

2001 DRAFTING REQUEST

Bill

Received: 05/24/2001

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Legislative Council - JLC 266-9791**

By/Representing: **Laura Rose**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact:

Addl. Drafters:

Subject: **Health - long-term care
Public Assistance - med. assist.**

Extra Copies: **ISR**

Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Various provisions relating to developmental disabilities

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P2	kenneda 07/19/2001	gilfokm 07/24/2001	kfollet 07/25/2001	_____	lrb_docadmin 07/25/2001	<i>Assembly</i>	
/P3	kenneda 09/24/2001	gilfokm 10/02/2001	jfrantzc 10/04/2001	_____	lrb_docadmin 10/04/2001		S&L
/1	kenneda 10/16/2001	gilfokm 10/16/2001	jfrantzc 10/16/2001	_____	lrb_docadmin 10/16/2001	lrb_docadminS&L 10/18/2001	

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→ At Intro.

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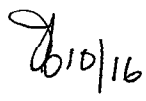
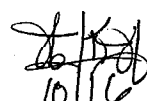
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FE Sent For:

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KMG* *7/10/2* *Jo/RS*
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10/7

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1/?	kenneda	1/29 - 7/Kmg /24-01	1/31 7/25	1/31 7/25			

FE Sent For:

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Kennedy, Debora

From: Rose, Laura
Sent: Thursday, May 24, 2001 2:25 PM
To: Kennedy, Debora
Cc: Letzing, Rachel; Ulrich, Wendy
Subject: 0151_1.pdf



0151_1.pdf.url

Debora,

Here is the third bill draft.

Laura

http://www.legis.state.wi.us/lc/studies/DEVD/0151_1.pdf

1 **AN ACT** *to amend* 20.435 (7) (bd) (title), 46.278 (title) and (1), 46.278 (1m) (c),
2 46.278 (2) (a), 46.278 (3) (intro.) and (a), 46.278 (4) (a), 46.278 (4) (b) 2., 46.278 (5)
3 (a) and (b) and 46.278 (6) (a), (b), (c), (d), (e) 1. and (f); and *to create* 15.197 (11n)
4 (cm), 15.197 (11n) (e), 46.278 (1m) (a), 46.984 and 49.45 (2) (a) 24. of the statutes;
5 **relating to:** adding legislative members to the council on developmental disabilities,
6 and requiring an annual report to the legislature; permitting counties to provide the
7 nonfederal share of medical assistance to create additional brain injury waiver slots;
8 piloting the children's long-term support redesign; requiring the department of
9 health and family services to promulgate rules relating to registered nurse visits as
10 part of a review of a plan of care for persons receiving personal care services under
11 the medical assistance program; requiring the department of health and family
12 services to develop a plan to require one subunit within the department of health and
13 family services to administer all institutional and community-based services for
14 persons with developmental disabilities, and to combine all funding under the
15 medical assistance program for institutional and community-based services into one
16 appropriation; and requiring rule-making.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the joint legislative council's special committee on developmental disabilities. The draft contains the following provisions:

1. Legislative Members: Wisconsin Council on Developmental Disabilities

Under current law, the council on developmental disabilities consists of representatives from the following state agencies: (1) the department of workforce development; (2) the department of health and family services; (3) the department of public instruction; and (4) the University of Wisconsin.

Also, under current law, the governor appoints additional members to the council for staggered 4-year terms, to represent the following: (1) public and private nonprofit agencies of the state's political subdivisions that provide direct services to persons with developmental disabilities; and (2) nongovernmental agencies and groups concerned with services to persons with developmental disabilities. The governor must make additional appointments to ensure that at least 1/2 of the council's membership consists of persons with developmental disabilities or their parents or guardians.

The draft requires the governor to appoint 4 legislative members to the council on developmental disabilities, as designated by the speaker of the assembly, the assembly minority leader, the senate majority leader and the senate minority leader.

The draft also requires the council to evaluate the waiting lists for developmental disabilities services compiled by the department and to submit an annual report regarding the status of the waiting lists to the legislature at the end of each calendar year.

2. Brain Injury Waiver Program

Under current law, the brain injury home and community-based waiver does not have a statutory reference and does not permit counties to provide the nonfederal share of medical assistance (MA), which would enable counties to increase the number of brain injury waiver slots.

Current law specifies that the MA waiver for the community integration program (CIP) IB permits counties to create additional slots by providing the nonfederal share of MA.

The draft amends the CIP IB statute to include the brain injury waiver program. These amendments allow nonfederal local funds to be used as the state match for funding additional brain injury waiver slots and permits the department to reimburse counties in an amount equal to the state's share of service costs under the brain injury.

3. Children's Long-Term Support Redesign

The Wisconsin department of health and family services appointed a children's committee on long-term care as part of the effort to redesign the state system on long-term care. The children's long-term support

redesign committee developed a model to redesign the current system of care for children and their families, to be implemented as a pilot program and funded by federal medicaid waiver funding. The children's home and community-based waiver would define children with physical, sensory, developmental and significant health care needs as eligible. The waiver would permit the blending of the family support program, the community options program (COP), and MA waiver funding into a single funding stream. The intended effects are to streamline services and secure additional federal matching funds. The department would offer the waiver to children and families currently receiving services through family support, COP, MA home and community-based waivers and MA fee-for-service. Under the waiver, the funds for these programs would be managed within individual budgets based upon the child's functional needs. The department would pilot this waiver on a statewide, voluntary basis. The current family care pilot counties would have the option of piloting the children's waiver and coordinating it with the family care program. Families already receiving long-term support services would be offered the opportunity to enroll in the children's waiver on a voluntary basis.

This draft requires the department to seek waivers of federal MA statutes and regulations that are necessary to implement the program in pilot sites. If the waivers are approved, the draft requires the department to seek statutory language to implement the children's long-term support redesign on a piloted basis.

4. Nurse Home Visits to Persons Receiving MA Personal Care

Currently, administrative rules of the department of health and family services (DHFS) require personal care services under the MA program to be provided according to a written plan of care, and to be supervised by a registered nurse. Currently, review of the plan of care, evaluation of the recipient's condition and supervisory review of the personal care worker must be made by a registered nurse at least every 60 days. The review must include: a visit to the recipient's home; review of the personal care worker's daily written record and discussion with the physician of any necessary changes in the plan of care.

This draft requires DHFS to promulgate rules to require that the written plan of care for persons receiving personal care services be reviewed at least every 60 days, as under current law. However, this draft provides that the written plan of care shall designate an interval for visits to the recipient's home by a registered nurse as part of the review of the plan of care. The designated interval must be based on the individual recipient's needs. The rules must also provide that a nurse visit to the recipient is required if, in the course of the nurse's review of the plan of care, a

change in the recipient's condition has occurred that may warrant a change in the plan of care. In addition, all recipients must be visited in their home by a registered nurse at least once in every 12-month period. These rules will authorize a nurse visit at intervals tailored to the individual recipient's needs, rather than every 60 days for all recipients, as is currently required.

5. Administration and Funding of Developmental Disabilities Services

This draft requires the department of health and family services to develop a plan to administer and fund services for persons with developmental disabilities, and to submit that plan to the department of administration as part of the department's budget request for the 2003-05 biennium. The plan that is submitted shall include any recommended statutory language changes that are needed to implement the plan. The plan must require all institutional and community-based services for persons with developmental disabilities to be administered within one administrative subunit of the department. The subunit designated to do this must be the subunit that is administering community-based services for persons with developmental disabilities as of the effective date of this act.

