

**2001 DRAFTING REQUEST****Bill**Received: **09/08/2000**Received By: **kenneda**Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 266-2288**By/Representing: **Fossum**This file may be shown to any legislator: **NO**Drafter: **kenneda**May Contact: **DHFS**

Alt. Drafters:

Subject: **Health - long-term care**Extra Copies: **ISR**

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**Pre Topic:**

DOA:.....Fossum -

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**Topic:**

Family care phase-in of entitlement for non-MA eligibles

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**Instructions:**

See Attached

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**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>
/1	kenneda 09/28/2000	jdye 10/02/2000	pgreensl 10/02/2000	_____	lrb_docadmin 10/02/2000		S&L
/2	kenneda 10/30/2000	jdye 10/30/2000	pgreensl 10/30/2000	_____	gretskl 10/30/2000		S&L

FE Sent For:

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*12 10/30 jld*  
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## Title: Family Care Phase-in of Entitlement for Non-MA Eligible Persons

### Current Language

#### 46.286 Family care benefit.

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

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

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

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

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

1. For cause, subject to the requirements of s. 46.284 (4) (a).
2. If the contract between the care management organization and the department is canceled or not renewed. If this circumstance occurs, the department shall assure that enrollees continue to receive needed services through another care management organization or through the medical assistance fee-for-service system or any of the programs specified under sub. (1) (a) 2. a. to d.

3. The department or its designee determines that the person no longer meets eligibility criteria under sub. (1).

(c) Within each county and for each client group, par. (a) shall first apply on the effective date of a contract under which a care management organization accepts a per person per month payment to provide services under the family care benefit to eligible persons in that client group in the county. Within 24 months after this date, the department shall assure that sufficient capacity exists within one or more care management organizations to provide the family care benefit to all entitled persons in that client group in the county.

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

## Proposed Change

46.286 (3) (d) is amended to read:

(d) The department shall determine the date, which shall not be later than ~~July 1, 2000~~ January 1, 2004, on which par. (a) shall first apply to persons who are not eligible for medical assistance under ch. 49. Prior to that date, the department shall, within the limits of available state and federal funds, make the family care benefit under this section available to persons who are not eligible for medical assistance under ch. 49.

## Effect of the Change

Allows the department to provide Family Care to persons who are not MA-eligible, but to slow the phase-in of entitlement to Family Care for such persons.

## Rationale for the Change

There is considerable uncertainty as to the enrollment level of non-Medicaid-eligible individuals in Family Care. Enrollment of non-Medicaid clients became effective July 2000 in existing Family Care sites. Due to the lack of experience with this client group, it is very difficult to project enrollment levels. In addition, these clients are funded entirely with state GPR funding. In its 01-03 budget request, the Department has developed enrollment projections, based on very limited information, and has included a funding request consistent with those projections. However, actual enrollments, and therefore actual costs, could differ significantly from the Department's projections. Due to the uncertainty of enrollment and potentially large fiscal impact of unanticipated enrollment, the Department is submitting this statutory language change to provide the Department the authority to control the enrollment level of non-Medicaid clients during the 01-03 biennium, if fiscal conditions warrant.

<b>Desired Effective Date:</b>	Upon enactment
<b>Agency:</b>	DHFS
<b>Agency Contact:</b>	Charles Jones
<b>Phone:</b>	266-0991



D-NOTE

DOA:.....Fossum - Family care phase-in of entitlement for non-MA eligibles  
FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

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

*Analysis by the Legislative Reference Bureau*  
**HEALTH AND HUMAN SERVICES**  
**LONG-TERM CARE; FAMILY CARE**

\* Currently, under family care, a program of financial assistance in providing long-term care and support items, a person is eligible for, but not necessarily entitled to, the family care benefit if he or she is at least 28 years old, has a physical disability or the infirmities of aging, fulfills any applicable cost-sharing requirements, meets financial criteria, and meets any of several criteria relating to functionality. DHFS is authorized to determine the date on which these functionality criteria first apply to applicants for the family care benefit who are not recipients of medical assistance (MA), but the date may not be later than July 1, 2000.

This bill changes the date that DHFS is authorized to determine for applying functionality criteria under the family care program to family care benefit applicants who are not MA recipients. Under the bill, the date must be not later than January 1, 2004, but, before the determined date, persons who are not eligible for MA may receive the family care benefit within the limits of state funds appropriated for this purpose and available federal funds.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           SECTION 1. 46.286 (3) (d) <sup>✓</sup> of the statutes is amended to read:

2           46.286 (3) (d) The department shall determine the date, which shall not be later

3           than July 1, 2000 January 1, 2004 <sup>✓</sup>, on which par. (a) shall first apply to persons who

4           are not eligible for medical assistance under ch. 49. Before the date determined by

5           the department, <sup>✓</sup> persons who are not eligible for medical assistance may receive the

6           family care benefit within the limits of state funds appropriated for this purpose and

7           available federal funds.

History: 1999 a. 9, 185.

(END)

D-NOTE

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

LRB-0198/1dn

DAK.....

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To Sue Jablonsky and Charles Jones:

Please review s. 46.286 (3) (d), stats., in this draft. Instead of drafting "available state funds," it seemed more precise to limit the moneys to "state funds appropriated for this purpose." Also, unless it is intended that DHFS arbitrarily and selectively provide eligibility to non-MA recipients, a practice that I believe might be vulnerable to equal protection problems, the statute should probably be worded to provide blanket eligibility, within the funding limitations.

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



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

LRB-0198/1dn  
DAK:Jld:pg

October 2, 2000

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SOON - In edit 10/30

DOA:.....Fossum - Family care phase-in of entitlement for non-MA eligibles  
FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

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

*Analysis by the Legislative Reference Bureau*  
**HEALTH AND HUMAN SERVICES**

**LONG-TERM CARE; FAMILY CARE**

Currently, under family care, a program of financial assistance in providing long-term care and support items, a person is eligible for, but not necessarily entitled to, the family care benefit if he or she is at least ~~25~~ years old, has a physical disability or the infirmities, of aging, fulfills any applicable cost-sharing requirements, meets financial criteria, and meets any of several criteria relating to functionality. DHFS is authorized to determine the date on which these functionality criteria first apply to applicants for the family care benefit who are not recipients of medical assistance (MA), but the date may not be later than July 1, 2000.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**LONG-TERM CARE; FAMILY CARE**

Currently, under family care, a program of financial assistance in providing long-term care and support items, a person is eligible for, but not necessarily entitled to, the family care benefit if he or she is at least 18 years old, has a physical disability or the infirmities, of aging, fulfills any applicable cost-sharing requirements, meets financial criteria, and meets any of several criteria relating to functionality. DHFS is authorized to determine the date on which these functionality criteria first apply to applicants for the family care benefit who are not recipients of medical assistance (MA), but the date may not be later than July 1, 2000.

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