



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0209/2

DAK:kjf/cjs/cmh

D-NOTE

DOA:.....Blaine - BB0048 Restrict admissions to ICF-MRs and nursing homes; increase access to community-based services

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

Do Not Gen

- 1 AN ACT ...; relating to: restricting protective placements and admissions to
- 2 intermediate and nursing facilities.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

Under current law, persons who apply for admission to nursing homes, state centers for the developmentally disabled, or institutions for mental diseases, including persons who are found by a court to be in need of protective services and are protectively placed, must be screened to determine if they have developmental disability or mental illness. If so determined, they must also be screened to determine if they need facility care and active treatment for developmental disability or mental illness. Residents of these facilities who have developmental disability or mental illness and have had significant changes in their physical or mental conditions must also be screened to determine if they need facility care or active treatment. Persons who are not in need of facility care must be relocated for other care and reimbursement, depending on the severity of their disabilities and their financial resources.

Currently, counties must provide the portion of the Medical Assistance (MA) program payment that is not provided by the federal government for services to individuals in state centers for the developmentally disabled who are also mentally

ill and exhibit extremely aggressive and challenging behaviors. Under one of the community integration programs, persons with developmental disabilities who are eligible for MA and who formerly resided in, or were diverted from, state centers for the developmentally disabled or other institutions, are provided services in community settings that are reimbursed by state and federal funds, or by county and federal funds, under MA. Under this program, a county that owns the institution from which a person is relocated into the community must receive approval from DHFS of a plan for delicensing a bed of the institution, in order for the county to obtain reimbursement for the person's community care.

This bill, beginning January 1, 2004, places restrictions on protective placements and admissions of persons with developmental disabilities to intermediate facilities and nursing facilities, as defined in the bill. Within 90 days after receiving written notice of the prospective placement or admission of a person with developmental disabilities in an intermediate facility, a county department of social services, human services, developmental disabilities services, or community programs must develop a plan for providing home or community-based care to the person in a noninstitutional setting. The person may not be placed in or admitted to the intermediate facility unless a board of social services, human services, community programs, or developmental disabilities services finds that placement in the community under such a plan is not in the person's best interests, or the person or his or her guardian rejects the plan. Also, a person who has been screened and found to require active treatment for developmental disability may not be placed in or admitted to a nursing facility unless it is determined that his or her need for care cannot be met in an intermediate facility or under a plan for home or community care. These restrictions first apply on April 1, 2004.

The bill changes the screening process for residents of state centers for the developmentally disabled who have been determined to need facility care and active treatment for developmental disability, to require that they be further screened to determine whether the level of care that they require that is provided by the facility could be provided safely in an intermediate facility or under a plan for home or community care.

Beginning January 1, 2004, the bill prohibits payment of the federal portion of MA for services for an individual in a state center for the developmentally disabled who is also mentally ill and exhibits extremely aggressive and challenging behaviors, unless the person receiving the services has been protectively placed in the state center or is placed there for emergency purposes or as a temporary placement. The bill requires that counties pay the portion of MA payment that is not provided by the federal government for services to persons with developmental disabilities in an intermediate care facility for the mentally retarded and, if they have been determined to need facility care, for services in a nursing facility; however, no payment of the federal portion of MA for services to these persons may be made unless the person was placed in or admitted to the facility after the placing board considered a plan for home or community care and rejected the plan or found it would not meet the person's needs. The requirements and limitations first apply to services provided and payment made on April 1, 2004.

The bill changes laws relating to protective placement of persons who are found incompetent, to require that the court notify the appropriate county department to develop a plan for home or community care, for a person about to be protectively placed, and that the person be placed in a noninstitutional community setting under the plan unless there is an affirmative finding by the court that placement for home or community care would not be in the person's best interests.

The bill eliminates the requirement that a county delicense a bed of a county-owned institution for a person who is relocated to the community, in order for the county to receive reimbursement for the person's care.

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:

~~SECTION 1. 46.278 (b) (f) of the statutes is repealed~~

SECTION 2. 46.279 of the statutes is created to read:

46.279 Restrictions on placements and admissions to intermediate and nursing facilities. (1) DEFINITIONS. In this section:

(a) "Developmental disability" has the meaning given in s. 51.01 (5) (a).

(b) "Intermediate facility" means an intermediate care facility for the mentally retarded, as defined in 42 USC 1396d (d), other than a center for the developmentally disabled, as defined in s. 51.01 (3).

(c) "Nursing facility" has the meaning given under 42 USC 1369r (a).

(2) PLACEMENTS AND ADMISSIONS TO INTERMEDIATE FACILITIES. Except as provided in sub. (5), no person may place an individual with a developmental disability in an intermediate facility and no intermediate facility may admit such an individual unless, before the placement or admission, a court under s. 55.06 (9) (a) or (10) (a) 2. finds that placement under a plan that was developed under sub. (4) is not in the individual's best interests. An intermediate facility to which an individual who has a developmental disability applies for admission shall, within 5 days after receiving

1 the application, notify the county department that is participating in the program
2 under s. 46.278 of the county of residence of the individual who is seeking admission
3 concerning the application.