Further, the plan must provide that funding under the medical assistance program for institutional services and home and community-based waiver services for persons with developmental disabilities shall be combined into one appropriation to the extent permissible under federal law. The department must apply for any necessary waivers of federal MA statutes and regulations from the federal department of health and human services.

1 **SECTION 1.** 15.197 (11n) (cm) of the statutes is created to read:

2 15.197 (11n) (cm) Four members of the legislature, and one each shall be designated
3 by the speaker of the assembly, the senate majority leader and the minority leader in each house
4 of the legislature and appointed by the governor.

5 **SECTION 2.** 15.197 (11n) (e) of the statutes is created to read:

6 15.197 (11n) (e) *Annual Report.* By January 31 of each year, the council shall prepare
7 a report for the preceding calendar year and shall submit the report to the legislature under s.
8 13.172 (2). The report shall evaluate the waiting lists for services for persons with

1 developmental disabilities in Wisconsin compiled by the department of health and family
2 services.

3 **SECTION 3.** 20.435 (7) (bd) (title) of the statutes is amended to read:

4 20.435 (7) (bd) (title) *Community options program; pilot projects; family care benefit;*
5 *children's long-term support redesign.*

6 **SECTION 4.** 46.278 (title) and (1) of the statutes are amended to read:

7 **46.278 (title) Community integration program and brain injury waiver program**
8 **for persons with ~~mental retardation~~ developmental disabilities.**

9 (1) LEGISLATIVE INTENT. The intent of the ~~program~~ programs under this section is to
10 provide home or community-based care to serve in a noninstitutional community setting a
11 person who meets eligibility requirements under 42 USC 1396n (c) and who is diagnosed as
12 developmentally disabled under the definition specified in s. 51.01 (5) and relocated from an
13 institution other than a state center for the developmentally disabled or who meets the
14 intermediate care facility for the mentally retarded or brain injury rehabilitation facility level
15 of care requirements for medical assistance reimbursement in an intermediate care facility for
16 the mentally retarded or brain injury rehabilitation facility and is ineligible for services under
17 s. 46.275 or 46.277. Persons eligible for the brain injury waiver must meet all financial
18 requirements and meet the definition of brain injury in s. 51.01 (2g), Stats. The intent of the
19 program is also that counties use all existing services for providing care under this section,
20 including those services currently provided by counties.

21 **SECTION 5.** 46.278 (1m) (a) of the statutes is created to read:

22 46.278 (1m) (a) "Brain injury rehabilitation facility" means a nursing facility or
23 hospital designated as a facility for brain injury rehabilitation by the department under the
24 approved state medicaid plan.

1 **SECTION 6.** 46.278 (1m) (c) of the statutes is amended to read:

2 46.278 (1m) (c) ~~“Program”~~ “Programs” means the community integration program and
3 the brain injury waiver program for facilities certified as medical assistance providers, for
4 which a waiver has been received under sub. (3).

5 **SECTION 7.** 46.278 (2) (a) of the statutes is amended to read:

6 46.278 (2) (a) The department may request ~~a waiver~~ waivers from the secretary of the
7 federal department of health and human services, under 42 USC 1396n (c), authorizing the
8 department to serve medical assistance recipients, who meet the level of care requirements for
9 medical assistance reimbursement in an intermediate care facility for the mentally retarded
10 or in a brain injury rehabilitation facility, in their communities by providing home or
11 community-based services as part of medical assistance. If the department requests a waiver,
12 it shall include all assurances required under 42 USC 1396n (c) (2) in its request.

13 **SECTION 8.** 46.278 (3) (intro.) and (a) of the statutes are amended to read:

14 46.278 (3) **WAIVER; EXTENSION; DUTIES.** (intro.) If the department receives ~~a waiver~~
15 waivers requested under sub. (2) (a), it may request a 3-year extension of the ~~waiver~~ waivers
16 under 42 USC 1396n (c) and shall perform the following duties:

17 46.278 (3) (a) Evaluate the effect of the ~~program~~ programs on medical assistance costs
18 and on the ~~program’s~~ programs’ ability to provide community care alternatives to institutional
19 care in facilities certified as medical assistance providers.

20 **SECTION 9.** 46.278 (4) (a) of the statutes is amended to read:

21 46.278 (4) (a) Sections 46.27 (3) (b) and 46.275 (3) (a) and (c) to (e) apply to county
22 participation in this program, except that services provided in the ~~program~~ programs shall
23 substitute for care provided a person in an intermediate care facility for the mentally retarded
24 or brain injury rehabilitation facility who meets the intermediate care facility for the mentally

1 retarded or brain injury rehabilitation facility level of care requirements for medical assistance
2 reimbursement to that facility rather than for care provided at a state center for the
3 developmentally disabled.

4 **SECTION 10.** 46.278 (4) (b) 2. of the statutes is amended to read:

5 46.278 (4) (b) 2. Each county department participating in the ~~program~~ community
6 integration program or the brain injury waiver program shall provide home or
7 community-based care to persons eligible under this section, except that the number of
8 persons who receive home or community-based care under this section may not exceed the
9 number that are approved under the waiver received under sub. (3).

10 **SECTION 11.** 46.278 (5) (a) and (b) of the statutes are amended to read:

11 46.278 (5) (a) Any medical assistance recipient who meets the level of care
12 requirements for medical assistance reimbursement in an intermediate care facility for the
13 mentally retarded or in a brain injury rehabilitation facility and is ineligible for service under
14 s. 46.275 or 46.277 is eligible to participate in the ~~program~~ programs, except that the number
15 of participants may not exceed the number approved under the waiver received under sub. (3).
16 Such a recipient may apply, or any person may apply on behalf of such a recipient, for
17 participation in the ~~program~~ community integration program or the brain injury waiver
18 program. Section 46.275 (4) (b) applies to participation in the ~~program~~ programs.

19 (b) To the extent authorized under 42 USC 1396n, if a person discontinues participation
20 in the ~~program~~ community integration program or the brain injury waiver program, a medical
21 assistance recipient may participate in the either program in place of the participant who
22 discontinues if that recipient meets the intermediate care facility for the mentally retarded or
23 brain injury rehabilitation facility level of care requirements for medical assistance
24 reimbursement in an intermediate care facility for the mentally retarded or brain injury

1 rehabilitation facility, except that the number of participants concurrently served may not
2 exceed the number approved under the waiver received under sub. (3).

3 **SECTION 12.** 46.278 (6) (a), (b), (c), (d), (e) 1. and (f) of the statutes are amended to read:

4 46.278 (6) (a) The provisions of s. 46.275 (5) (a), (b) and (d) apply to funding received
5 by counties under the program programs.

6 (b) Total funding to counties for relocating each person under the program programs
7 may not exceed the amount approved in the waiver received under sub. (3).

8 (c) Funding may be provided under the program programs for services of a family
9 consortium.

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

15 (e) 1. The department may provide enhanced reimbursement for services under the
16 community integration program for an individual who was relocated to the community by a
17 county department from one of the following:

18 (f) If a county owns the institution or intermediate care facility for the mentally retarded
19 from which an individual is relocated to the community under this section, in order to receive
20 funding under the community integration program, the county shall submit a plan for
21 delicensing a bed of the institution or intermediate care facility for the mentally retarded that
22 is approved by the department.

23 **SECTION 13.** 46.984 of the statutes is created to read:

1 **46.984 Children's long-term support redesign. (1) DEFINITIONS.** "Program" means
2 the children's long-term support pilot program redesigning the system of care for children
3 with disabilities and their families.

