

2001 DRAFTING REQUEST

Bill

Received: **02/19/2002**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Mark Meyer (608) 266-5490**

By/Representing: **Ryan Natzke (aide)**

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

Drafter: **kenneda**

May Contact:

Addl. Drafters:

Subject: **Public Assistance - med. assist.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Meyer@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Use of intergovernmental transfer funds for county nursing home services provided to family care recipients

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>
/1	kenneda 02/20/2002	gilfokm 02/20/2002	rschluet 02/21/2002	_____	lrb_docadmin 02/21/2002	lrb_docadminS&L 02/27/2002	

FE Sent For:

→ At Intro.

<END>

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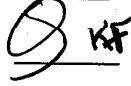
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1?	kenneda	11-2/20 kmg		 2-21-2			

FE Sent For:

<END>

Kennedy, Debora

From: Natzke, Ryan
Sent: Thursday, February 14, 2002 3:29 PM
To: Kennedy, Debora
Subject: Supplemental IGT funds to County Nursing Homes

*Request for
Sen. Meyer*



IGT-County Nursing
Homes.doc

Hi Debora:

I attached the memo that I got from Chuck Wilhelm of DHFS. He lists a few options and obviously we would like to amend State Law to allow IGT funds to be provided to Care Management Organizations through their capitated payments. The Care management Organizations could then pay nursing homes the regular Medicaid rate plus the amount generated through the IGT supplement.

Can you please put a rush on this. Thank you.

Ryan

IGT Payment to County Nursing Homes for Family Care Recipients

Issue: Should the allocation of supplemental payments to county and municipally owned nursing facilities (IGT) reflect the days purchased by Care Management Organizations under the Family Care Program?

Background: The State provides a supplemental payment to county and municipally owned nursing facilities with funding generated from the nursing home IGT. These funds are distributed to homes based on their nursing home days reimbursed by Medicaid. Because of a combination of state law and federal regulations, the State cannot recognize the days of care purchased by Care Management Organizations in the supplemental allocation of IGT funds, even though these nursing home days are Medicaid funded. Section 49.45(6u) of the state statutes requires that supplemental payments of nursing home IGT funds be distributed to only facilities owned and operated by a county, city, village or town. Therefore, IGT funds cannot be allocated to a Care Management Organization, who in turn could pay the supplemental payment to the nursing home. In addition, 42 CFR 434.57 of the Code of Federal Regulations prohibits states from making supplemental payments to providers under the Medical Assistance Program if a Health Maintenance Organization or a Pre-Paid Health Plan purchased the service. Since the Family Care program operates under a Pre-Paid Health Plan, the nursing home days purchased by Care management Organizations under Family Care cannot be recognized in the allocation of supplemental IGT funds to nursing homes.

Options: There are two options to allow nursing homes to access the IGT funds for nursing home days purchased under the Family Care program. One would involve changing federal regulations and the other would involve changing state statutes. It is very unlikely that a change in federal regulations could be accomplished. The other option is to amend State Law to allow supplemental IGT funds to be provided to Care Management Organizations through their capitated payments. The Care Management Organizations could then pay nursing homes the regular Medicaid rate plus the amount generated through the IGT supplement. }

Rationale for Changing State Law:

- County nursing homes and Care Management Organizations were told that the Family Care Program would not adversely affect the distribution of supplemental IGT funds to county nursing homes. All of the county nursing homes that will be adversely affected by this have expressed their concern to the state.
- County nursing homes may not contract with Care Management Organizations unless the Care Management Organization is able to pay the supplemental IGT rate.

Rationale for not Changing State Law

- The Department would need to include some IGT funds into the capitation rate paid to Care Management Organizations. This amount would be based upon a projection

of the days of care that a Care Management Organization will purchase from county nursing homes. There can be no guarantee the Care Management Organization will actually purchase the projected days of care from county nursing homes. Therefore, some of the IGT funds could potentially not be paid to county nursing homes.



FRIDAY a.m.
State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4960/1

DAK:.....