4 (3) PLACEMENTS AND ADMISSIONS TO NURSING FACILITIES. Except as provided in
5 sub. (5), if the department or an entity determines from a screening under s. 49.45
6 (6c) (b) that an individual requires active treatment for developmental disability, no
7 individual may be placed in a nursing facility, and no nursing facility may admit the
8 individual, unless it is determined from the screening that the individual's need for
9 care cannot fully be met in an intermediate facility or under a plan under sub. (4).

10 (4) PLAN FOR HOME OR COMMUNITY-BASED CARE. A county department that
11 participates in the program under s. 46.278 shall develop a plan for providing home
12 or community-based care to an individual in a noninstitutional community setting
13 under any of the following circumstances:

14 (a) Within 90 days after any determination made under s. 49.45 (6c) (c) 3. that
15 the level of care required by a resident that is provided by a facility could be provided
16 in an intermediate facility or under a plan under this subsection.

17 (b) Within 90 days after receiving written notice under sub. (2) of an
18 application.

19 (c) Within 90 days after a proposal is made under s. 55.06 (9) (a) to place the
20 individual in an intermediate facility or a nursing facility.

21 (d) Within 90 days after receiving written notice under s. 55.06 (10) (a) 2. of the
22 placement of the individual in a nursing facility or an intermediate facility.

23 (e) Within 60 days after extension of a temporary placement order by the court
24 under s. 55.06 (11) (c).

1 (5) EXCEPTIONS. Subsections (2) and (3) do not apply to an emergency placement
2 under s. 55.06 (11) (a) or to a temporary placement under s. 55.06 (11) (c) or (12).

3 SECTION ~~3~~ 49.45 (6c) (a) 6m. of the statutes is created to read:

4 49.45 (6c) (a) 6m. “Intermediate facility” has the meaning given in s. 46.279
5 (1) (a).

6 SECTION ~~4~~ 49.45 (6c) (b) of the statutes is amended to read:

7 49.45 (6c) (b) *Preadmission screening*. Except as provided in par. (e), ~~beginning~~
8 ~~on August 9, 1989~~, every individual who applies for admission to a facility or to an
9 institution for mental diseases shall be screened to determine if the individual has
10 developmental disability or mental illness. ~~Beginning on August 9, 1989, the~~ The
11 department or an entity to which the department has delegated authority shall
12 screen every individual who has been identified as having a developmental disability
13 or mental illness to determine if the individual needs facility care. If the individual
14 is determined to need facility care, the department or an entity to which the
15 department has delegated authority shall also assess the individual to determine if
16 he or she requires active treatment for developmental disability or active treatment
17 for mental illness. If the department or entity determines that the individual
18 requires active treatment for developmental disability, the department or entity
19 shall determine whether the level of care required by the individual that is provided
20 by a facility could be provided safely in an intermediate facility or under a plan that
21 is developed under s. 46.279 (4).

22 SECTION ~~5~~ 49.45 (6c) (c) (intro.) of the statutes is amended to read:

23 49.45 (6c) (c) *Resident review*. (intro.) Except as provided in par. (e), the
24 department or an entity to which the department has delegated authority shall
25 review every resident of a facility or institution for mental diseases who has a

1 developmental disability or mental illness and who has experienced a significant
2 change in his or her physical or mental condition to determine ~~if any~~ all of the
3 following applies:

4 ~~SECTION 6.~~ 49.45 (6c) (c) 1. of the statutes is amended to read:

5 49.45 (6c) (c) 1. ~~The~~ Whether the resident needs facility care.

6 ~~SECTION 7.~~ 49.45 (6c) (c) 2. of the statutes is amended to read:

7 49.45 (6c) (c) 2. ~~The~~ Whether the resident requires active treatment for
8 developmental disability or active treatment for mental illness.

9 ~~SECTION 8.~~ 49.45 (6c) (c) 3. of the statutes is created to read:

10 49.45 (6c) (c) 3. If the department or entity determines under subd. 1. that the
11 resident needs facility care and under subd. 2. that the resident requires active
12 treatment for developmental disability, whether the level of care required by the
13 resident that is provided by a facility could be provided safely in an intermediate
14 facility or under a plan that is developed under s. 46.279 (4).

15 ~~SECTION 9.~~ 49.45 (30m) of the statutes is renumbered 49.45 (30m) (a) (intro.)
16 and amended to read:

17 49.45 (30m) (a) (intro.) A county shall provide the portion of the payment that
18 is not provided by the federal government for all of the following services under s.
19 51.06 (1m) (d) to individuals with developmental disability who are eligible for
20 medical assistance ~~that is not provided by the federal government.~~

21 ~~SECTION 10.~~ 49.45 (30m) (a) 1. of the statutes is created to read:

22 49.45 (30m) (a) 1. Services under s. 51.06 (1m) (d).

23 ~~SECTION 11.~~ 49.45 (30m) (a) 2. of the statutes is created to read:

1 49.45 (30m) (a) 2. Services in an intermediate care facility for the mentally
2 retarded, as defined in s. 46.278 (1m) (am), other than a state center for the
3 developmentally disabled.