4 **(2) PROGRAM CHARACTERISTICS.** The department of health and family services shall, as
5 soon as possible before July 1, 2002, seek waivers of federal medical assistance statutes and
6 regulations from the federal department of health and human services that are necessary to
7 implement, in pilot sites, the program. The program shall have all of the following
8 characteristics:

9 (a) Medical assistance coverage of services under ss. 46.985, 46.27 (11), 46.275,
10 46.277, 46.278 and 51.44 of the statutes would be expanded to include children with severe
11 disabilities and long-term care needs, as well as children eligible for medical assistance with
12 high medical costs, and to include services focused on children and families needs.

13 (b) The administration of this program shall be consistent with s. 46.985, including a
14 family-centered assessment and planning process.

15 (c) The program shall operate within rate settings based upon a child's level of care and
16 support needs. The department shall promulgate rules that specify rates that are consistent
17 with federal medical assistance home and community-based waiver regulations.

18 (d) Supports and services shall be coordinated with the medical assistance
19 fee-for-service system, including the prior authorization process.

20 (e) The lead agency for the program shall meet the definition of an "administering
21 agency" prescribed in s. 46.985 (1) (a).

22 (f) Counties in which the program is located shall provide, contract for the provision of,
23 organize or arrange for long-term care supports to eligible children up to age 24 years,
24 consistent with s. 46.985 (1) (b) and (6) (f).

1 (g) Information and assistance services operated by a program shall provide, contract
2 or arrange for the provision of all of the following:

3 1. Information and referral services and other assistance at hours that are convenient
4 for the public.

5 2. Within the limits of available funding, prevention and intervention services.

6 3. Counseling concerning public and private benefits programs.

7 4. Assistance with understanding child and parent rights within the long-term care
8 system.

9 (h) Determine functional and financial eligibility for the program by coordinating with
10 the department in completing all of the following:

11 1. A determination of functional eligibility for the children's long-term support benefit.

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

15 3. Assistance to a child and the child's family who is eligible for the children's
16 long-term support benefit with respect to the choice of whether or not to participate in the
17 waiver pilot.

18 4. Assistance in enrolling in a program for families who choose to enroll their children.

19 (i) The cost of the program shall not exceed the cost of existing services under ss.
20 46.985, 46.27 (11), 46.275, 46.277, 46.278 and 51.44 of the statutes.

21 (j) The program shall blend the costs per child served in the areas of the sites under ss.
22 46.985, 51.44, 46.27 (11), 46.275, 46.277 and 46.278 of the statutes.

23 (k) The department may develop a methodology to distribute funding to programs on
24 a per child per month basis.

1 (L) The department shall reinvest any funding saved by this new methodology into the
2 children's long-term support system.

3 (m) Any new resources for children's long-term program supports and services shall
4 be managed under this program after approval of the federal waivers specified under sub. (1)
5 and enactment of the necessary statutory language to implement the model under sub. (1).

6 (n) The department shall equitably assign priority on any necessary waiting lists,
7 consistent with criteria prescribed by the department, for children who are eligible for the
8 program, but for whom resources are not available.

9 (o) The department shall provide transitional services to families whose children with
10 physical or developmental disabilities are preparing to enter the adult service system.

11 (p) The department shall determine eligibility for state supplemental payments under
12 s. 49.77, medical assistance under s. 49.46, or the federal food stamp program under 7 USC
13 2011 to 2029.

14 (3) IMPLEMENTATION. If the federal waivers specified under sub. (1) are approved, the
15 department shall, as soon as possible before July 1, 2002, seek enactment of statutory
16 language, including appropriation of necessary funding, to implement the model described
17 under sub. (1), as approved under the federal waivers.

18 **SECTION 14.** 49.45 (2) (a) 24. of the statutes is created to read:

19 49.45 (2) (a) 24. Promulgate rules that require the written plan of care for persons
20 receiving personal care services under medical assistance to be reviewed by a registered nurse
21 at least every 60 days. The rules shall provide that the written plan of care shall designate an
22 interval for visits to the recipient's home by a registered nurse as part of the review of the plan
23 of care. The designated interval for visits shall be based on the individual recipient's needs,
24 and each recipient shall be visited in their home by a registered nurse at least once in every

1 12-month period. The rules shall provide that a visit to the recipient is also required if, in the
2 course of the nurse's review of the plan of care, there is evidence that a change in the recipient's
3 condition has occurred that may warrant a change in the plan of care.

NOTE: Requires DHFS to promulgate administrative rules that require the written plan of care for persons receiving personal care services under medical assistance to be reviewed at least every 60 days, as under current law. This draft provides that the written plan of care shall designate an interval for visits by a registered nurse as part of the review of the plan of care, instead of requiring a home visit at least once every 60 days, as under current law. The designated interval must be based on the individual recipient's needs. Each recipient must be visited in their home by a registered nurse at least once in every 12-month period. The rules must also provide that a nurse visit to the recipient is required if, in the course of the nurse's review of the plan of care, there is evidence that a change in the recipient's condition has occurred that may warrant a change in the plan of care.

4 **SECTION 15. Nonstatutory provisions; health and family services.**

5 (1) The department of health and family services shall develop a plan to administer and
6 fund services for persons with developmental disabilities. The plan, which shall include any
7 recommended statutory language changes that are needed to implement the plan, shall be
8 included in the department's budget request that is submitted to the department of
9 administration for the 2003-05 biennium. The plan shall include the following components:

10 (a) Institutional and community-based services for persons with developmental
11 disabilities shall be administered within one administrative subunit of the department. The
12 subunit that is designated to administer these services shall be the subunit that is administering
13 community-based services for persons with developmental disabilities as of the effective date
14 of this act . . . [revisor inserts date].

15 (b) Funding under the medical assistance program for institutional services and home
16 and community-based waiver services for persons with developmental disabilities shall be

1 combined into one appropriation, to the extent permissible under federal law. Funding shall
2 be allocated from this appropriation to persons with developmental disabilities who need
3 services. The funding in this appropriation shall not be tied to any specific program or service
4 setting, but shall be individually tailored to enable the person to live in the least restrictive
5 setting appropriate to his or her needs and preferences.

6 (2) The department shall determine whether any new waivers under the medical
7 assistance program are necessary to administer funding for medical assistance services as
8 described in par. (1) (b). The department shall apply for any waivers of federal medical
9 assistance statutes and regulations from the federal department of health and human services
10 that it determines are necessary to administer funding for medical assistance services as
11 described in par. (1) (b).

12 **SECTION 16. Nonstatutory provisions; health and family services.** The department
13 of health and family services shall submit in proposed form the rules required under section
14 49.45 (2) (a) 24. of the statutes, as created by this act, to the legislative council staff under
15 section 227.15 (1) of the statutes no later than the first day of the fourth month beginning after
16 the effective date of this act.

NOTE: Requires DHFS to submit rules in proposed form to the
legislative council rules clearinghouse no later than the first day of the
fourth month beginning after the effective date of this act.

17 **SECTION 17. Effective date.** This act takes effect on the day after publication.