D-NOTE

kmj

2001 BILL

1 AN ACT ^{Sen. Cox} relating to: payment of a medical assistance supplement to care
2 management organizations that contract with municipal nursing homes for the
3 provision of services to family care recipients.

Analysis by the Legislative Reference Bureau

Under current state law, county, city, village, or town (municipal) nursing homes receive, for care provided to medical assistance (MA) recipients, supplemental payments that are in addition to payments made under the MA nursing home reimbursement formula. These supplemental payments are made from federal medicaid moneys, with a matching requirement for the municipal nursing homes, or from a combination of federal medicaid moneys and MA trust fund moneys (which are derived from intergovernmental transfers), with no matching requirement.

Also under current state law, care management organizations, acting as prepaid health plans, purchase, on a capitated basis, nursing home services for family care recipients, who are eligible for MA.

Under a current federal regulation, a nursing home that provides MA services that are purchased by a health maintenance organization or a prepaid health plan may not be paid a MA supplement from another source.

This bill authorizes the department of health and family services (DHFS) to make supplemental MA payments of federal medicaid and MA trust fund moneys to care management organizations that contract with municipal nursing homes for the provision of services to family care recipients. The methodology used by DHFS for payment to the care management organizations must be specified in the state plan for MA services.

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. 49.45 (6u) (title) of the statutes is amended to read:

2 49.45 (6u) (title) SUPPLEMENTAL PAYMENTS TO CERTAIN FACILITIES AND CARE
3 MANAGEMENT ORGANIZATIONS.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (f); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 100 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 111, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38.

Fix
COM
4

SECTION 2. 49.45 (6u) (ag) of the statutes, as created by 2001 Wisconsin Act 16, is renumbered 49.45 (6u) (ag) (intro.) and amended to read:

6 49.45 (6u) (ag) (intro.) In this subsection, "facility" is

7 2. "Facility" has the meaning given in sub. (6m) (a) 3.

8 SECTION 3. 49.45 (6u) (ag) 1. of the statutes is created to read:

9 49.45 (6u) (ag) 1. "Care management organization" means a care management
10 organization, as defined in s. 46.2805 (1), that contracts under s. 46.284 (4) (d) for
11 provision of services with a facility that is established under s. 49.70 (2) or that is
12 owned and operated by a city, village, or town.

13 SECTION 4. 49.45 (6u) (bm) of the statutes, as created by 2001 Wisconsin Act
14 16, is amended to read:

15 49.45 (6u) (bm) In state fiscal years in which \$1 or more in federal financial
16 participation relating to facilities is received under 42 CFR 433.51, from the
17 appropriations under s. 20.435 (4) (o) and (w), for reduction of operating deficits, as
18 defined under criteria developed by the department, incurred by a facility that is
19 established under s. 49.70 (1) or that is owned and operated by a city, village, or town,

BILL

1 the department may not distribute to these facilities and to care management
 2 organizations more than \$77,100,000 in each fiscal year, as determined by the
 3 department under a methodology as specified in the state plan for services under 42
 4 USC 1396.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307; 1973 c. 62, 90, 147; 1973 c. 333 ss. 106g, 106h, 106j, 201w; 1975 c. 39; 1975 c. 223 s. 28; 1975 c. 224 ss. 54h, 56 to 59m; 1975 c. 383 s. 4; 1975 c. 411; 1977 c. 29, 418; 1979 c. 34 ss. 837f to 838, 2102 (20) (a); 1979 c. 102, 177, 221, 355; 1981 c. 20 ss. 839 to 854, 2202 (20) (r); 1981 c. 93, 317; 1983 a. 27 ss. 1046 to 1062m, 2200 (42); 1983 a. 245, 447, 527; 1985 a. 29 ss. 1026m to 1031d, 3200 (23), (56), 3202 (27); 1985 a. 120, 176, 269; 1985 a. 332 ss. 91, 251 (5), 253; 1985 a. 340; 1987 a. 27 ss. 989r to 1000s, 2247, 3202 (24); 1987 a. 186, 307, 339, 399; 1987 a. 403 s. 256; 1987 a. 413; 1989 a. 6; 1989 a. 31 ss. 1402 to 1452g, 2909g, 2909i; 1989 a. 107, 173, 310, 336, 351, 359; 1991 a. 22, 39, 80, 250, 269, 315, 316; 1993 a. 16 ss. 1362g to 1403, 3883; 1993 a. 27, 107, 112, 183, 212, 246, 269, 335, 356, 437, 446, 469; 1995 a. 20; 1995 a. 27 ss. 2947 to 3002r, 7299, 9126 (19), 9130 (4), 9145 (1); 1995 a. 191, 216, 225, 289, 303, 398, 417, 457; 1997 a. 3, 13, 27, 114, 175, 191, 237, 252, 293; 1999 a. 9, 63, 103, 180, 185; 2001 a. 13, 16, 35, 38.