4 ~~SECTION 12.~~ 49.45 (30m) (a) 3. of the statutes is created to read:

5 49.45 (30m) (a) 3. Services for which payment is permitted under sub. (6c) (d)
6 2. that are provided in a nursing facility, as defined in s. 46.279 (1) (c).

7 ~~SECTION 13.~~ 49.45 (30m) (b) of the statutes is created to read:

8 49.45 (30m) (b) No payment under this section may be made for services
9 specified under par. (a) unless the individual who receives the services is protectively
10 placed under s. 55.06 (9) (a) or is placed under an emergency placement under s.
11 55.06 (11) (a) or a temporary placement under s. 55.06 (11) (c).

12 ~~SECTION 14.~~ 49.45 (30m) (c) of the statutes is created to read:

13 49.45 (30m) (c) No payment under this section may be made for services
14 specified under par. (a) 2. or 3. that are provided to an individual who was placed in
15 or admitted to an intermediate facility, as defined in s. 46.279 (1) (b), or nursing
16 facility, as defined in s. 46.279 (1) (c), unless one of the following applies:

17 1. Any placement or admission that is made after March 31, 2004, complied
18 with the requirements of s. 46.279.

19 2. For an individual who was protectively placed under ch. 55 at any time, any
20 annual review that is conducted under s. 55.06 (10) (a) 1. after March 31, 2004,
21 complies with the requirements of s. 55.06 (10) (a) 2.

22 ~~SECTION 15.~~ 49.46 (2) (a) 4. c. of the statutes is amended to read:

23 49.46 (2) (a) 4. c. Skilled nursing home services other than in an institution for
24 mental diseases, except as limited under s. 49.45 (6c) and (30m) (b) and (c).

25 ~~SECTION 16.~~ 49.46 (2) (b) 6. a. of the statutes is amended to read:

1 49.46 (2) (b) 6. a. Intermediate care facility services other than in an institution
2 for mental diseases, except as limited under s. 49.45 (30m) (b) and (c).

3 ~~SECTION 17.~~ 55.001 of the statutes is amended to read:

4 **55.001 Declaration of policy.** The legislature recognizes that many citizens
5 of the state, because of the infirmities of aging, chronic mental illness, mental
6 retardation, other developmental disabilities or like incapacities incurred at any age,
7 are in need of protective services. ~~These~~ Except as provided in s. 49.45 (30m) (a),
8 these services should, to the maximum degree of feasibility under programs, services
9 and resources that the county board of supervisors is reasonably able to provide
10 within the limits of available state and federal funds and of county funds required
11 to be appropriated to match state funds, allow the individual the same rights as other
12 citizens, and at the same time protect the individual from exploitation, abuse and
13 degrading treatment. This chapter is designed to establish those services and assure
14 their availability to all persons when in need of them, and to place the least possible
15 restriction on personal liberty and exercise of constitutional rights consistent with
16 due process and protection from abuse, exploitation and neglect.

17 ~~SECTION 18.~~ 55.01 (4g) of the statutes is created to read:

18 55.01 (4g) “Intermediate facility” has the meaning given in s. 46.279 (1) (a).

19 ~~SECTION 19.~~ 55.01 (4t) of the statutes is created to read:

20 55.01 (4t) “Nursing facility” has the meaning given in s. 46.279 (1) (b).

21 ~~SECTION 20.~~ 55.045 of the statutes is amended to read:

22 **55.045 Funding.** ~~The~~ Except as provided in s. 49.45 (30m) (a), the appropriate
23 county department designated under s. 55.02 shall within the limits of available
24 state and federal funds and of county funds required to be appropriated to match
25 state funds, provide for the reasonable program needs of persons who are

1 protectively placed or who receive protective services under this chapter, including
2 reasonable expenses for the evaluations required by s. 55.06 (8). Payment and
3 collections for protective placement or protective services provided in public facilities
4 specified in s. 46.10 shall be governed in accordance with s. 46.10. The department
5 may require that a person who is protectively placed or receives protective services
6 under this chapter provide reimbursement for services or care and custody received,
7 based on the ability of the person to pay for such costs.

8 ~~SECTION 21.~~ 55.06 (5) of the statutes is amended to read:

9 55.06 (5) Notice of a petition for placement shall be served upon the person
10 sought to be placed, by personal service, at least 10 days prior to the time set for a
11 hearing. Upon service of the notice, the person sought to be protected shall be
12 informed of the complete contents of the notice. The person serving the notice shall
13 return a certificate to the circuit judge verifying that the petition has been delivered
14 and notice given. The notice shall include the names of all petitioners. Notice shall
15 also be served personally or by mail upon the person's guardian ad litem, legal
16 counsel, guardian, if any, presumptive adult heirs, and upon other persons who have
17 physical custody of the person to be protected whose names and addresses are known
18 to the petitioner or can with reasonable diligence be ascertained, to any
19 governmental or private body or group from whom the person to be protected is
20 known to be receiving aid, and to such other persons or entities as the court may
21 require. Notice shall also be served personally or by mail upon the department at
22 least 10 days prior to the time set for hearing if the person sought to be protected may
23 be placed in a center for the developmentally disabled. ~~The department shall be~~
24 ~~allowed to submit oral or written testimony regarding such a placement at the~~
25 ~~hearing.~~ Notice shall also be served personally or by mail, at least 10 days before the

1 time set for hearing, upon the county department that is participating in the
2 program under s. 46.278 of the county of residence of the person sought to be
3 protected, if the person has a developmental disability and may be placed in an
4 intermediate facility or a nursing facility. The incompetent or proposed incompetent
5 is presumed able to attend the hearing unless, after a personal interview, the
6 guardian ad litem certifies to the court that the person is unable to attend.