18 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-3357/P2

DAK:jkf

D-NOTE

Kmg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

including the brain injury waiver program in the community integration program for persons with developmental disability

the council on developmental disabilities to

1 AN ACT ^{Sen. Cat.} relating to: adding legislative members to the council on
 2 developmental disabilities, ~~and~~ requiring ~~an annual~~ ^{annually} report to the legislature;
 3 ~~permitting counties to provide the nonfederal share of medical assistance to~~
 4 ~~create additional brain injury waiver slots; piloting the children's~~ ^{creating a pilot program for} long-term
 5 support ~~redesign~~; requiring the department of health and family services to
 6 promulgate rules relating to registered nurse visits as part of a review of a plan
 7 of care for persons receiving personal care services under the medical
 8 assistance program; requiring the department of health and family services to
 9 develop a plan to ~~require one submit~~ within the department of health and
 10 family services to administer all ~~institutional and community-based services~~
 11 for persons with developmental disabilities, ~~and to combine all funding under~~

care of children with disabilities

creating requirements for review by registered nurses of

and fund services

- 2 - the exercise of

PLEASE FIX FONT

1 ~~the medical assistance program for institutional and community-based~~
2 ~~services into one appropriation; and requiring rule-making~~ *authority*

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the joint legislative council in the bill.
FE-370

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

PREFATORY NOTE: This ~~draft~~ *bill* was prepared for the joint legislative council's special committee on developmental disabilities. The ~~draft~~ contains the following provisions:

F.L. ← **1. Legislative Members: Wisconsin Council on Developmental Disabilities**

Under current law, the council on developmental disabilities consists of representatives from the following state agencies: (1) the department of workforce development; (2) the department of health and family services; (3) the department of public instruction; and (4) the University of Wisconsin. *(DHFS)*

Also, under current law, the governor appoints additional members to the council for staggered 4-year terms, to represent the following: (1) public and private nonprofit agencies of the state's political subdivisions that provide direct services to persons with developmental disabilities; and (2) nongovernmental agencies and groups concerned with services to persons with developmental disabilities. The governor must make additional appointments to ensure that at least 1/2 of the council's membership consists of persons with developmental disabilities or their parents or guardians.

The ~~draft~~ requires the governor to appoint 4 legislative members to the council on developmental disabilities, as designated by the speaker of the assembly, the assembly minority leader, the senate majority leader and the senate minority leader. *(DHFS)*

The ~~draft~~ also requires the council to evaluate the waiting lists for developmental disabilities services compiled by ~~the department~~ and to submit an annual report regarding the status of the waiting lists to the legislature at the end of each calendar year.

F.L. ← **2. Brain Injury Waiver Program**

Under current law, the brain injury home and community-based waiver does not have a statutory reference and does not permit counties to provide the nonfederal share of medical assistance (MA), which would enable counties to increase the number of brain injury waiver slots.

Current law specifies that the MA waiver for the community integration program (CIP) IB permits counties to create additional slots by providing the nonfederal share of MA.

bill
The ~~draft~~ amends the CIP IB statute to include the brain injury waiver program. These amendments allow nonfederal local funds to be used as the state match for funding additional brain injury waiver slots and permits ~~the department~~ to reimburse counties in an amount equal to the state's share of service costs under the brain injury. *(DHFS)*

F.L. ← **3. Children's Long-Term Support Redesign**

wavier program

~~The Wisconsin~~ ^{DHFS} department of health and family services appointed a children's committee on long-term care as part of the effort to redesign the state system on long-term care. The children's long-term support redesign committee developed a model to redesign the current system of care for children and their families, to be implemented as a pilot program and funded by federal medicaid waiver funding. The children's home and community-based waiver would define children with physical, sensory, developmental and significant health care needs as eligible. The waiver would permit the blending of the family support program, the community options program (COP), and MA waiver funding into a single funding stream. The intended effects are to streamline services and secure additional federal matching funds. ~~The department~~ would offer the waiver to children and families currently receiving services through family support, COP, MA home and community-based waivers and MA fee-for-service. Under the waiver, the funds for these programs would be managed within individual budgets based upon the child's functional needs. ~~The department~~ would pilot this waiver on a statewide, voluntary basis. The current family care pilot counties would have the option of piloting the children's waiver and coordinating it with the family care program. Families already receiving long-term support services would be offered the opportunity to enroll in the children's waiver on a voluntary basis. ^{bill}

This ~~draft~~ requires ~~the department~~ to seek waivers of federal MA statutes and regulations that are necessary to implement the program in pilot sites. If the waivers are approved, the ~~draft~~ requires ~~the department~~ to seek statutory language to implement the children's long-term support redesign on a piloted basis. ^{DHFS}

F.L.K. 4. Nurse Home Visits to Persons Receiving MA Personal Care

Currently, administrative rules of ~~the department of health and family services~~ ^{DHFS} require personal care services under the MA program to be provided according to a written plan of care, and to be supervised by a registered nurse. Currently, review of the plan of care, evaluation of the recipient's condition and supervisory review of the personal care worker must be made by a registered nurse at least every 60 days. The review must include: a visit to the recipient's home; review of the personal care worker's daily written record and discussion with the physician of any necessary changes in the plan of care. ^{bill}

This ~~draft~~ requires DHFS to promulgate rules to require that the written plan of care for persons receiving personal care services be reviewed at least every 60 days, as under current law. However, this ~~draft~~ provides that the written plan of care shall designate an interval for visits to the recipient's home by a registered nurse as part of the review of the plan of care. The designated interval must be based on the individual recipient's needs. The rules must also provide that a nurse visit to the recipient is required if, in the course of the nurse's review of the plan of care, a change in the recipient's condition has occurred that may warrant a change in the plan of care. In addition, all recipients must be visited in their home by a registered nurse at least once in every 12-month period. These rules will authorize a nurse visit at intervals tailored to the individual recipient's needs, rather than every 60 days for all recipients, as is currently required. ^{bill}

F.L.K. 5. Administration and Funding of Developmental Disabilities Services ^{DHFS}

This ~~draft~~ requires ~~the department of health and family services~~ to develop a plan to administer and fund services for persons with developmental disabilities, and to submit that plan to the department of administration as part of ~~the department's~~ budget request for the 2003-05 biennium. The plan that is submitted shall include any recommended statutory language changes that are needed to implement the plan. The plan must require all institutional and community-based services for persons with developmental disabilities to be administered within one administrative subunit of ~~the department~~. The subunit designated to do this must be the subunit that is administering ^{DHFS}

^{DHFS}

community-based services for persons with developmental disabilities as of the effective date of this act.

el

Further, the plan must provide that funding under the medical assistance program for institutional services and home and community-based waiver services for persons with developmental disabilities shall be combined into one appropriation to the extent permissible under federal law. *DHFS* The department must apply for any necessary waivers of federal MA statutes and regulations from the federal department of health and human services.

1 **SECTION 1.** 15.197 (11n) (cm) of the statutes is created to read:

2 **15.197 (11n) (cm)** Four members of the legislature, and one each shall be
3 designated by the speaker of the assembly, the senate majority leader and the
4 minority leader in each house of the legislature and appointed by the governor.

5 **SECTION 2.** 15.197 (11n) (e) of the statutes is created to read:

6 **15.197 (11n) (e) *Annual Report.*** By January 31 of each year, the council shall
7 prepare a report for the preceding calendar year and shall submit the report to the
8 legislature under s. 13.172 (2). The report shall evaluate the waiting lists for services
9 for persons with developmental disabilities in Wisconsin compiled by the
10 department of health and family services.

11 **SECTION 3.** 20.435 (7) (bd) (title) of the statutes is amended to read:

12 **20.435 (7) (bd) (title)** *Community options program; pilot projects; family care*
13 *benefit; children's long-term support redesign.*

14 **SECTION 4.** 46.278 (title) and (1) of the statutes are amended to read:

15 **46.278 (title)** **Community integration program and brain injury waiver**
16 **program for persons with mental retardation developmental disabilities.**

17 (1) LEGISLATIVE INTENT. The intent of the program programs under this section
18 is to provide home or community-based care to serve in a noninstitutional
19 community setting a person who meets eligibility requirements under 42 USC 1396n
20 (c) and who is diagnosed as developmentally disabled under the definition specified

1 in s. 51.01 (5) and relocated from an institution other than a state center for the
2 developmentally disabled or who meets the intermediate care facility for the
3 mentally retarded or brain injury rehabilitation facility level of care requirements
4 for medical assistance reimbursement in an intermediate care facility for the
5 mentally retarded or brain injury rehabilitation facility and is ineligible for services
6 under s. 46.275 or 46.277. Persons eligible for the brain injury waiver must meet all
7 financial requirements and meet the definition of brain injury in s. 51.01 (2g), Stats.

