any waivers of federal medicaid laws necessary to permit the use of federal
18 moneys to provide the family care benefit to recipients of medical assistance. The
19 department shall implement any waiver that is approved and that is consistent with
20 ss. 46.2805 to 46.2895. Regardless of whether a waiver is approved, the department
21 may implement operation of resource centers, care management organizations and
22 the family care benefit.

23 (d) Before July 1, 2001:

24 1. Establish, in geographic areas determined by the department, a pilot project
25 under which the department may contract with a county, a family care district, a

1 tribe or band or the Great Lakes inter-tribal council, inc., or with any 2 or more of
2 these entities under a joint application, to operate a resource center.

3 2. Contract with counties or tribes or bands under a pilot project to demonstrate
4 the ability of counties or tribes or bands to manage all long-term care programs and
5 administer the family care benefit as care management organizations.

6 (e) After June 30, 2001, contract with one or more entities certified as meeting
7 requirements under s. 46.284 (3) for services of the entity as a care management
8 organization and one or more entities for services specified under s. 46.283 (3) and
9 (4).

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

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

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

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

19 3. Conduct ongoing evaluations of the long-term care system specified in ss.
20 46.2805 to 46.2895.

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

23 5. Ensure that reviews of the quality of management and service delivery of
24 resource centers and care management organizations are conducted by external

1 organizations and make information about specific review results available to the
2 public.

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

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 (3).

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, community-based residential facility, adult family home and residential care
15 apartment complex the date on which a resource center that serves the area of the
16 county, nursing home, community-based residential facility, adult family home or
17 residential care apartment complex is first available to provide a functional and
18 financial screen. To facilitate phase-in of services of resource centers, the secretary
19 may certify that the resource center is available for specified groups of eligible
20 individuals or for specified facilities in the county.

21 **SECTION 54.** 46.281 (1) (a) of the statutes, as created by 1999 Wisconsin Act
22 (this act), is repealed.

23 **SECTION 55.** 46.281 (1) (b) of the statutes, as created by 1999 Wisconsin Act
24 (this act), is repealed.

25 **SECTION 56.** 46.282 of the statutes is created to read:

1 **46.282 Council on long-term care.** The council on long-term care appointed
2 under s. 15.197 (5) shall do all of the following:

3 (1) Assist the department in developing broad policy issues related to
4 long-term care services.

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

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

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

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

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

14 (e) Programs other than those under pars (c) and (d) that provide home and
15 community-based services.

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

17 (3) Monitor patterns of complaints, grievances and appeals related to
18 long-term care in order to identify issues of statewide importance.

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

20 (5) Review patterns of utilization of various types of services by care
21 management organizations.

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

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

4 (a) Numbers of persons served.

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

6 (c) The number and service areas of resource centers and care management
7 organizations.

8 (d) Waiting list information.

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

11 **SECTION 57.** 46.282 of the statutes, as created by 1999 Wisconsin Act (this
12 act), is repealed.

13 **SECTION 58.** 46.283 of the statutes is created to read:

14 **46.283 Resource centers. (1) APPLICATION FOR CONTRACT.** (a) A county board
15 of supervisors and, in a county with a county executive or a county administrator, the
16 county executive or county administrator, may decide all of the following:

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

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

23 (b) The governing body of a tribe or band or of the Great Lakes inter-tribal
24 council, inc., may decide whether to authorize a tribal agency to apply to the

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

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

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

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

17 (b) After June 30, 2001, the department may contract with a private nonprofit
18 organization to operate a resource center if the department determines that the
19 organization has no significant connection to an entity that operates a care
20 management organization and if any of the following applies:

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

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

1 (c) After the period specified in par. (a), the department may contract to operate
2 a resource center with counties, family care districts, the governing body of a tribe
3 or band or the Great Lakes inter-tribal council, inc., or under a joint application of
4 any of these, or with a private nonprofit organization that is entirely separate from
5 an entity that operates a care management organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (g) Provide a functional and financial screen to any person seeking admission
5 to a nursing home, community-based residential facility, residential care apartment
6 complex or adult family home if the secretary has certified that the resource center
7 is available to the person and the facility.

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

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

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

****NOTE: The numbering of s. 20.435 (4) (bm) and (pa) 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. Section 46.283 (5) has been
further affected by drafts with the following LRB numbers: LRB-0028/8 and
LRB-0030/2.

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

1 (7) EXCHANGE OF INFORMATION. Notwithstanding ss. 48.78 (2) (a), 49.45 (4),
2 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78
3 (2) (a), a resource center acting under this section may exchange confidential
4 information about a client, as defined in s. 46.287 (1), without the informed consent
5 of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm), 46.23 (3) (e), 46.284
6 (7), 46.2895 (10), 51.42 (3) (e) or 51.437 (4r) (b) in the county of the resource center,
7 if necessary to enable the resource center to perform its duties or to coordinate the
8 delivery of services to the client.

9 **SECTION 59.** 46.284 of the statutes is created to read:

10 **46.284 Care management organizations. (1) APPLICATION FOR CONTRACT.**

11 (a) A county board of supervisors and, in a county with a county executive or a county
12 administrator, the county executive or county administrator, may decide all of the
13 following:

14 1. Whether to authorize one or more county departments under s. 46.21,
15 46.215, 46.22 or 46.23 or an aging unit under s. 46.82 (1) (a) 1. or 2. to apply to the
16 department for a contract to operate a care management organization and, if so,
17 which to authorize and what client group to serve.

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

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

24 (c) Under the requirements of par. (a), a county board of supervisors may decide
25 to apply to the department for a contract to operate a multicounty care management

1 organization in conjunction with the county board or boards of one or more other
2 counties or a county-tribal care management organization in conjunction with the
3 governing body of a tribe or band or the Great Lakes inter-tribal council, inc.

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

9 (2) CONTRACTS. (a) The department may contract for operation of a care
10 management organization only with an entity that is certified as meeting the
11 requirements under sub. (3). No entity may operate as a care management
12 organization under the requirements of this section unless so certified and under
13 contract with the department.

14 (b) Within each county, the department shall initially contract to operate a care
15 management organization with the county or a family care district if the county
16 elects to operate a care management organization and the care management
17 organization meets the requirements of sub. (3) and performance standards
18 prescribed by the department. A county that contracts under this paragraph may
19 operate the care management organization for all of the target groups or for a
20 selected group or groups. During the first 24 months in which the county has a
21 contract under which it accepts a per person per month payment for each enrollee
22 in the care management organization, the department may not contract with
23 another organization to operate a care management organization in the county
24 unless any of the following applies:

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

3 2. The county does not have the capacity to serve all county residents who are
4 entitled to the family care benefit in the client group or groups that the county serves
5 and cannot develop the capacity.

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

9 (c) For contracts following the initial contracts specified in par. (b), the
10 department shall, after consulting with the council on long-term care, prescribe
11 criteria to determine the number of care management organizations that are
12 necessary for operation in a county. Under these criteria, the department shall solicit
13 applications, certify those applicants that meet the requirements specified in sub. (3)
14 (a), select certified applicants for contract and contract with the selected applicants.