7 ~~SECTION 22.~~ 55.06 (8) (intro.) of the statutes is amended to read:

8 55.06 (8) (intro.) Before ordering the protective placement of any individual,
9 the court shall direct a comprehensive evaluation of the person in need of placement,
10 if such an evaluation has not already been made. The court may utilize available
11 multidisciplinary resources in the community in determining the need for
12 placement. The board designated under s. 55.02 or an agency designated by it shall
13 cooperate with the court in securing available resources. Where applicable by reason
14 of the particular disability, the appropriate board designated under s. 55.02 or an
15 agency designated by it having responsibility for the place of legal residence of the
16 individual as provided in s. 49.001 (6) shall make a recommendation for placement.
17 If the court is considering placement of the individual in a center for the
18 developmentally disabled, the court shall request a statement or testimony from the
19 department regarding whether the placement is appropriate for the person's needs
20 and whether it is consistent with the purpose of the center under s. 51.06 (1) ~~unless~~
21 ~~testimony was provided by the department under sub. (5).~~ If the individual has a
22 developmental disability and the court is considering placement of the individual in
23 an intermediate facility or a nursing facility, the court shall request a statement or
24 testimony from the county department of the individual's county of residence that is
25 participating in the program under s. 46.278 as to whether the individual's needs

1 could be met in a noninstitutional setting. A copy of the comprehensive evaluation
2 shall be provided to the guardian, the guardian ad litem, and to the individual or
3 attorney at least 96 hours in advance of the hearing to determine placement. The
4 court or the cooperating agency obtaining the evaluation shall request appropriate
5 information which shall include at least the following:

6 SECTION ~~23~~ 55.06 (9) (a) of the statutes is amended to read:

7 55.06 (9) (a) The court may order protective services under s. 55.05 (2) (d) as
8 an alternative to placement. When ordering placement, the court, on the basis of the
9 evaluation and other relevant evidence, shall order the appropriate board specified
10 under s. 55.02 or an agency designated by it to protectively place the individual.
11 Placement by the appropriate board or designated agency is subject to s. 46.279 and
12 shall be made in the least restrictive environment consistent with the needs of the
13 person to be placed and with the placement resources of the appropriate board
14 specified under s. 55.02. Factors to be considered in making protective placement
15 shall include the needs of the person to be protected for health, social, or
16 rehabilitative services; the level of supervision needed; the reasonableness of the
17 placement given the cost and the actual benefits in the level of functioning to be
18 realized by the individual; the limits of available state and federal funds and of
19 county funds required to be appropriated to match state funds; and the
20 reasonableness of the placement given the number or projected number of
21 individuals who will need protective placement and given the limited funds
22 available. The Except as provided in s. 49.45 (30m), the county may not be required
23 to provide funding, in addition to its funds that are required to be appropriated to
24 match state funds, in order to protectively place an individual. Placement under this
25 section does not replace commitment of a person in need of acute psychiatric

1 treatment under s. 51.20 or 51.45 (13). Placement Subject to s. 46.279, placement
2 may be made to such facilities as nursing homes, public medical institutions, centers
3 for the developmentally disabled under the requirements of s. 51.06 (3), foster care
4 services and other home placements, or to other appropriate facilities but may not
5 be made to units for the acutely mentally ill. If the appropriate board or designated
6 agency proposes to place an individual who has a developmental disability in an
7 intermediate facility or a nursing facility under an order under this paragraph, the
8 county department shall develop a plan under s. 46.279 (4) and furnish the plan to
9 the board or agency and to the individual's guardian. The board or agency shall place
10 the individual in a noninstitutional community setting in accord with the plan unless
11 the court finds that to do so is not in the individual's best interests. If the individual
12 or the individual's guardian rejects the plan, the court shall take the rejection into
13 consideration in determining whether or not the placement is in the individual's best
14 interests. The prohibition of placements in units for the acutely mentally ill does not
15 prevent placement by a court for short-term diagnostic procedures under par. (d).
16 Placement in a locked unit shall require a specific finding of the court as to the need
17 for such action. A placement facility may transfer a patient from a locked unit to a
18 less restrictive environment without court approval.