8 The intent of the program is also that counties use all existing services for providing
9 care under this section, including those services currently provided by counties.

10 **SECTION 5.** 46.278 (1m) (a) of the statutes is created to read:

11 46.278 (1m) (a) "Brain injury rehabilitation facility" means a nursing facility
12 or hospital designated as a facility for brain injury rehabilitation by the department
13 under the approved state medicaid plan.

14 **SECTION 6.** 46.278 (1m) (c) of the statutes is amended to read:

15 46.278 (1m) (c) "~~Program~~ Programs" means the community integration
16 program and the brain injury waiver program for facilities certified as medical
17 assistance providers, for which a waiver has been received under sub. (3).

18 **SECTION 7.** 46.278 (2) (a) of the statutes is amended to read:

19 46.278 (2) (a) The department may request a ~~waiver~~ waivers from the secretary
20 of the federal department of health and human services, under 42 USC 1396n (c),
21 authorizing the department to serve medical assistance recipients, who meet the
22 level of care requirements for medical assistance reimbursement in an intermediate
23 care facility for the mentally retarded or in a brain injury rehabilitation facility, in
24 their communities by providing home or community-based services as part of

1 medical assistance. If the department requests a waiver, it shall include all
2 assurances required under 42 USC 1396n (c) (2) in its request.

3 **SECTION 8.** 46.278 (3) (intro.) and (a) of the statutes are amended to read:

4 46.278 (3) **WAIVER; EXTENSION; DUTIES.** (intro.) If the department receives a
5 waiver waivers requested under sub. (2) (a), it may request a 3-year extension of the
6 waiver waivers under 42 USC 1396n (c) and shall perform the following duties:

7 46.278 (3) (a) Evaluate the effect of the program programs on medical
8 assistance costs and on the program's programs' ability to provide community care
9 alternatives to institutional care in facilities certified as medical assistance
10 providers.

11 **SECTION 9.** 46.278 (4) (a) of the statutes is amended to read:

12 46.278 (4) (a) Sections 46.27 (3) (b) and 46.275 (3) (a) and (c) to (e) apply to
13 county participation in this program, except that services provided in the program
14 programs shall substitute for care provided a person in an intermediate care facility
15 for the mentally retarded or brain injury rehabilitation facility who meets the
16 intermediate care facility for the mentally retarded or brain injury rehabilitation
17 facility level of care requirements for medical assistance reimbursement to that
18 facility rather than for care provided at a state center for the developmentally
19 disabled.

20 **SECTION 10.** 46.278 (4) (b) 2. of the statutes is amended to read:

21 46.278 (4) (b) 2. Each county department participating in the program
22 community integration program or the brain injury waiver program shall provide
23 home or community-based care to persons eligible under this section, except that the
24 number of persons who receive home or community-based care under this section

1 may not exceed the number that are approved under the waiver received under sub.
2 (3).

3 **SECTION 11.** 46.278 (5) (a) and (b) of the statutes are amended to read:

4 46.278 (5) (a) Any medical assistance recipient who meets the level of care
5 requirements for medical assistance reimbursement in an intermediate care facility
6 for the mentally retarded or in a brain injury rehabilitation facility and is ineligible
7 for service under s. 46.275 or 46.277 is eligible to participate in the ~~program~~
8 programs, except that the number of participants may not exceed the number
9 approved under the waiver received under sub. (3). Such a recipient may apply, or
10 any person may apply on behalf of such a recipient, for participation in the ~~program~~
11 community integration program or the brain injury waiver program. Section 46.275
12 (4) (b) applies to participation in the ~~program programs~~.

13 (b) To the extent authorized under 42 USC 1396n, if a person discontinues
14 participation in the ~~program community integration program or the brain injury~~
15 waiver program, a medical assistance recipient may participate in the either
16 program in place of the participant who discontinues if that recipient meets the
17 intermediate care facility for the mentally retarded or brain injury rehabilitation
18 facility level of care requirements for medical assistance reimbursement in an
19 intermediate care facility for the mentally retarded or brain injury rehabilitation
20 facility, except that the number of participants concurrently served may not exceed
21 the number approved under the waiver received under sub. (3).

22 **SECTION 12.** 46.278 (6) (a), (b), (c), (d), (e) 1. and (f) of the statutes are amended
23 to read:

24 46.278 (6) (a) The provisions of s. 46.275 (5) (a), (b) and (d) apply to funding
25 received by counties under the ~~program programs~~.

1 (b) Total funding to counties for relocating each person under the program
2 programs may not exceed the amount approved in the waiver received under sub. (3).

3 (c) Funding may be provided under the program programs for services of a
4 family consortium.

INSERT 8-4

RESTORE TO PLAIN TEXT

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STATS.

5 (d) If a county makes available nonfederal funds equal to the state share of
6 service costs under the ~~waiver~~ ~~waivers~~ received under sub. (3), the department may,
7 from the appropriation under s. 20.435 (4) (o), provide reimbursement for services
8 that the county provides under this section to persons who are in addition to those
9 who may be served under this section with funds from the appropriation under s.
10 20.435 (4) (b).

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

14 (f) If a county owns the institution or intermediate care facility for the mentally
15 retarded from which an individual is relocated to the community under this section,
16 in order to receive funding under the community integration program, the county
17 shall submit a plan for delicensing a bed of the institution or intermediate care
18 facility for the mentally retarded that is approved by the department.

19 SECTION 13. 46.984 of the statutes is created to read:

20 **46.984 Children's long-term support redesign. (1) DEFINITIONS.**

21 "Program" means the children's long-term support pilot program redesigning the
22 system of care for children with disabilities and their families.

23 (2) PROGRAM CHARACTERISTICS. The department of health and family services
24 shall, as soon as possible before July 1, 2002, seek waivers of federal medical
25 assistance statutes and regulations from the federal department of health and

1 human services that are necessary to implement, in pilot sites, the program. The
2 program shall have all of the following characteristics:

3 (a) Medical assistance coverage of services under ss. 46.985, 46.27 (11), 46.275,
4 46.277, 46.278 and 51.44 of the statutes would be expanded to include children with
5 severe disabilities and long-term care needs, as well as children eligible for medical
6 assistance with high medical costs, and to include services focused on children and
7 families needs.

8 (b) The administration of this program shall be consistent with s. 46.985,
9 including a family-centered assessment and planning process.

10 (c) The program shall operate within rate settings based upon a child's level of
11 care and support needs. The department shall promulgate rules that specify rates
12 that are consistent with federal medical assistance home and community-based
13 waiver regulations.

14 (d) Supports and services shall be coordinated with the medical assistance
15 fee-for-service system, including the prior authorization process.

16 (e) The lead agency for the program shall meet the definition of an
17 "administering agency" prescribed in s. 46.985 (1) (a).

18 (f) Counties in which the program is located shall provide, contract for the
19 provision of, organize or arrange for long-term care supports to eligible children up
20 to age 24 years, consistent with s. 46.985 (1) (b) and (6) (f).

21 (g) Information and assistance services operated by a program shall provide,
22 contract or arrange for the provision of all of the following:

23 1. Information and referral services and other assistance at hours that are
24 convenient for the public.

25 2. Within the limits of available funding, prevention and intervention services.

1 3. Counseling concerning public and private benefits programs.