15 **(3) CERTIFICATION; REQUIREMENTS.** (a) If an entity meets the requirements
16 under par. (b) and applicable rules of the department and submits to the department
17 an application for initial certification or certification renewal, the department shall
18 certify that the entity meets the requirements for a care management organization.

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

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

- 1 2. Adequate availability of providers that can meet the preferences and needs
2 of its proposed service recipients for services at various times, including evenings,
3 weekends and, when applicable, on a 24-hour basis.
- 4 3. Adequate availability of providers that are able and willing to perform all
5 of the tasks that are likely to be identified in proposed enrollees' service and care
6 plans.
- 7 4. Adequate availability of residential and day services that are geographically
8 accessible to proposed enrollees' homes, families or friends.
- 9 5. Adequate supported living arrangements of the types and sizes that meet
10 proposed enrollees' preference and needs.
- 11 6. Expertise in determining and meeting the needs of every target population
12 that the applicant proposes to serve and connections to the appropriate service
13 providers.
- 14 7. Thorough knowledge of local long-term care and other community resources.
- 15 8. The ability to manage and deliver, either directly or through subcontracts
16 or partnerships with other organizations, the full range of benefits to be included in
17 the monthly payment amount.
- 18 9. Thorough knowledge of methods for maximizing informal caregivers and
19 community resources and integrating them into a service or care plan.
- 20 10. Coverage for a geographic area specified by the department.
- 21 11. The ability to develop strong linkages with systems and services that are
22 not directly within the scope of the applicant's responsibility but that are important
23 to the target group that it proposes to serve, including primary and acute health care
24 services.

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

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

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

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

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

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

21 (e) Provide, within guidelines established by the department, a mechanism by
22 which an enrollee may arrange for, manage and monitor his or her family care benefit
23 directly or with the assistance of another person chosen by the enrollee. The care
24 management organization shall monitor the enrollee's use of a fixed budget for
25 purchase of services or support items from any qualified provider, monitor the health

1 and safety of the enrollee and provide assistance in management of the enrollee's
2 budget and services at a level tailored to the enrollee's need and desire for the
3 assistance.

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

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

8 (h) Submit to the department reports and data required or requested by the
9 department.

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

12 (j) Cooperate with external quality assurance reviews.

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

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

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

****NOTE: This is reconciled s. 46.284 (5) (a). This paragraph has been affected by
drafts with the following LRB numbers: LRB-0028/6 and LRB-0030/P4.

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

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

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

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

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

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

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

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

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

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

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

19 (7) **EXCHANGE OF INFORMATION.** Notwithstanding ss. 48.78 (2) (a), 49.45 (4),
20 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78
21 (2) (a), a care management organization acting under this section may exchange
22 confidential information about a client, as defined in s. 46.287 (1), without the
23 informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm),
24 46.23 (3) (e), 46.283 (7), 46.2895 (10), 51.42 (3) (e) or 51.437 (4r) (b) in the county of
25 the care management organization, if necessary to enable the care management

1 organization to perform its duties or to coordinate the delivery of services to the
2 client.

3 **SECTION 60.** 46.284 (2) (c) of the statutes, as created by 1999 Wisconsin Act
4 (this act), is amended to read:

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

11 **SECTION 61.** 46.285 of the statutes is created to read:

12 **46.285 Operation of resource center and care management**
13 **organization.** In order to meet federal requirements and assure federal financial
14 participation in funding of the family care benefit, a county, a tribe or band, a family
15 care district or an organization, including a private, nonprofit corporation, may not
16 directly operate both a resource center and a care management organization. All of
17 the following apply to operation of both a resource center and a care management
18 organization:

19 (1) COUNTY OPERATION. (a) If a county board of supervisors and, if applicable,
20 a county executive or a county administrator, elect to apply to the department for a
21 contract to operate a resource center, the county board of supervisors may create a
22 family care district to apply to the department for a contract to operate a care
23 management organization.

24 (b) If a county board of supervisors and, if applicable, a county executive or a
25 county administrator, elect to apply to the department for a contract to operate a care

1 management organization, the county board of supervisors may create a family care
2 district to apply to the department to operate a resource center.

3 (2) TRIBAL OR BAND ORGANIZATION. (a) If the governing body of a tribe or band
4 elects to apply to the department for a contract directly to operate a resource center,
5 tribal or band members may form a separate corporation to apply to the department
6 for a contract to operate a care management organization. No members of the
7 governing board of the corporation may be members of the tribal or band governing
8 body.

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

14 (3) JOINT COUNTY AND TRIBAL OR BAND OPERATION. Any county or family care
15 district that seeks to operate jointly with a tribe or band or tribal or band corporation
16 a care management organization or resource center shall submit jointly with the
17 tribe or band or tribal or band corporation an application to the department to
18 operate the care management organization or resource center.

19 **SECTION 62.** 46.286 of the statutes is created to read:

20 **46.286 Family care benefit. (1) ELIGIBILITY.** Except as provided in sub. (1m),
21 a person is eligible for, but not necessarily entitled to, the family care benefit if the
22 person is at least 18 years of age; does not have a primary disabling condition of
23 mental illness, substance abuse or developmental disability; and meets all of the
24 following criteria:

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

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

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

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

11 2. The person has a condition that is expected to last at least 90 days or result
12 in death within 12 months after the date of application and, on the date that the
13 family care benefit became available in the person's county of residence, the person
14 was a resident in a nursing home or was receiving long-term care services, as
15 specified by the department, funded under any of the following:

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

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

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

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

22 e. County funding, if documented by the county under a method prescribed by
23 the department.

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

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

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

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

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

11 **(1m) ELIGIBILITY EXCEPTION.** A person whose primary disabling condition is
12 developmental disability is eligible for the family care benefit if the person is a
13 resident of a county or is a member of a tribe or band that has operated, before July
14 1, 2001, a care management organization under s. 46.281 (1) (d) and meets all other
15 eligibility criteria under this subsection.

16 **(2) COST SHARING.** (a) A person who is determined to be financially eligible
17 under sub. (1) (b) shall contribute to the cost of his or her care an amount that is
18 calculated by the department or its designee after subtracting from the person's
19 gross income, plus one-twelfth of countable assets, the deductions and allowances
20 permitted by the department by rule.

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

23 (c) A person who is required to contribute to the cost of his or her care but who
24 fails to make the required contributions is ineligible for the family care benefit unless

1 he or she is exempt from the requirement under rules promulgated by the
2 department.

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

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

10 (b) 1. b.

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

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

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

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

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

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

24 (c) Within each county and for each client group, par. (a) shall first apply on the
25 effective date of a contract under which a care management organization accepts a

1 per person per month payment to provide services under the family care benefit to
2 eligible persons in that client group in the county. Within 24 months after this date,
3 the department shall assure that sufficient capacity exists within one or more care
4 management organizations to provide the family care benefit to all entitled persons
5 in that client group in the county.