19 SECTION ~~24~~ 55.06 (9) (b) of the statutes is amended to read:

20 55.06 (9) (b) Transfer may be made between placement units or from a
21 placement unit to a medical facility other than those specified in pars. (c) to (e) by a
22 guardian or placement facility without approval by a court. When transfer is made
23 by a placement facility, 24 hours' prior written notice of the transfer shall be provided
24 to the guardian, when feasible. If it is not feasible to notify the guardian in advance,
25 written notice shall be provided immediately upon transfer, and notice shall also be

1 provided to the court and to the board designated under s. 55.02 or an agency
2 designated by it within a reasonable time, not to exceed 48 hours from the time of the
3 transfer. Upon petition to a court by a guardian, ward, or attorney, or other
4 interested person specifying objections to a transfer, or if the person is transferred
5 to an intermediate facility or to a nursing facility, the court shall order a hearing,
6 within 96 hours after filing of the petition or, if the person is transferred to an
7 intermediate facility or to a nursing facility, within 96 hours after the transfer, to
8 determine whether there is probable cause to believe that the transfer is consistent
9 with the requirements specified in par. (a) and is necessary for the best interests of
10 the ward. The court shall notify the ward, guardian, and petitioner of the time and
11 place of the hearing, and a guardian ad litem shall be appointed to represent the
12 ward. If the person is an adult who is indigent, the county of legal settlement shall
13 be liable for guardian ad litem fees. If the person is a child, the person's parents or
14 the county of legal settlement shall be liable for guardian ad litem fees as provided
15 in s. 48.235 (8). The petitioner, ward, and guardian shall have the right to attend,
16 and to present and cross-examine witnesses.

17 SECTION ~~25~~[#] 55.06 (9) (c) of the statutes is amended to read:

18 55.06 (9) (c) ~~Transfer~~ Subject to s. 46.279, transfer to a more restrictive
19 placement, including a locked unit, may be made with notice to the guardian, the
20 court and appropriate board designated under s. 55.02 or an agency designated by
21 it in the manner prescribed in par. (b). Upon petition by a guardian, ward or attorney,
22 or other interested person specifying objections to the transfer or if the person has
23 a developmental disability and is transferred to an intermediate facility or a nursing
24 facility, the court shall order a hearing as provided in par. (b).

25 SECTION ~~26~~[#] 55.06 (10) (a) of the statutes is renumbered 55.06 (10) (a) 1.

1 ~~SECTION 27.~~ 55.06 (10) (a) 2. of the statutes is created to read:

2 55.06 (10) (a) 2. If the person has a developmental disability and is placed in
3 an intermediate facility or a nursing facility, the agency that is responsible for the
4 protective placement shall notify in writing the county department of the county of
5 residence of the person that is participating in the program under s. 46.278, at least
6 90 days before the review. The county department so notified shall develop a plan
7 under s. 46.279 (4) and furnish the plan to the court that ordered the placement and
8 to the person's guardian. The court shall order that the person be transferred to the
9 noninstitutional community setting in accordance with the plan unless the court
10 finds that to do so is not in the person's best interests. If the person or the person's
11 guardian rejects the transfer, the court shall take the rejection into consideration in
12 determining whether or not the transfer is in the person's best interests.

13 ~~SECTION 28.~~ 55.06 (11) (c) of the statutes is amended to read:

14 55.06 (11) (c) Upon a finding of probable cause under par. (b), the court may
15 order temporary placement up to 30 days pending the hearing for a permanent
16 placement, or the court may order such protective services as may be required. If an
17 individual who has a developmental disability is ordered, under this paragraph, to
18 be temporarily placed in an intermediate facility or in a nursing facility, and if at the
19 hearing for permanent placement the court orders that the individual be protectively
20 placed, the court may, before permanent placement, extend the temporary placement
21 order for not more than 60 days if necessary for the county department that is
22 participating in the program under s. 46.278 to develop the plan required under s.
23 46.279 (4).

24 **SECTION 9324. Initial applicability; health and family services.**

1 (1) **PREADMISSION SCREENING AND RESIDENT REVIEW.** The treatment of section
2 49.45 (6c) (b) and (c) (intro.), 1., 2., and 3. of the statutes first applies to a screening
3 or resident review performed on April 1, 2004.

4 (2) **PETITIONS FOR PROTECTIVE PLACEMENT.** The treatment of section 55.06 (5), (8)
5 (intro.), and (9) (a) of the statutes first applies to petitions for protective placement
6 filed on April 1, 2004.

7 (3) **TRANSFERS OF PROTECTIVELY PLACED PERSONS.** The treatment of section 55.06
8 (9) (b) and (c) of the statutes first applies to transfers of protectively placed
9 individuals that are made on April 1, 2004.

10 (4) **ANNUAL REVIEWS OF PROTECTIVELY PLACED INDIVIDUALS.** The renumbering of
11 section 55.06 (10) (a) of the statutes and the creation of section 55.06 (10) (a) 2. of the
12 statutes first apply to reviews that are due on April 1, 2004.

13 (5) **TEMPORARY PROTECTIVE PLACEMENTS.** The treatment of section 55.06 (11) (c)
14 of the statutes first applies to temporary protective placements that occur on April
15 1, 2004.

16 (6) **REQUIRED COUNTY FUNDING OF SERVICES.** The creation of section 49.45 (30m)
17 (a) 2. and (c) of the statutes first applies to services provided to an individual who is
18 initially placed in a facility under a petition for protective placement that is filed on,
19 a transfer under section 55.06 (9) of the statutes that is made on, or a temporary
20 protective placement under section 55.06 (11) (c) of the statutes that occurs on, April
21 1, 2004, or to a person who is initially placed in a facility before April 1, 2004, with
22 respect to whom a review under section 55.06 (10) of the statutes is due on April 1,
23 2004.