2 4. Assistance with understanding child and parent rights within the long-term
3 care system.

4 (h) Determine functional and financial eligibility for the program by
5 coordinating with the department in completing all of the following:

6 1. A determination of functional eligibility for the children's long-term support
7 benefit.

8 2. A determination of financial eligibility and of the maximum amount of cost
9 sharing required for a family who is seeking long-term care services, under
10 standards prescribed by the department.

11 3. Assistance to a child and the child's family who is eligible for the children's
12 long-term support benefit with respect to the choice of whether or not to participate
13 in the waiver pilot.

14 4. Assistance in enrolling in a program for families who choose to enroll their
15 children.

16 (i) The cost of the program shall not exceed the cost of existing services under
17 ss. 46.985, 46.27 (11), 46.275, 46.277, 46.278 and 51.44 of the statutes.

18 (j) The program shall blend the costs per child served in the areas of the sites
19 under ss. 46.985, 51.44, 46.27 (11), 46.275, 46.277 and 46.278 of the statutes.

20 (k) The department may develop a methodology to distribute funding to
21 programs on a per child per month basis.

22 (l) The department shall reinvest any funding saved by this new methodology
23 into the children's long-term support system.

24 (m) Any new resources for children's long-term program supports and services
25 shall be managed under this program after approval of the federal waivers specified

1 under sub. (1) and enactment of the necessary statutory language to implement the
2 model under sub. (1).

3 (n) The department shall equitably assign priority on any necessary waiting
4 lists, consistent with criteria prescribed by the department, for children who are
5 eligible for the program, but for whom resources are not available.

6 (o) The department shall provide transitional services to families whose
7 children with physical or developmental disabilities are preparing to enter the adult
8 service system.

9 (p) The department shall determine eligibility for state supplemental
10 payments under s. 49.77, medical assistance under s. 49.46, or the federal food stamp
11 program under 7 USC 2011 to 2029.

12 (3) IMPLEMENTATION. If the federal waivers specified under sub. (1) are
13 approved, the department shall, as soon as possible before July 1, 2002, seek
14 enactment of statutory language, including appropriation of necessary funding, to
15 implement the model described under sub. (1), as approved under the federal
16 waivers.

17 **SECTION 14.** 49.45 (2) (a) 24. of the statutes is created to read:

18 49.45 (2) (a) 24. Promulgate rules that require the written plan of care for
19 persons receiving personal care services under medical assistance to be reviewed by
20 a registered nurse at least every 60 days. The rules shall provide that the written
21 plan of care shall designate an interval for visits to the recipient's home by a
22 registered nurse as part of the review of the plan of care. The designated interval
23 for visits shall be based on the individual recipient's needs, and each recipient shall
24 be visited in their home by a registered nurse at least once in every 12-month period.
25 The rules shall provide that a visit to the recipient is also required if, in the course

1 of the nurse's review of the plan of care, there is evidence that a change in the
2 recipient's condition has occurred that may warrant a change in the plan of care.

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NOTE: Requires DHFS to promulgate administrative rules that require the written plan of care for persons receiving personal care services under medical assistance to be reviewed at least every 60 days, as under current law. This ~~draft~~ provides that the written plan of care shall designate an interval for visits by a registered nurse as part of the review of the plan of care, instead of requiring a home visit at least once every 60 days, as under current law. The designated interval must be based on the individual recipient's needs. Each recipient must be visited in ~~their~~ home by a registered nurse at least once in every 12-month period. The rules must also provide that a nurse visit to the recipient is required if, in the course of the nurse's review of the plan of care, there is evidence that a change in the recipient's condition has occurred that may warrant a change in the plan of care.

(bill)

(his or her)

3 SECTION 15. Nonstatutory provisions; health and family services. ✓

4 (1) The department of health and family services shall develop a plan to
5 administer and fund services for persons with developmental disabilities. The plan,
6 which shall include any recommended statutory language changes that are needed
7 to implement the plan, shall be included in the department's budget request that is
8 submitted to the department of administration for the 2003-05 biennium. The plan
9 shall include the following components:

10 (a) Institutional and community-based services for persons with
11 developmental disabilities shall be administered within one administrative subunit
12 of the department. The subunit that is designated to administer these services shall
13 be the subunit that is administering community-based services for persons with
14 developmental disabilities as of the effective date of this act ... [revisor inserts date].

15 (b) Funding under the medical assistance program for institutional services
16 and home and community-based waiver services for persons with developmental
17 disabilities shall be combined into one appropriation, to the extent permissible under
18 federal law. Funding shall be allocated from this appropriation to persons with
19 developmental disabilities who need services. The funding in this appropriation

1 shall not be tied to any specific program or service setting, but shall be individually
2 tailored to enable the person to live in the least restrictive setting appropriate to his
3 or her needs and preferences.

4 (2) The department shall determine whether any new waivers under the
5 medical assistance program are necessary to administer funding for medical
6 assistance services as described in par. (1) (b). The department shall apply for any
7 waivers of federal medical assistance statutes and regulations from the federal
8 department of health and human services that it determines are necessary to
9 administer funding for medical assistance services as described in par. (1) (b).

10 **SECTION 16. Nonstatutory provisions; health and family services.** The
11 department of health and family services shall submit in proposed form the rules
12 required under section 49.45 (2) (a) 24. of the statutes, as created by this act, to the
13 legislative council staff under section 227.15 (1) of the statutes no later than the first
14 day of the fourth month beginning after the effective date of this act.

INSERT 13-14 ✓

NOTE: Requires DHFS to submit rules in proposed form to the legislative council rules clearinghouse no later than the first day of the fourth month beginning after the effective date of this act.

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15

~~SECTION 17. Effective date. This act takes effect on the day after publication.~~

INSERT 13-15

16

(END) →

→ Subsection (3)

quote ref. "3"

ARC:.....Hughes - AM22—Legislative Council Study on Developmental Disabilities; non-fiscal items

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 29, line 8: after that line insert:

3 SECTION ~~10A~~[#] 15.197 (11n) (cm) of the statutes is created to read: INSERT 2-4 p. 1 of 5

4 15.197 (11n) (cm) Four members of the legislature, of which one each is
5 designated by the speaker of the assembly, the senate majority leader, and the
6 minority leader in each house of the legislature and appointed by the governor.

7 SECTION ~~10A~~[#] 15.197 (11n) (e) of the statutes is created to read:

8 15.197 (11n) (e) By January 31 ~~of each year~~^{annually}, the council shall prepare a report
9 for the preceding calendar year and shall submit the report to the legislature under
10 s. 13.172 (2). The report shall evaluate the waiting lists compiled by the department



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1 of health and family services for services for persons with developmental
2 disabilities.

3 ~~2. Page 566, line 18: after that line insert;~~

4 SECTION ~~1508~~[#] 46.278 (title) and (1) of the statutes are amended to read:

5 46.278 (title) **Community integration program and brain injury waiver**
6 **program for persons with mental retardation developmental disabilities.**

7 (1) LEGISLATIVE INTENT. The intent of the ~~program~~ programs under this section
8 is to provide home or community-based care to serve in a noninstitutional
9 community setting a person who meets eligibility requirements under 42 USC 1396n
10 (c) and who is diagnosed as developmentally disabled under the definition specified
11 in s. 51.01 (5) and relocated from an institution other than a state center for the
12 developmentally disabled or who meets the intermediate care facility for the
13 mentally retarded or a brain injury rehabilitation facility level of care requirements
14 for medical assistance reimbursement in an intermediate care facility for the
15 mentally retarded or brain injury rehabilitation facility and is ineligible for services
16 under s. 46.275 or 46.277. The intent of the program is also that counties use all
17 existing services for providing care under this section, including those services
18 currently provided by counties.