6 (d) The department shall determine the date, which shall not be later than July
7 1, 2000, on which par. (a) shall first apply to persons who are not eligible for medical
8 assistance under ch. 49.

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

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

15 (6) **PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE OF**
16 **COMMUNITY SPOUSE; RULES.** The department shall promulgate rules relating to
17 protection of income and resources of couples for the maintenance of the spouse in
18 the community with regard to persons who receive the family care benefit, that are
19 substantially similar to applicable provisions under s. 49.455.

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

24 **SECTION 63.** 46.287 of the statutes is created to read:

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

3 (2) HEARING. (a) 1. Except as provided in subd. 2., a client may contest any of
4 the following applicable matters by filing, within 45 days after receipt of notice of the
5 contested matter, a written request for a hearing that shall be held under procedures
6 for hearing these disputes that are prescribed by the department by rule:

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

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

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

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

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

13 f. Development of a plan of care that is unacceptable because the plan of care
14 requires the enrollee to live in a place that is unacceptable to the enrollee or the plan
15 of care provides care, treatment or support items that are insufficient to meet the
16 enrollee’s needs, are unnecessarily restrictive or are unwanted by the enrollee.

17 g. Termination of the family care benefit.

18 2. An applicant for or recipient of medical assistance is not entitled to a hearing
19 concerning the identical dispute or matter under both this section and 42 CFR
20 431.200 to 431.246.

21 (b) An enrollee may contest a decision of a care management organization
22 regarding the type, amount or quality of the enrollee’s services under the family care
23 benefit, other than those specified in par. (a) 1. d. to f., or may contest the choice of
24 service provider. In these instances, the enrollee shall first send a written request
25 for review by the unit of the department that monitors care management

1 organization contracts. This unit shall review and attempt to resolve the dispute.
2 If the dispute is not resolved to the satisfaction of the enrollee, he or she may request
3 a hearing under the procedures specified in par. (a) 1. (intro.).

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

8 **SECTION 64.** 46.288 of the statutes is created to read:

9 **46.288 Rule-making.** The department shall promulgate as rules all of the
10 following:

11 (1) Standards for performance by resource centers and for certification of care
12 management organizations, including requirements for maintaining quality
13 assurance and quality improvement.

14 (2) Rights of clients, eligible persons and enrollees that are specified in s.
15 46.287.

16 (3) Criteria and procedures for determining functional eligibility under s.
17 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), cost sharing under s. 46.286
18 (2) (a) and entitlement under s. 46.286 (3). The rules for determining functional
19 eligibility under s. 46.286 (1) (a) 1. a. shall be substantially similar to eligibility
20 criteria for receipt of the long-term support community options program under s.
21 46.27. Rules under this subsection shall include definitions of the following terms
22 applicable to s. 46.286:

23 (a) "Primary disabling condition".

24 (b) "Mental illness".

25 (c) "Substance abuse".

1 (d) “Long-term or irreversible”.

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

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

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

6 (h) “Gross monthly income”.

7 (i) “Deductions and allowances”.

8 (j) “Countable assets”.

9 (4) Procedures and standards for procedures for s. 46.287 (2).

10 **SECTION 65.** 46.289 of the statutes is created to read:

11 **46.289 Transition.** In order to facilitate the transition to the long-term care
12 system specified in ss. 46.2805 to 46.2895, within the limits of applicable federal
13 statutes and regulations and if the secretary of health and family services finds it
14 necessary, he or she may grant a county limited waivers to or exemptions from ss.
15 46.27 (3) (e) (intro.), 1. and 2. and (f), (5) (d) and (e), (6) (a) 1., 2. and 3. and (b) (intro.),
16 1. and 2., (6r) (c), (7) (b), (cj) and (cm) and (11) (c) 5m. (intro.) and 6. and 46.277 (3)
17 (a), (4) (a) and (5) (d) 1m., 1n. and 2. and rules promulgated under those provisions.

18 **SECTION 66.** 46.2895 of the statutes is created to read:

19 **46.2895 Family care district.** (1) CREATION. (a) A county board of
20 supervisors may create a special purpose district that is termed a “family care
21 district”, that is a local unit of government, that is separate and distinct from, and
22 independent of, the state and the county, and that has the powers and duties
23 specified in this section, if the county board does all of the following:

24 1. Adopts an enabling resolution that does all of the following:

25 a. Declares the need for establishing the family care district.

1 b. Specifies the family care district's primary purpose, which shall be to
2 operate, under contract with the department, either a resource center under s.
3 46.283 or a care management organization under s. 46.284, but not both.

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

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

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

13 **(3) FAMILY CARE DISTRICT BOARD.** (a) 1. The county board of supervisors of a
14 county or, in a county with a county administrator or county executive, the county
15 administrator or county executive shall appoint the members of the family care
16 district board, which is the governing board of a family care district under sub. (1)
17 (a).

18 2. The county boards of supervisors of 2 or more contiguous counties shall
19 appoint the members of the family care district board, which is the governing board
20 of the family care district under sub. (1) (b). Each county board shall appoint
21 members in the same proportion that the county's population represents to the total
22 population of all of the counties that constitute the jurisdiction of the family care
23 district.

24 (b) 1. The family care district board appointed under par. (a) 1. shall consist of
25 15 persons who are residents of the area of jurisdiction of the family care district.

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

4 2. The family care district board appointed under par. (a) 2. shall consist of 15
5 persons, plus one additional member for each county in excess of 2, all of whom are
6 residents of the area of jurisdiction of the family care district. At least one-fourth
7 of the members shall be representative of the client group or groups whom it is the
8 family care district's primary purpose to serve or those clients' family members,
9 guardians or other advocates.

10 3. Membership of the family care district board under subd. 1. or 2. shall reflect
11 the ethnic and economic diversity of the area of jurisdiction of the family care district.
12 No member of the board may be an elected or appointed official or an employe of the
13 county or counties that created the family care district. No member of the board may
14 have a private financial interest in or profit directly or indirectly from any contract
15 or other business of the family care district.

16 (c) The members of the family care district board appointed under par. (a) shall
17 serve 3-year terms. No member may serve more than 2 consecutive terms. Of the
18 members first appointed, 5 shall be appointed for 3 years; 5 shall be appointed for
19 4 years; and 5 or, in the case of a board appointed under par. (b) 2., the remainder,
20 shall be appointed for 5 years. A member shall serve until his or her successor is
21 appointed.

22 (d) As soon as possible after the appointment of the initial members of the
23 family care district board, the board shall organize for the transaction of business
24 and elect a chairperson and other necessary officers. Each chairperson shall be
25 elected by the board from time to time for the term of that chairperson's office as a

1 member of the board or for the term of 3 years, whichever is shorter, and shall be
2 eligible for reelection. A majority of the board shall constitute a quorum. The board
3 may act based on the affirmative vote of a majority of a quorum.

4 (4) POWERS. Subject to sub. (1)(a) 1. b., a family care district has all the powers
5 necessary or convenient to carry out the purposes and provisions of ss. 46.2805 to
6 46.2895. In addition to all these powers, a family care district may do all of the
7 following:

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

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

13 (c) Sue and be sued.