1 (7) LIMITATION ON PAYMENT. The creation of section 49.45 (30m) (b) of the statutes
2 first applies with respect to services under section 49.45 (30m) (a) 1. and 3. of the
3 statutes that are provided to an individual on April 1, 2004.

4 **SECTION 9424. Effective dates; health and family services.**

5 (1) PLACEMENTS AND ADMISSIONS TO INTERMEDIATE AND NURSING FACILITIES. The
6 treatment of sections ~~46.278 (6) (a)~~ 46.279, 49.45 (6c) (a) 6m., (b), and (c) (intro.), 1.,
7 2., and 3., 49.46 (2) (a) 4. c. and (b) 6. a., 55.001, 55.01 (4g) and (4t), 55.045, and 55.06
8 (5), (8) (intro.), (9) (a), (b), and (c), and (11) (c) of the statutes, the renumbering of
9 section 55.06 (10) (a) of the statutes, the renumbering and amendment of section
10 49.45 (30m) of the statutes, and the creation of sections 49.45 (30m) (a) 1., 2., and 3.,
11 (b), and (c) and 55.06 (10) (a) 2. of the statutes take effect on January 1, 2004.

12 (END)

D - NOTE

D-NOTE

To Robert Blaine:

This draft reconciles LRB-0208/2
and LRB-0209/1. Both } should continue to
appear in the compiled bill.

DAK

It eliminates the treatment
of 3.46.278(6)(f).

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

LRB-0209/2dn
DAK:kjf/cjs/cmh:pg

February 6, 2003

To Robert Blaine:

This draft reconciles LRB-0208/2 and LRB-0209/1. It eliminates the treatment of s. 46.278 (6) (f). Both LRB-0208 and LRB-0209 should continue to appear in the compiled bill.

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State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0209/2
DAK:kjf/cjs/cmh:pg

DOA:.....Blaine – BB0048 Restrict admissions to ICF-MRs and nursing homes; increase access to community-based services

FOR 2003-05 BUDGET — NOT READY FOR INTRODUCTION

- 1 AN ACT ...; relating to: restricting protective placements and admissions to
- 2 intermediate and nursing facilities.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MENTAL ILLNESS AND DEVELOPMENTAL DISABILITIES

Under current law, persons who apply for admission to nursing homes, state centers for the developmentally disabled, or institutions for mental diseases, including persons who are found by a court to be in need of protective services and are protectively placed, must be screened to determine if they have developmental disability or mental illness. If so determined, they must also be screened to determine if they need facility care and active treatment for developmental disability or mental illness. Residents of these facilities who have developmental disability or mental illness and have had significant changes in their physical or mental conditions must also be screened to determine if they need facility care or active treatment. Persons who are not in need of facility care must be relocated for other care and reimbursement, depending on the severity of their disabilities and their financial resources.

Currently, counties must provide the portion of the Medical Assistance (MA) program payment that is not provided by the federal government for services to individuals in state centers for the developmentally disabled who are also mentally

ill and exhibit extremely aggressive and challenging behaviors. Under one of the community integration programs, persons with developmental disabilities who are eligible for MA and who formerly resided in, or were diverted from, state centers for the developmentally disabled or other institutions, are provided services in community settings that are reimbursed by state and federal funds, or by county and federal funds, under MA. Under this program, a county that owns the institution from which a person is relocated into the community must receive approval from DHFS of a plan for delicensing a bed of the institution, in order for the county to obtain reimbursement for the person's community care.

This bill, beginning January 1, 2004, places restrictions on protective placements and admissions of persons with developmental disabilities to intermediate facilities and nursing facilities, as defined in the bill. Within 90 days after receiving written notice of the prospective placement or admission of a person with developmental disabilities in an intermediate facility, a county department of social services, human services, developmental disabilities services, or community programs must develop a plan for providing home or community-based care to the person in a noninstitutional setting. The person may not be placed in or admitted to the intermediate facility unless a board of social services, human services, community programs, or developmental disabilities services finds that placement in the community under such a plan is not in the person's best interests, or the person or his or her guardian rejects the plan. Also, a person who has been screened and found to require active treatment for developmental disability may not be placed in or admitted to a nursing facility unless it is determined that his or her need for care cannot be met in an intermediate facility or under a plan for home or community care. These restrictions first apply on April 1, 2004.

The bill changes the screening process for residents of state centers for the developmentally disabled who have been determined to need facility care and active treatment for developmental disability, to require that they be further screened to determine whether the level of care that they require that is provided by the facility could be provided safely in an intermediate facility or under a plan for home or community care.