19 SECTION ~~1508~~[#] 46.278 (1m) (a) ^{ac} of the statutes is created to read:

20 46.278 (1m) (a) ^{ac} "Brain injury rehabilitation facility" means a nursing facility
21 or hospital designated as a facility for brain injury rehabilitation by the department
22 under the approved state medicaid plan.

23 SECTION ~~1508~~[#] 46.278 (1m) (c) of the statutes is amended to read:



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P. 31
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1 46.278 (1m) (c) "Program" means the community integration program or the
2 brain injury waiver program, for facilities certified as medical assistance providers,
3 for which a waiver has been received under sub. (3).

4 SECTION ~~1508A~~[#]. 46.278 (2) (a) of the statutes is amended to read:

5 46.278 (2) (a) The department may request ~~a waiver~~ one or more waivers from
6 the secretary of the federal department of health and human services, under 42 USC
7 1396n (c), authorizing the department to serve medical assistance recipients, who
8 meet the level of care requirements for medical assistance reimbursement in an
9 intermediate care facility for the mentally retarded or in a brain injury rehabilitation
10 facility, in their communities by providing home or community-based services as
11 part of medical assistance. If the department requests a waiver, it shall include all
12 assurances required under 42 USC 1396n (c) (2) in its request.

13 SECTION ~~1508A~~[#]. 46.278 (3) (a) of the statutes is amended to read:

14 46.278 (3) (a) Evaluate the effect of the each program on medical assistance
15 costs and on the program's ability to provide community care alternatives to
16 institutional care in facilities certified as medical assistance providers.

17 SECTION ~~1508A~~[#]. 46.278 (4) (a) of the statutes is amended to read:

18 46.278 (4) (a) Sections 46.27 (3) (b) and 46.275 (3) (a) and (c) to (e) apply to
19 county participation in this a program, except that services provided in the program
20 shall substitute for care provided a person in an intermediate care facility for the
21 mentally retarded or brain injury rehabilitation facility who meets the intermediate
22 care facility for the mentally retarded or brain injury rehabilitation facility level of
23 care requirements for medical assistance reimbursement to that facility rather than
24 for care provided at a state center for the developmentally disabled.

25 SECTION ~~1508A~~[#]. 46.278 (4) (b) 2. of the statutes is amended to read:

↓

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P. 4 B
5

1 46.278 (4) (b) 2. Each county department participating in the a program shall
2 provide home or community-based care to persons eligible under this section, except
3 that the number of persons who receive home or community-based care under this
4 section may not exceed the number that are approved under the an applicable waiver
5 received under sub. (3).

6 SECTION 1508m. 46.278 (5) (a) and (b) of the statutes are amended to read:

7 46.278 (5) (a) Any medical assistance recipient who meets the level of care
8 requirements for medical assistance reimbursement in an intermediate care facility
9 for the mentally retarded or in a brain injury rehabilitation facility and is ineligible
10 for service under s. 46.275 or 46.277 is eligible to participate in the a program, except
11 that persons eligible for the brain injury waiver program must meet the definition
12 of brain injury under s. 51.01 (2g), and except that the number of participants may
13 not exceed the number approved under the waiver received under sub. (3). Such a
14 recipient may apply, or any person may apply on behalf of such a recipient, for
15 participation in the a program. Section 46.275 (4) (b) applies to participation in the
16 a program.

17 (b) To the extent authorized under 42 USC 1396n, if a person discontinues
18 participation in the a program, a medical assistance recipient may participate in the
19 a program in place of the participant who discontinues if that recipient meets the
20 ~~intermediate care facility for the mentally retarded level of care requirements for~~
21 ~~medical assistance reimbursement in an intermediate care facility for the mentally~~
22 ~~retarded except that the number of participants concurrently served may not exceed~~
23 ~~the number approved under the waiver received under sub. (3) requirements under~~
24 par. (a).

25 SECTION 1508m. 46.278 (6) (a), (b) ~~and~~ (c) ^{and (d)} of the statutes are amended to read:

and (d)



INSERT 8-4

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1 46.278 (6) (a) The provisions of s. 46.275 (5) (a), (b) and (d) apply to funding
2 received by counties under the ~~program~~ programs.

3 (b) Total funding to counties for relocating each person under the a program
4 may not exceed the amount approved in the waiver received under sub. (3).

5 (c) Funding may be provided under the a program for services of a family
6 consortium.

End of INSERT 8-4

7 ~~3. Page 566, line 22: delete "the waiver" and substitute "the a waiver"~~

8 ~~4. Page 566, line 25: after that line insert:~~

INSERT 12-2

P. 1 of 2

9 SECTION ~~46.091~~ 46.278 (6) (e) 1. of the statutes is amended to read:

10 46.278 (6) (e) 1. The department may provide enhanced reimbursement for
11 services under the community integration program for an individual who was
12 relocated to the community by a county department from one of the following:

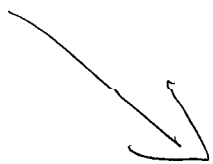
13 SECTION ~~46.091~~ 46.278 (6) (f) of the statutes is amended to read:

14 46.278 (6) (f) If a county owns the institution or intermediate care facility for
15 the mentally retarded from which an individual is relocated to the community under
16 this section, in order to receive funding under the community integration program,
17 the county shall submit a plan for delicensing a bed of the institution or intermediate
18 care facility for the mentally retarded that is approved by the department.

19 ~~5. Page 621, line 12: after that line insert:~~

20 SECTION ~~49.45~~ 49.45 (2) (a) 24. of the statutes is created to read:

21 49.45 (2) (a) 24. Promulgate rules that require that the written plan of care for
22 persons receiving personal care services under medical assistance be reviewed by a
23 registered nurse at least every 60 days. The rules shall provide that the written plan
24 of care shall designate intervals for visits to the recipient's home by a registered



INSERT 12-2

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2

1 nurse as part of the review of the plan of care. The designated intervals for visits
2 shall be based on the individual recipient's needs, and each recipient shall be visited
3 in his or her home by a registered nurse at least once in every 12-month period. The
4 rules shall also provide that a visit to the recipient is also required if, in the course
5 of the nurse's review of the plan of care, there is evidence that a change in the
6 recipient's condition has occurred that may warrant a change in the plan of care.

End of INSERT 12-2

Page 1338, line 20: after that line insert

INSERT 13-14

p. 10
2

8 ~~(11)~~ PLAN FOR SERVICES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES. The
9 department of health and family services shall develop a plan to administer and fund
10 services for persons with developmental disabilities. The plan, which shall include
11 any recommended statutory language changes that are needed to implement the
12 plan, shall be included in that department's budget request that is submitted to the
13 department of administration for the 2003-05 biennium. The plan shall include the
14 following components:

15 (a) Institutional and community-based services for persons with
16 developmental disabilities shall be administered within one administrative subunit
17 of the department of health and family services. The subunit that is designated to
18 administer these services shall be the subunit that is administering
19 community-based services for persons with developmental disabilities on the
20 effective date of this paragraph.

21 (b) Funding under the medical assistance program for institutional services
22 and home and community-based waiver services for persons with developmental
23 disabilities shall be combined into one appropriation, to the extent permissible under
24 federal law. The funding in this appropriation may not be tied to any specific



INSERT 13-14

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1 program or service setting, but shall be individually tailored to enable the person to
2 live in the least restrictive setting appropriate to his or her needs and preferences.

3 ~~(16A)~~ MEDICAL ASSISTANCE WAIVERS FOR DEVELOPMENTAL DISABILITIES SERVICES.