14 (d) Negotiate and enter into leases or contracts, including a contract with the
15 department to operate either a resource center under s. 46.283 or a care management
16 organization under s. 46.284, but not both.

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

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

22 (g) Subject to sub. (8), employ any agent, employe or special adviser that the
23 family care district finds necessary, fix and regulate his or her compensation and
24 provide, either directly or subject to an agreement under s. 66.30 as a participant in

1 a benefit plan of another governmental entity, any employe benefits, including an
2 employe pension plan.

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

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

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

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

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

13 3. Bonds or securities issued or guaranteed as to principal and interest by the
14 federal government or by a commission, board or other instrumentality of the federal
15 government.

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

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

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

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

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

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

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

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

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

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

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

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

19 (a) Manage the property and business of the family care district and manage
20 the employes of the district, subject to the general control of the family care district
21 board.

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

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

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

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

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

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

1 duties relating to the same or a substantially similar function for which the
2 individual is offered employment by the district, with respect to that individual,
3 recognize all years of service with the county for any benefit provided or program
4 operated by the district for which an employee's years of service may affect the
5 provision of the benefit or the operation of the program.

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

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

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

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

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

1 **(9) CONFIDENTIALITY OF RECORDS.** No record, as defined in s. 19.32 (2), of a family
2 care district that contains personally identifiable information, as defined in s. 19.62
3 (5), concerning an individual who receives services from the family care district may
4 be disclosed by the family care district without the individual's informed consent,
5 except as required to comply with s. 16.009 (2) (p) or 49.45 (4).

6 **(10) EXCHANGE OF INFORMATION.** Notwithstanding sub. (9) and ss. 48.78 (2) (a),
7 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c)
8 and 938.78 (2) (a), a family care district acting under this section may exchange
9 confidential information about a client, as defined in s. 46.287 (1), without the
10 informed consent of the client, under s. 46.21 (2m) (c), 46.215 (1m), 46.22 (1) (dm),
11 46.23 (3) (e), 46.283 (7), 46.284 (7), 51.42 (3) (e) or 51.437 (4r) (b) in the jurisdiction
12 of the family care district, if necessary to enable the family care district to perform
13 its duties or to coordinate the delivery of services to the client.

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

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

22 **(13) DISSOLUTION.** Subject to the performance of the contractual obligations of
23 a family care district and if first approved by the secretary of the department, the
24 family care district may be dissolved by the joint action of the family care district
25 board and county board of supervisors under sub. (1) (a) or the county boards of

1 supervisors under sub. (1) (b) that created the family care district. If the family care
2 district is dissolved, the property of the district shall be transferred to the county
3 board of supervisors that created the family care district except as follows:

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

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

10 **SECTION 67.** 46.82 (3) (a) 19. of the statutes is created to read:

11 46.82 (3) (a) 19. If an aging unit under sub. (1) (a) 1. or 2. and if authorized
12 under s. 46.283 (1) (a) 1., apply to the department to operate a resource center under
13 s. 46.283 and, if the department contracts with the county under s. 46.283 (2), operate
14 the resource center.

15 **SECTION 68.** 46.82 (3) (a) 20. of the statutes is created to read:

16 46.82 (3) (a) 20. If an aging unit under sub. (1) (a) 1. or 2. and if authorized
17 under s. 46.284 (1) (a) 1., apply to the department to operate a care management
18 organization under s. 46.284 and, if the department contracts with the county under
19 s. 46.284 (2), operate the care management organization and, if appropriate, place
20 funds in a risk reserve.

21 **SECTION 69.** 49.45 (3) (ag) of the statutes is amended to read:

22 49.45 (3) (ag) Reimbursement shall be made to each entity contracted with
23 under s. ~~46.271 (2m)~~ 46.281 (1) (d) for ~~assessments completed~~ functional screens
24 performed under s. ~~46.271 (2m) (a) 2.~~ 46.281 (1) (d).

25 **SECTION 70.** 49.45 (6m) (c) 5. of the statutes is amended to read:

1 49.45 (6m) (c) 5. Admit only patients assessed or who waive or are exempt from
2 the requirement of assessment under s. 46.27 (6) (a) or, if required under s. 50.035
3 (4n) or 50.04 (2h), who have been referred to a resource center.

4 **SECTION 71.** 49.46 (2) (b) 8. of the statutes is amended to read:

5 49.46 (2) (b) 8. Home or community-based services, if provided under s. 46.27
6 (11), 46.275, 46.277 or 46.278 or under the family care benefit if a waiver is in effect
7 under s. 46.281 (1) (c).

8 **SECTION 72.** 49.47 (4) (as) 1. of the statutes is amended to read:

9 49.47 (4) (as) 1. The person would meet the financial and other eligibility
10 requirements for home or community-based services under s. 46.27 (11) or 46.277
11 or under the family care benefit if a waiver is in effect under s. 46.281 (1) (c) but for
12 the fact that the person engages in substantial gainful activity under 42 USC 1382c
13 (a) (3).

14 **SECTION 73.** 49.47 (4) (as) 3. of the statutes is amended to read:

15 49.47 (4) (as) 3. Funding is available for the person under s. 46.27 (11) or 46.277
16 or under the family care benefit if a waiver is in effect under s. 46.281 (1) (c).

17 **SECTION 74.** 50.01 (6h) of the statutes is created to read:

18 50.01 (6h) “Secretary” means the secretary of health and family services.

19 **SECTION 75.** 50.02 (2) (d) of the statutes is created to read:

20 50.02 (2) (d) The department shall promulgate rules that prescribe the time
21 periods and the methods of providing information specified in ss. 50.033 (2r) and (2s),
22 50.034 (5m) and (5n), 50.035 (4m) and (4n) and 50.04 (2g) (a) and (2h) (a).

23 **SECTION 76.** 50.033 (2r) of the statutes is created to read:

24 50.033 (2r) PROVISION OF INFORMATION REQUIRED. Subject to sub. (2t), an adult
25 family home shall, within the time period after inquiry by a prospective resident that

1 is prescribed by the department by rule, inform the prospective resident of the
2 services of a resource center under s. 46.283, the family care benefit under s. 46.286
3 and the availability of a functional and financial screen to determine the prospective
4 resident's eligibility for the family care benefit under s. 46.286 (1).

5 **SECTION 77.** 50.033 (2s) of the statutes is created to read:

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

11 (a) The person has received a screen for functional eligibility under s. 46.286
12 (1) (a) within the previous 6 months.

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

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

15 **SECTION 78.** 50.033 (2t) of the statutes is created to read:

16 50.033 (2t) **APPLICABILITY.** Subsections (2r) and (2s) apply only if the secretary
17 has certified under s. 46.281 (3) that a resource center is available for the adult family
18 home and for specified groups of eligible individuals that include those persons
19 seeking admission to or the residents of the adult family home.