Beginning January 1, 2004, the bill prohibits payment of the federal portion of MA for services for an individual in a state center for the developmentally disabled who is also mentally ill and exhibits extremely aggressive and challenging behaviors, unless the person receiving the services has been protectively placed in the state center or is placed there for emergency purposes or as a temporary placement. The bill requires that counties pay the portion of MA payment that is not provided by the federal government for services to persons with developmental disabilities in an intermediate care facility for the mentally retarded and, if they have been determined to need facility care, for services in a nursing facility; however, no payment of the federal portion of MA for services to these persons may be made unless the person was placed in or admitted to the facility after the placing board considered a plan for home or community care and rejected the plan or found it would not meet the person's needs. The requirements and limitations first apply to services provided and payment made on April 1, 2004.

The bill changes laws relating to protective placement of persons who are found incompetent, to require that the court notify the appropriate county department to develop a plan for home or community care, for a person about to be protectively placed, and that the person be placed in a noninstitutional community setting under the plan unless there is an affirmative finding by the court that placement for home or community care would not be in the person's best interests.

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. 46.279 of the statutes is created to read:

2 **46.279 Restrictions on placements and admissions to intermediate**
3 **and nursing facilities. (1) DEFINITIONS.** In this section:

4 (a) "Developmental disability" has the meaning given in s. 51.01 (5) (a).

5 (b) "Intermediate facility" means an intermediate care facility for the mentally
6 retarded, as defined in 42 USC 1396d (d), other than a center for the developmentally
7 disabled, as defined in s. 51.01 (3).

8 (c) "Nursing facility" has the meaning given under 42 USC 1369r (a).

9 **(2) PLACEMENTS AND ADMISSIONS TO INTERMEDIATE FACILITIES.** Except as provided
10 in sub. (5), no person may place an individual with a developmental disability in an
11 intermediate facility and no intermediate facility may admit such an individual
12 unless, before the placement or admission, a court under s. 55.06 (9) (a) or (10) (a)
13 2. finds that placement under a plan that was developed under sub. (4) is not in the
14 individual's best interests. An intermediate facility to which an individual who has
15 a developmental disability applies for admission shall, within 5 days after receiving
16 the application, notify the county department that is participating in the program
17 under s. 46.278 of the county of residence of the individual who is seeking admission
18 concerning the application.

1 **(3) PLACEMENTS AND ADMISSIONS TO NURSING FACILITIES.** Except as provided in
2 sub. (5), if the department or an entity determines from a screening under s. 49.45
3 (6c) (b) that an individual requires active treatment for developmental disability, no
4 individual may be placed in a nursing facility, and no nursing facility may admit the
5 individual, unless it is determined from the screening that the individual's need for
6 care cannot fully be met in an intermediate facility or under a plan under sub. (4).

7 **(4) PLAN FOR HOME OR COMMUNITY-BASED CARE.** A county department that
8 participates in the program under s. 46.278 shall develop a plan for providing home
9 or community-based care to an individual in a noninstitutional community setting
10 under any of the following circumstances:

11 (a) Within 90 days after any determination made under s. 49.45 (6c) (c) 3. that
12 the level of care required by a resident that is provided by a facility could be provided
13 in an intermediate facility or under a plan under this subsection.

14 (b) Within 90 days after receiving written notice under sub. (2) of an
15 application.

16 (c) Within 90 days after a proposal is made under s. 55.06 (9) (a) to place the
17 individual in an intermediate facility or a nursing facility.

18 (d) Within 90 days after receiving written notice under s. 55.06 (10) (a) 2. of the
19 placement of the individual in a nursing facility or an intermediate facility.

20 (e) Within 60 days after extension of a temporary placement order by the court
21 under s. 55.06 (11) (c).

22 **(5) EXCEPTIONS.** Subsections (2) and (3) do not apply to an emergency placement
23 under s. 55.06 (11) (a) or to a temporary placement under s. 55.06 (11) (c) or (12).

24 **SECTION 2.** 49.45 (6c) (a) 6m. of the statutes is created to read:

1 49.45 (6c) (a) 6m. “Intermediate facility” has the meaning given in s. 46.279
2 (1) (a).

3 **SECTION 3.** 49.45 (6c) (b) of the statutes is amended to read:

4 49.45 (6c) (b) *Preadmission screening.* Except as provided in par. (e), beginning
5 ~~on August 9, 1989~~, every individual who applies for admission to a facility or to an
6 institution for mental diseases shall be screened to determine if the individual has
7 developmental disability or mental illness. ~~Beginning on August 9, 1989, the~~ The
8 department or an entity to which the department has delegated authority shall
9 screen every individual who has been identified as having a developmental disability
10 or mental illness to determine if the individual needs facility care. If the individual
11 is determined to need facility care, the department or an entity to which the
12 department has delegated authority shall also assess the individual to determine if
13 he or she requires active treatment for developmental disability or active treatment
14 for mental illness. If the department or entity determines that the individual
15 requires active treatment for developmental disability, the department or entity
16 shall determine whether the level of care required by the individual that is provided
17 by a facility could be provided safely in an intermediate facility or under a plan that
18 is developed under s. 46.279 (4).

19 **SECTION 4.** 49.45 (6c) (c) (intro.) of the statutes is amended to read:

20 49.45 (6c) (c) *Resident review.* (intro.) Except as provided in par. (e), the
21 department or an entity to which the department has delegated authority shall
22 review every resident of a facility or institution for mental diseases who has a
23 developmental disability or mental illness and who has experienced a significant
24 change in his or her physical or mental condition to determine ~~if any~~ all of the
25 following applies:

1 **SECTION 5.** 49.45 (6c) (c) 1. of the statutes is amended to read:

2 49.45 (6c) (c) 1. ~~The~~ Whether the resident needs facility care.