4 The department of health and family services shall determine whether any new
5 waivers under the medical assistance program are necessary to administer funding
6 for medical assistance services as described in subsection (16) (b). ~~the~~ department
7 shall apply for any waivers of federal medical assistance statutes and regulations
8 from the federal department of health and human services that the department of
9 health and family services determines are necessary to administer funding for
10 medical assistance services as described in subsection (16) (b).

auto ref. "11"

STET

auto ref. "b"

auto ref. "13"

11 ~~(16A)~~ WRITTEN PLANS OF CARE FOR PERSONAL CARE SERVICES; RULES. The
12 department of health and family services shall submit in proposed form the rules
13 required under section 49.45 (2) (a) 24. of the statutes, as created by this act, to the
14 legislative council staff under section 227.15 (1) of the statutes no later than the first
15 day of the ~~fourth~~ ^{fourth} month beginning after the effective date of this subsection.

End of INSERT 13-14

16 ~~(16A)~~ PILOT PROGRAM FOR LONG-TERM CARE OF CHILDREN WITH DISABILITIES.

17 ~~(a)~~ In this subsection:

18 ~~1.~~ "Administering agency" means a county department under section 46.23,
19 51.42, or 51.437 of the statutes or a human services agency that administers the
20 program under a contract with such a county department.

21 ~~2.~~ "Program" means a pilot program that provides a system of long-term care
22 for children with disabilities and their families.

23 ~~(b)~~ The department of health and family services shall, as soon as possible
24 before July 1, 2002, seek waivers of federal medical assistance statutes and
25 regulations from the federal department of health and human services that are

auto ref. "X"

INSERT 13-15

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4

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1 necessary to implement, in pilot sites, the program. If the waivers are granted, the
2 program shall have all of the following characteristics:

3 # 1. Eligibility under sections 46.27 (11), 46.275, 46.277, 46.278, 46.985, and
4 51.44 of the statutes shall be expanded to include children with severe disabilities
5 and long-term care needs and children eligible for medical assistance with high
6 medical costs, and medical assistance coverage of services shall be expanded to
7 include services focused on the needs of children with developmental disabilities and
8 their families.

9 # 2. The administration of the program shall be consistent with section 46.985
10 of the statutes, including a family-centered assessment and planning process.

11 # 3. The program shall operate within rate settings based upon a child's level of
12 care and support needs. The department of health and family services shall
13 promulgate rules that specify rates that are consistent with federal medical
14 assistance home and community-based waiver regulations.


15 # 4. The department of health and family services shall coordinate supports and
16 services under the program with the medical assistance fee-for-service system,
17 including the prior-authorization process.

18 # 5. The lead agency for the program shall be an administering agency.

19 # 6. Counties in which the program is located shall provide, contract for the
20 provision of, organize, or arrange for long-term care supports for eligible children up
21 to age 24 years, consistent with section 46.985 (1) (b) and (6) (f) of the statutes.

22 # 7. Information and assistance services operated under the program shall
23 provide, contract, or arrange for the provision of all of the following:

24 # a. Information and referral services and other assistance at hours that are
25 convenient for the public.



INSERT 13-15

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- 1 # b. Within the limits of available funding, prevention and intervention services.
- 2 # c. Counseling concerning public and private benefits programs.
- 3 # d. Assistance with understanding rights of children and parents within the
- 4 long-term care system.
- 5 # 8. The administering agency shall determine functional and financial
- 6 eligibility for the program by coordinating with the department of health and family
- 7 services in completing all of the following:
- 8 # a. A determination of functional eligibility for the children's long-term support
- 9 benefit.
- 10 # b. A determination of financial eligibility and of the maximum amount of cost
- 11 sharing required for a family who is seeking long-term care services, under
- 12 standards prescribed by the department of health and family services.
- 13 # c. Assistance to a child who is eligible for a long-term support benefit and to
- 14 the child's family with respect to the choice of whether or not to participate in the
- 15 waiver pilot.
- 16 # d. Assistance in enrolling in the program, for families who choose to enroll their
- 17 children.
- 18 # 9. The cost of the program may not exceed the cost of existing services under
- 19 sections 46.27 (11), 46.275, 46.277, 46.278, 46.985, and 51.44 of the statutes.
- 20 # 10. The program shall blend the costs per child served in the areas of the sites
- 21 in which services are provided under sections 46.27 (11), 46.275, 46.277, 46.278,
- 22 46.985, and 51.44 of the statutes.
- 23 # 11. The department of health and family services may develop a methodology
- 24 to distribute funding under the program on a per-child, per-month basis.



INSERT 13-15

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JM

1 #
12. The department of health and family services shall reinvest ~~into~~ the
2 children's long-term support system any funding saved by this new methodology.

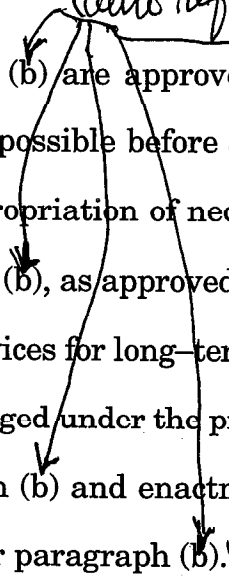
3 #
13. The department of health and family services shall equitably assign
4 priority on any necessary waiting lists, consistent with criteria prescribed by that
5 department, for children who are eligible for the program, but for whom resources
6 are not available.

7 #
14. The department of health and family services shall provide transitional
8 services to families whose children with physical or developmental disabilities are
9 preparing to enter the adult service system.

10 #
15. The department of health and family services shall determine eligibility for
11 program applicants for state supplemental payments under section 49.77 of the
12 statutes, medical assistance under section 49.46 of the statutes, and the federal food
13 stamp program under 7 USC 2011 to 2029.

14 #
15 (c) If the federal waivers specified under paragraph (b) are approved, the
16 department of health and family services shall, as soon as possible before July 1,
17 2002, seek enactment of statutory language, including appropriation of necessary
18 funding, to implement the model described under paragraph (b), as approved under
19 the federal waivers. Any new resources for supports and services for long-term care
20 for children with disabilities and their families shall be managed under the program
21 after approval of the federal waivers specified in paragraph (b) and enactment of
22 necessary statutory language to implement the model under paragraph (b).

auto ref "X"



(END)

End of INSERT 13-15

D-NOTE

To Laura Rose:

I have changed "department of health and family services" to "DHFS" in the ^(CS)NOTES and have draft " " bill " changed " ~~draft~~ " to "draft" but have not made any substantive changes to conform the ^(CS)NOTES to the revised text.

Please let me know if I can give any further help on the bill.

DAK

→ # Subsection (3) of the nonstatutory provisions⁵ requires that rules required under s. 49.45(2)(a) 24, be submitted to the Legislative Council staff by a certain date; no corresponding requirement exists in the bill for the rules required under the nonstatutory pilot⁷ program for long-term care for children. Should there be one?

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3357/P2dn
DAK:kmg:kjf

July 25, 2001

To Laura Rose:

I have changed "department of health and family services" to "DHFS" in the NOTES and have changed "draft" to "bill" but have not made any substantive changes to conform the NOTES to the revised text.

Subsection (3) of the nonstatutory provisions requires that rules required under s. 49.45 (2) (a) 24. be submitted to the Legislative Council staff by a certain date; no corresponding requirement exists in the bill for the rules required under the nonstatutory pilot program for long-term care for children. Should there be one?

Please let me know if I can give any further help on the bill.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.state.wi.us

9/24/01 Mtg w/ Laura Rose and Rachel Letzing:

For 01-3356 and 01-3357, draft everything
retained in 2001 Wis Act 16.