20 **SECTION 79.** 50.034 (5m) of the statutes is created to read:

21 50.034 (5m) **PROVISION OF INFORMATION REQUIRED.** Subject to sub. (5p), a
22 residential care apartment complex shall, within the time period after inquiry by a
23 prospective resident that is prescribed by the department by rule, inform the
24 prospective resident of the services of a resource center under s. 46.283, the family
25 care benefit under s. 46.286 and the availability of a functional and financial screen

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

3 **SECTION 80.** 50.034 (5n) of the statutes is created to read:

4 50.034 (5n) REQUIRED REFERRAL. Subject to sub. (5p), a residential care
5 apartment complex shall, within the time period prescribed by the department by
6 rule, refer to a resource center under s. 46.283 a person who is seeking admission,
7 who is at least 65 years of age or has a physical disability and whose disability or
8 condition is expected to last at least 90 days, unless any of the following applies:

9 (a) The person has received a screen for functional eligibility under s. 46.286
10 (1) (a) within the previous 6 months.

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

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

14 **SECTION 81.** 50.034 (5p) of the statutes is created to read:

15 50.034 (5p) APPLICABILITY. Subsections (5m) and (5n) apply only if the secretary
16 has certified under s. 46.281 (3) that a resource center is available for the residential
17 care apartment complex and for specified groups of eligible individuals that include
18 those person seeking admission to or the residents of the residential care apartment
19 complex.

20 **SECTION 82.** 50.034 (8) of the statutes is created to read:

21 50.034 (8) FORFEITURES. (a) Whoever violates sub. (5m) or (5n) or rules
22 promulgated under sub. (5m) or (5n) may be required to forfeit not more than \$500
23 for each violation.

24 (b) The department may directly assess forfeitures provided for under par. (a).
25 If the department determines that a forfeiture should be assessed for a particular

1 violation, it shall send a notice of assessment to the residential care apartment
2 complex. The notice shall specify the amount of the forfeiture assessed, the violation
3 and the statute or rule alleged to have been violated, and shall inform the residential
4 care apartment complex of the right to a hearing under par. (c).

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

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

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

1 **SECTION 83.** 50.035 (4m) of the statutes is created to read:

2 50.035 (4m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), a
3 community-based residential facility shall, within the time period after inquiry by
4 a prospective resident that is prescribed by the department by rule, inform the
5 prospective resident of the services of a resource center under s. 46.283, the family
6 care benefit under s. 46.286 and the availability of a functional and financial screen
7 to determine the prospective resident's eligibility for the family care benefit under
8 s. 46.286 (1).

9 **SECTION 84.** 50.035 (4n) of the statutes is created to read:

10 50.035 (4n) REQUIRED REFERRAL. Subject to sub. (4p), a community-based
11 residential facility shall, within the time period prescribed by the department by
12 rule, refer to a resource center under s. 46.283 a person who is seeking admission,
13 who is at least 65 years of age or has a physical disability and whose disability or
14 condition is expected to last at least 90 days, unless any of the following applies:

15 (a) The person has received a screen for functional eligibility under s. 46.286
16 (1) (a) within the previous 6 months.

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

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

20 **SECTION 85.** 50.035 (4p) of the statutes is created to read:

21 50.035 (4p) APPLICABILITY. Subsections (4m) and (4n) apply only if the secretary
22 has certified under s. 46.281 (3) that a resource center is available for the
23 community-based residential facility and for specified groups of eligible individuals
24 that include those persons seeking admission to or the residents of the
25 community-based residential facility.

1 **SECTION 86.** 50.035 (8) of the statutes is repealed.

2 **SECTION 87.** 50.035 (11) of the statutes is created to read:

3 50.035 (11) FORFEITURES. (a) Whoever violates sub. (4m) or (4n) or rules
4 promulgated under sub. (4m) or (4n) may be required to forfeit not more than \$500
5 for each violation.

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

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

24 (d) 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 par. (c), within 10 days

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 (e) 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.

8 **SECTION 88.** 50.04 (2g) of the statutes is created to read:

9 50.04 (2g) PROVISION OF INFORMATION REQUIRED. (a) Subject to sub. (2i), a
10 nursing home shall, within the time period after inquiry by a prospective resident
11 that is prescribed by the department by rule, inform the prospective resident of the
12 services of a resource center under s. 46.283, the family care benefit under s. 46.286
13 and the availability of a functional and financial screen to determine the prospective
14 resident's eligibility for the family care benefit under s. 46.286 (1).

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

16 (b) 3.

17 **SECTION 89.** 50.04 (2h) of the statutes is created to read:

18 50.04 (2h) REQUIRED REFERRAL. (a) Subject to sub. (2i), a nursing home shall,
19 within the time period prescribed by the department by rule, refer to a resource
20 center under s. 46.283 a person who is seeking admission, who is at least 65 years
21 of age or has developmental disability or physical disability and whose disability or
22 condition is expected to last at least 90 days, unless any of the following applies:

23 1. The person has received a screen for functional eligibility under s. 46.286 (1)

24 (a) within the previous 6 months.

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

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

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

3 (b) 3.

4 **SECTION 90.** 50.04 (2i) of the statutes is created to read:

5 50.04 (2i) **APPLICABILITY.** Subsections (2g) and (2h) apply only if the secretary
6 has certified under s. 46.281 (3) that a resource center is available for the nursing
7 home and for specified groups of eligible individuals that include those persons
8 seeking admission to or the residents of the nursing home.

9 **SECTION 91.** 50.04 (2m) of the statutes is renumbered 50.04 (2m) (a) and
10 amended to read:

11 50.04 (2m) (a) No Except as provided in par. (b), no nursing home may admit
12 any patient until a physician has completed a plan of care for the patient and the
13 patient is assessed or the patient is exempt from or waives assessment under s. 46.27
14 (6) (a) ~~or 46.271 (2m) (a) 2.~~ Failure to comply with this subsection is a class “C”
15 violation under sub. (4) (b) 3.

16 **SECTION 92.** 50.04 (2m) (b) of the statutes is created to read:

17 50.04 (2m) (b) Paragraph (a) does not apply to those residents for whom the
18 secretary has certified under s. 46.281 (3) that a resource center is available.

19 **SECTION 93.** 50.06 (7) of the statutes is amended to read:

20 50.06 (7) (a) An individual who consents to an admission under this section
21 may request that an assessment be conducted for the incapacitated individual under
22 the long-term support community options program under s. 46.27 (6) or, if the
23 secretary has certified under s. 46.281 (3) that a resource center is available for the
24 individual, a functional and financial screen to determine eligibility for the family
25 care benefit under s. 46.286 (1).

1 **SECTION 94.** 50.36 (2) (c) of the statutes is created to read:

2 50.36 (2) (c) The department shall promulgate rules that require that a
3 hospital, before discharging a patient who is aged 65 or older or who has
4 developmental disability or physical disability and whose disability or condition
5 requires long-term care that is expected to last at least 90 days, refer the patient to
6 the resource center under s. 46.283. The rules shall specify that this requirement
7 applies only if the secretary has certified under s. 46.281 (3) that a resource center
8 is available for the hospital and for specified groups of eligible individuals that
9 include persons seeking admission to or patients of the hospital.