5 **SECTION 5. Effective date.**

6 (1) This act takes effect on July 1, 2002. ✓ ✓

7 (END)

D-NOTE

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4960/1dn

DAK:jj...

King

To Senator Meyer:

In drafting this bill, I have consulted Chuck Wilhelm. The following questions have arisen:

1. On Chuck's advice, I have made the payment to CMO's applicable only in the instance that the state receives IGT moneys in the MA trust fund. Is that what you want? If you also want the moneys available if the state does not receive IGT moneys, there is a matching requirement that might prove difficult to figure and to impose. *that*

2. I have not included a requirement that DHFS require the CMO to increase its capitated payment for services by an amount that is equal to the supplement it receives, but that is an option you may wish to consider. There are arguments on both sides of this issue. At least a couple of them are: (1) Should the CMO's be trusted to pass the money on to the nursing homes? (2) Since the money that is necessary is somewhat speculative, would requiring the passthrough possibly result in artificially increasing the capitation rate for services that are not provided? *that*

3. I have drafted an effective date of July 1, 2002, which may not be what the nursing homes want. However, a retroactive date of, say, July 1, 2001, may be impossible to comply with if DHFS has distributed all the money for fiscal year 2001-02 by the time the bill passes. *of*

Please let me know if I can provide you with further assistance with regard to this bill draft. *and*

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4960/1dn
DAK:kmg:rs

February 21, 2002

To Senator Meyer:

In drafting this bill, I have consulted Chuck Wilhelm. The following questions have arisen:

1. On Chuck's advice, I have made the payment to CMO's applicable only in the instance that the state receives IGT moneys in the MA trust fund. Is that what you want? If you also want the moneys available if the state does not receive IGT moneys, there is a matching requirement that might prove difficult to figure and to impose.
2. I have not included a requirement that DHFS require the CMO to increase its capitated payment for services by an amount that is equal to the supplement that it receives, but that is an option that you may wish to consider. There are arguments on both sides of this issue. At least a couple of them are: 1) should the CMO's be trusted to pass the money on to the nursing homes?; and 2) since the money that is necessary is somewhat speculative, would requiring the pass-through possibly result in artificially increasing the capitation rate for services that are not provided?
3. I have drafted an effective date of July 1, 2002, which may not be what the nursing homes want. However, a retroactive date of, say, July 1, 2001, may be impossible to comply with if DHFS has distributed all of the money for fiscal year 2001-02 by the time the bill passes.

Please let me know if I can provide you with further assistance with regard to this bill draft.

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

Beam, Laura

From: Brooks, Bryan
Sent: Wednesday, February 27, 2002 11:53 AM
To: LRB.Legal
Subject: Draft review: LRB-4960/1 Topic: Use of intergovernmental transfer funds for county nursing home services provided to family care recipients

It has been requested by <Brooks, Bryan> that the following draft be jacketed for the SENATE:

Draft review: LRB-4960/1 Topic: Use of intergovernmental transfer funds for county nursing home services provided to family care recipients