10 **SECTION 95.** 50.38 of the statutes is created to read:

11 **50.38 Forfeitures.** (1) Whoever violates rules promulgated under s. 50.36 (2)
12 (c) may be required to forfeit not more than \$500 for each violation.

13 (2) The department may directly assess forfeitures provided for under sub. (1).
14 If the department determines that a forfeiture should be assessed for a particular
15 violation, the department shall send a notice of assessment to the hospital. The
16 notice shall specify the amount of the forfeiture assessed, the violation and the
17 statute or rule alleged to have been violated, and shall inform the hospital of the right
18 to a hearing under sub. (3).

19 (3) A hospital may contest an assessment of a forfeiture by sending, within 10
20 days after receipt of notice under sub. (2), a written request for a hearing under s.
21 227.44 to the division of hearings and appeals created under s. 15.103 (1). The
22 administrator of the division may designate a hearing examiner to preside over the
23 case and recommend a decision to the administrator under s. 227.46. The decision
24 of the administrator of the division shall be the final administrative decision. The
25 division shall commence the hearing within 30 days after receipt of the request for

1 a hearing and shall issue a final decision within 15 days after the close of the hearing.
2 Proceedings before the division are governed by ch. 227. In any petition for judicial
3 review of a decision by the division, the party, other than the petitioner, who was in
4 the proceeding before the division shall be the named respondent.

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

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

14 **SECTION 96.** 50.49 (4) of the statutes is amended to read:

15 50.49 (4) LICENSING, INSPECTION AND REGULATION. The Except as provided in sub.
16 (6m), the department may register, license, inspect and regulate home health
17 agencies as provided in this section. The department shall ensure, in its inspections
18 of home health agencies, that a sampling of records from private pay patients are
19 reviewed. The department shall select the patients who shall receive home visits as
20 a part of the inspection. Results of the inspections shall be made available to the
21 public at each of the regional offices of the department.

22 **SECTION 97.** 50.49 (6m) of the statutes is created to read:

23 50.49 (6m) EXCEPTIONS. None of the following is required to be licensed as a
24 home health agency under sub. (4), regardless of whether any of the following
25 provides services that are similar to services provided by a home health agency:

1 (a) A care management organization, as defined in s. 46.2805 (1).

2 (b) A program specified in s. 46.2805 (1) (a).

3 (c) A demonstration program specified in s. 46.2805 (1) (b).

4 **SECTION 98.** 51.42 (3) (ar) 17. of the statutes is created to read:

5 51.42 (3) (ar) 17. If authorized under s. 46.283 (1)(a) 1., apply to the department
6 of health and family services to operate a resource center under s. 46.283 and, if the
7 department contracts with the county under s. 46.283 (2), operate the resource
8 center.

9 **SECTION 99.** 51.42 (3) (ar) 18. of the statutes is created to read:

10 51.42 (3) (ar) 18. If authorized under s. 46.284 (1)(a) 1., apply to the department
11 of health and family services to operate a care management organization under s.
12 46.284 and, if the department contracts with the county under s. 46.284 (2), operate
13 the care management organization and, if appropriate, place funds in a risk reserve.

14 **SECTION 100.** 51.42 (3) (e) of the statutes is amended to read:

15 51.42 (3) (e) *Exchange of information.* Notwithstanding ss. 46.2895 (9), 48.78
16 (2) (a), 49.45 (4), 49.83, 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07
17 (3) (c) and 938.78 (2) (a), any subunit of a county department of community programs
18 acting under this section may exchange confidential information about a client,
19 without the informed consent of the client, with any other subunit of the same county
20 department of community programs, with a resource center, care management
21 organization or family care district, or with any person providing services to the
22 client under a purchase of services contract with the county department of
23 community programs or with a resource center, care management organization or
24 family care district, if necessary to enable an employe or service provider to perform

1 his or her duties, or to enable the county department of community programs to
2 coordinate the delivery of services to the client.

3 **SECTION 101.** 51.437 (4m) (n) of the statutes is created to read:

4 51.437 (4m) (n) If authorized under s. 46.283 (1)(a) 1., apply to the department
5 of health and family services to operate a resource center under s. 46.283 and, if the
6 department contracts with the county under s. 46.283 (2), operate the resource
7 center.

8 **SECTION 102.** 51.437 (4m) (p) of the statutes is created to read:

9 51.437 (4m) (p) If authorized under s. 46.284 (1)(a) 1., apply to the department
10 of health and family services to operate a care management organization under s.
11 46.284 and, if the department contracts with the county under s. 46.284 (2), operate
12 the care management organization and, if appropriate, place funds in a risk reserve.

13 **SECTION 103.** 51.437 (4r) (b) of the statutes is amended to read:

14 51.437 (4r) (b) Notwithstanding ss. 46.2895 (9), 48.78 (2) (a), 49.45 (4), 49.83,
15 51.30, 51.45 (14) (a), 55.06 (17) (c), 146.82, 252.11 (7), 253.07 (3) (c) and 938.78 (2) (a),
16 any subunit of the county department of developmental disabilities services acting
17 under this section may exchange confidential information about a client, without the
18 informed consent of the client, with any other subunit of the same county department
19 of developmental disabilities services, with a resource center, care management
20 organization or family care district, or with any person providing services to the
21 client under a purchase of services contract with the county department of
22 developmental disabilities services or with a resource center, care management
23 organization or family care district, if necessary to enable an employe or service
24 provider to perform his or her duties, or to enable the county department of
25 developmental disabilities services to coordinate the delivery of services to the client.

1 **SECTION 104.** 66.04 (1m) (a) of the statutes is amended to read:

2 66.04 (1m) (a) No city, village ~~or~~, town, family care district under s. 46.2895 or
3 agency or subdivision of a city, village or town may authorize funds for or pay to a
4 physician or surgeon or a hospital, clinic or other medical facility for the performance
5 of an abortion except those permitted under and which are performed in accordance
6 with s. 20.927.

7 **SECTION 105.** 66.04 (1m) (b) of the statutes is amended to read:

8 66.04 (1m) (b) No city, village ~~or~~, town, family care district under s. 46.2895 or
9 agency or subdivision of a city, village or town may authorize payment of funds for
10 a grant, subsidy or other funding involving a pregnancy program, project or service
11 if s. 20.9275 (2) applies to the pregnancy program, project or service.

12 **SECTION 106.** 66.30 (1) (a) of the statutes is amended to read:

13 66.30 (1) (a) In this section “municipality” means the state or any department
14 or agency thereof, or any city, village, town, county, school district, public library
15 system, public inland lake protection and rehabilitation district, sanitary district,
16 farm drainage district, metropolitan sewerage district, sewer utility district, solid
17 waste management system created under s. 59.70 (2), local exposition district
18 created under subch. II of ch. 229, local professional baseball park district created
19 under subch. III of ch. 229, family care district under s. 46.2895, water utility district,
20 mosquito control district, municipal electric company, county or city transit
21 commission, commission created by contract under this section, taxation district or
22 regional planning commission.

23 **SECTION 107.** 69.30 (1) (am) of the statutes is created to read:

24 69.30 (1) (am) “Family care district” has the meaning given in s. 46.2805 (5).

25 **SECTION 108.** 69.30 (2) of the statutes is amended to read:

1 69.30 (2) A financial institution, state agency, county department, Wisconsin
2 works agency ~~or~~, service office or family care district or an employe of a financial
3 institution, state agency, county department, Wisconsin works agency ~~or~~, service
4 office or family care district is not subject to s. 69.24 (1) (a) for copying a certified copy
5 of a vital record for use by the financial institution, state agency, county department,
6 Wisconsin works agency ~~or~~, service office or family care district, including use under
7 s. 45.36 (4m), if the copy is marked “FOR ADMINISTRATIVE USE”.

8 **SECTION 109.** 70.11 (2) of the statutes is amended to read:

9 70.11 (2) MUNICIPAL PROPERTY AND PROPERTY OF CERTAIN DISTRICTS, EXCEPTION.
10 Property owned by any county, city, village, town, school district, technical college
11 district, public inland lake protection and rehabilitation district, metropolitan
12 sewerage district, municipal water district created under s. 198.22, joint local water
13 authority created under s. 66.0735, family care district under s. 46.2895 or town
14 sanitary district; lands belonging to cities of any other state used for public parks;
15 land tax-deeded to any county or city before January 2; but any residence located
16 upon property owned by the county for park purposes which is rented out by the
17 county for a nonpark purpose shall not be exempt from taxation. Except as to land
18 acquired under s. 59.84 (2) (d), this exemption shall not apply to land conveyed after
19 August 17, 1961, to any such governmental unit or for its benefit while the grantor
20 or others for his or her benefit are permitted to occupy the land or part thereof in
21 consideration for the conveyance. Leasing the property exempt under this
22 subsection, regardless of the lessee and the use of the leasehold income, does not
23 render that property taxable.

24 **SECTION 110.** 71.26 (1) (b) of the statutes is amended to read:

1 71.26 (1) (b) *Political units*. Income received by the United States, the state
2 and all counties, cities, villages, towns, school districts, technical college districts,
3 joint local water authorities created under s. 66.0735, family care districts under s.
4 46.2895 or other political units of this state.

5 **SECTION 111.** 101.01 (4) of the statutes is amended to read:

6 101.01 (4) “Employer” means any person, firm, corporation, state, county,
7 town, city, village, school district, sewer district, drainage district, family care
8 district and other public or quasi-public corporations as well as any agent, manager,
9 representative or other person having control or custody of any employment, place
10 of employment or of any employe.

11 **SECTION 112.** 102.01 (2) (d) of the statutes is amended to read:

12 102.01 (2) (d) “Municipality” includes a county, city, town, village, school
13 district, sewer district, drainage district and family care district and other public or
14 quasi-public corporations.

15 **SECTION 113.** 102.04 (1) (a) of the statutes is amended to read:

16 102.04 (1) (a) The state, each county, city, town, village, school district, sewer
17 district, drainage district, family care district and other public or quasi-public
18 corporations therein.

19 **SECTION 114.** 103.001 (6) of the statutes is amended to read:

20 103.001 (6) “Employer” means any person, firm, corporation, state, county,
21 town, city, village, school district, sewer district, drainage district, family care
22 district and other public or quasi-public corporations as well as any agent, manager,
23 representative or other person having control or custody of any employment, place
24 of employment or of any employe.

25 **SECTION 115.** 111.70 (1) (j) of the statutes is amended to read:

1 111.70 (1) (j) “Municipal employer” means any city, county, village, town,
2 metropolitan sewerage district, school district, family care district or any other
3 political subdivision of the state ~~which~~ that engages the services of an employe and
4 includes any person acting on behalf of a municipal employer within the scope of the
5 person’s authority, express or implied.

6 **SECTION 116.** 600.01 (1) (b) 10. of the statutes is created to read:

7 600.01 (1) (b) 10. a. Except as provided in subd. 10. b., long-term care services
8 funded by the family care benefit, as defined in s. 46.2805 (4), that are provided by
9 a care management organization that contracts with the department of health and
10 family services under s. 46.284 and enrolls only individuals who are eligible under
11 s. 46.286.

12 b. The exemption under subd. 10. a. does not apply if the services offered by the
13 care management organization include hospital, physician or other acute health care
14 services.

15 **SECTION 117.** 632.745 (6) (a) 2m. of the statutes is created to read:

16 632.745 (6) (a) 2m. A family care district under s. 46.2895.

17 **SECTION 118.** 700.24 of the statutes is amended to read:

18 **700.24 Death of a joint tenant; effect of liens.** A real estate mortgage, a
19 security interest under ch. 409, or a lien under s. 72.86 (2), 1985 stats., or s. 71.91 (5)
20 (b), ch. 49 or 779 or rules promulgated under s. 46.286 (7) on or against the interest
21 of a joint tenant does not defeat the right of survivorship in the event of the death
22 of such joint tenant, but the surviving joint tenant or tenants take the interest such
23 deceased joint tenant could have transferred prior to death subject to such mortgage,
24 security interest or statutory lien.

25 **SECTION 119.** 701.065 (1) (b) 1. of the statutes is amended to read:

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

7 **SECTION 120.** 705.04 (2g) of the statutes is amended to read:

8 705.04 (2g) Notwithstanding subs. (1) and (2), the department of health and
9 family services may collect, from funds of a decedent that are held by the decedent
10 immediately before death in a joint account or a P.O.D. account, an amount equal to
11 the medical assistance that is recoverable under s. 49.496 (3) (a), an amount equal
12 to aid under 49.68, 49.683 or 49.685 that is recoverable under s. 49.682 (2) (a) ~~or~~, an
13 amount equal to long-term community support services under s. 46.27 that is
14 recoverable under s. 46.27 (7g) (c) 1. and that was paid on behalf of the decedent or
15 the decedent's spouse or an amount equal to the family care benefit under s. 46.286
16 that is recoverable under rules promulgated under s. 46.286 (7) and that was paid
17 on behalf of the decedent or the decedent's spouse.

18 **SECTION 121.** 859.02 (2) (a) of the statutes is amended to read:

19 859.02 (2) (a) It is a claim based on tort, on a marital property agreement that
20 is subject to the time limitations under s. 766.58 (13) (b) or (c), on Wisconsin income,
21 franchise, sales, withholding, gift or death taxes, or on unemployment insurance
22 contributions due or benefits overpaid; a claim for funeral or administrative
23 expenses; a claim of this state under s. 46.27 (7g), 49.496 or 49.682 or rules
24 promulgated under s. 46.286 (7); or a claim of the United States; or

25 **SECTION 122.** 859.07 (2) of the statutes is amended to read:

1 859.07 (2) If the decedent was at the time of death or at any time prior thereto
2 a patient or inmate of any state or county hospital or institution or any person
3 responsible for any obligation owing to the state or county under s. 46.03 (18), 46.10,
4 48.36, 301.03 (18), 301.12 or 938.36 or if the decedent or the spouse of the decedent
5 ever received the family care benefit under s. 46.286, medical assistance under
6 subch. IV of ch. 49, long-term community support services funded under s. 46.27 (7)
7 or aid under s. 49.68, 49.683 or 49.685, the personal representative shall send notice
8 in writing of the date set under s. 859.01 by registered or certified mail to the
9 department of health and family services or the department of corrections, as
10 applicable, and the county clerk of the applicable county not less than 30 days before
11 the date set under s. 859.01, upon such blanks and containing such information as
12 the applicable department or county clerk may provide. The applicable county is the
13 county of residence, as defined in s. 49.001 (6).

14 **SECTION 123.** 867.01 (3) (a) 4. of the statutes is amended to read:

15 867.01 (3) (a) 4. Whether the decedent or the decedent's spouse received the
16 family care benefit under s. 46.286, medical assistance under subch. IV of ch. 49,
17 long-term community support services funded under s. 46.27 (7) or aid under s.
18 49.68, 49.683 or 49.685.

19 **SECTION 124.** 867.01 (3) (d) of the statutes is amended to read:

20 867.01 (3) (d) *Notice.* The court may hear the matter without notice or order
21 notice to be given under s. 879.03. If the decedent or the decedent's spouse received
22 the family care benefit under s. 46.286, medical assistance under subch. IV of ch. 49,
23 long-term community support services funded under s. 46.27 (7) or aid under s.
24 49.68, 49.683 or 49.685, the petitioner shall give notice by certified mail to the

1 department of health and family services as soon as practicable after filing the
2 petition with the court.

3 **SECTION 125.** 867.02 (2) (a) 6. of the statutes is amended to read:

4 867.02 (2) (a) 6. Whether the decedent or the decedent's spouse received the
5 family care benefit under s. 46.286, medical assistance under subch. IV of ch. 49,
6 long-term community support services funded under s. 46.27 (7) or aid under s.
7 49.68, 49.683 or 49.685.

8 **SECTION 126.** 867.03 (1g) (c) of the statutes is amended to read:

9 867.03 (1g) (c) Whether the decedent or the decedent's spouse ever received the
10 family care benefit under s. 46.286, medical assistance under subch. IV of ch. 49,
11 long-term community support services funded under s. 46.27 (7) or aid under s.
12 49.68, 49.683 or 49.685.

13 **SECTION 127.** 867.03 (1m) (a) of the statutes is amended to read:

14 867.03 (1m) (a) Whenever an heir or person who was guardian of the decedent
15 at the time of the decedent's death intends to transfer a decedent's property by
16 affidavit under sub. (1g) and the decedent or the decedent's spouse ever received the
17 family care benefit under s. 46.286, medical assistance under subch. IV of ch. 49,
18 long-term community support services funded under s. 46.27 (7) or aid under s.
19 49.68, 49.683 or 49.685, the heir or person who was guardian of the decedent at the
20 time of the decedent's death shall give notice to the department of health and family
21 services of his or her intent. The notice shall include the information in the affidavit
22 under sub. (1g) and the heir or person who was guardian of the decedent at the time
23 of the decedent's death shall give the notice by certified mail, return receipt
24 requested.

25 **SECTION 128.** 867.03 (1m) (b) of the statutes is amended to read:

1 867.03 (1m) (b) An heir or person who was guardian of the decedent at the time
2 of the decedent's death who files an affidavit under sub. (1g) that states that the
3 decedent or the decedent's spouse received the family care benefit under s. 46.286,
4 medical assistance under subch. IV of ch. 49, long-term community support services
5 funded under s. 46.27 (7) or aid under s. 49.68, 49.683 or 49.685 shall attach to the
6 affidavit the proof of mail delivery of the notice required under par. (a) showing a
7 delivery date that is not less than 10 days before the day on which the heir or person
8 who was guardian of the decedent at the time of the decedent's death files the
9 affidavit.

10 **SECTION 129.** 867.035 (1) (a) (intro.) of the statutes is amended to read:

11 867.035 (1) (a) (intro.) Except as provided in par. (bm), the department of
12 health and family services may collect from the property of a decedent, including
13 funds of a decedent that are held by the decedent immediately before death in a joint
14 account or a P.O.D. account, by affidavit under this section an amount equal to the
15 medical assistance that is recoverable under s. 49.496 (3) (a), the long-term
16 community support services under s. 46.27 that is recoverable under s. 46.27 (7g) (c)
17 1. the family care benefit that is recoverable under rules promulgated under s.
18 46.286 (7) or the aid under s. 49.68, 49.683 or 49.685 that is recoverable under s.
19 49.682 (2) (a) and that was paid on behalf of the decedent or the decedent's spouse,
20 if all of the following conditions are satisfied:

21 **SECTION 130.** 985.01 (1) of the statutes is renumbered 985.01 (1m).

22 **SECTION 131.** 985.01 (1g) of the statutes is created to read:

23 985.01 (1g) "Governing body" has the meaning given in s. 345.05 (1) (b) and
24 includes a family care district board under s. 46.2895.

25 **SECTION 132.** 985.01 (3) of the statutes is amended to read:

1 985.01 (3) "Municipality" has the meaning in s. 345.05 (1) (c) and "~~governing~~
2 ~~body" the meaning in s. 345.05 (1) (b) with reference to such municipality includes~~
3 a family care district under s. 46.2895.

4 **SECTION 9103. Nonstatutory provisions; aging and long-term care**
5 **board.**

6 (1) LENGTH OF INITIAL TERMS OF MEMBERS OF BOARD ON AGING AND LONG-TERM CARE.
7 Notwithstanding the length of terms specified for members of the board on aging and
8 long-term care appointed under section 15.105 (10) of the statutes, as affected by this
9 act, one of the 2 additional initial members appointed under that subsection shall be
10 appointed for a term expiring on May 1, 2005, and the other of the 2 additional initial
11 members appointed under that subsection shall be appointed for a term expiring on
12 May 1, 2006.

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

14 (1) RULES FOR FAMILY CARE BENEFIT. Using the procedure under section 227.24
15 of the statutes, the department of health and family services shall promulgate the
16 rules required under sections 46.286 (4) to (7), 46.288 (1) to (4) and 50.02 (2) (d) of
17 the statutes, as created by this act, for the period before the effective date of the
18 permanent rules promulgated under sections 46.286 (4) to (7), 46.288 (1) to (4) and
19 50.02 (2) (d) of the statutes, as created by this act, but not to exceed the period
20 authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding
21 section 227.24 (1) (a), (2) (b) and (3) of the statutes, the department is not required
22 to provide evidence that promulgating a rule under this subsection as an emergency
23 rule is necessary for the preservation of the public peace, health, safety or welfare
24 and is not required to provide a finding of emergency for a rule promulgated under
25 this subsection.

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

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

 ****NOTE: This is reconciled SECTION 9423 (1). This SECTION has been affected by
drafts with the following LRB numbers: LRB-0030/P4, LRB-1922/4 and LRB-2005/4.

6

(END)