3 **SECTION 6.** 49.45 (6c) (c) 2. of the statutes is amended to read:

4 49.45 (6c) (c) 2. ~~The~~ Whether the resident requires active treatment for
5 developmental disability or active treatment for mental illness.

6 **SECTION 7.** 49.45 (6c) (c) 3. of the statutes is created to read:

7 49.45 (6c) (c) 3. If the department or entity determines under subd. 1. that the
8 resident needs facility care and under subd. 2. that the resident requires active
9 treatment for developmental disability, whether the level of care required by the
10 resident that is provided by a facility could be provided safely in an intermediate
11 facility or under a plan that is developed under s. 46.279 (4).

12 **SECTION 8.** 49.45 (30m) of the statutes is renumbered 49.45 (30m) (a) (intro.)
13 and amended to read:

14 49.45 (30m) (a) (intro.) A county shall provide the portion of the payment that
15 is not provided by the federal government for all of the following services under s.
16 51.06 (1m) (d) to individuals with developmental disability who are eligible for
17 medical assistance ~~that is not provided by the federal government.:~~

18 **SECTION 9.** 49.45 (30m) (a) 1. of the statutes is created to read:

19 49.45 (30m) (a) 1. Services under s. 51.06 (1m) (d).

20 **SECTION 10.** 49.45 (30m) (a) 2. of the statutes is created to read:

21 49.45 (30m) (a) 2. Services in an intermediate care facility for the mentally
22 retarded, as defined in s. 46.278 (1m) (am), other than a state center for the
23 developmentally disabled.

24 **SECTION 11.** 49.45 (30m) (a) 3. of the statutes is created to read:

1 49.45 (30m) (a) 3. Services for which payment is permitted under sub. (6c) (d)
2 2. that are provided in a nursing facility, as defined in s. 46.279 (1) (c).

3 **SECTION 12.** 49.45 (30m) (b) of the statutes is created to read:

4 49.45 (30m) (b) No payment under this section may be made for services
5 specified under par. (a) unless the individual who receives the services is protectively
6 placed under s. 55.06 (9) (a) or is placed under an emergency placement under s.
7 55.06 (11) (a) or a temporary placement under s. 55.06 (11) (c).

8 **SECTION 13.** 49.45 (30m) (c) of the statutes is created to read:

9 49.45 (30m) (c) No payment under this section may be made for services
10 specified under par. (a) 2. or 3. that are provided to an individual who was placed in
11 or admitted to an intermediate facility, as defined in s. 46.279 (1) (b), or nursing
12 facility, as defined in s. 46.279 (1) (c), unless one of the following applies:

13 1. Any placement or admission that is made after March 31, 2004, complied
14 with the requirements of s. 46.279.

15 2. For an individual who was protectively placed under ch. 55 at any time, any
16 annual review that is conducted under s. 55.06 (10) (a) 1. after March 31, 2004,
17 complies with the requirements of s. 55.06 (10) (a) 2.

18 **SECTION 14.** 49.46 (2) (a) 4. c. of the statutes is amended to read:

19 49.46 (2) (a) 4. c. Skilled nursing home services other than in an institution for
20 mental diseases, except as limited under s. 49.45 (6c) and (30m) (b) and (c).

21 **SECTION 15.** 49.46 (2) (b) 6. a. of the statutes is amended to read:

22 49.46 (2) (b) 6. a. Intermediate care facility services other than in an institution
23 for mental diseases, except as limited under s. 49.45 (30m) (b) and (c).

24 **SECTION 16.** 55.001 of the statutes is amended to read:

1 **55.001 Declaration of policy.** The legislature recognizes that many citizens
2 of the state, because of the infirmities of aging, chronic mental illness, mental
3 retardation, other developmental disabilities or like incapacities incurred at any age,
4 are in need of protective services. ~~These~~ Except as provided in s. 49.45 (30m) (a),
5 these services should, to the maximum degree of feasibility under programs, services
6 and resources that the county board of supervisors is reasonably able to provide
7 within the limits of available state and federal funds and of county funds required
8 to be appropriated to match state funds, allow the individual the same rights as other
9 citizens, and at the same time protect the individual from exploitation, abuse and
10 degrading treatment. This chapter is designed to establish those services and assure
11 their availability to all persons when in need of them, and to place the least possible
12 restriction on personal liberty and exercise of constitutional rights consistent with
13 due process and protection from abuse, exploitation and neglect.

14 **SECTION 17.** 55.01 (4g) of the statutes is created to read:

15 55.01 (4g) “Intermediate facility” has the meaning given in s. 46.279 (1) (a).

16 **SECTION 18.** 55.01 (4t) of the statutes is created to read:

17 55.01 (4t) “Nursing facility” has the meaning given in s. 46.279 (1) (b).

18 **SECTION 19.** 55.045 of the statutes is amended to read:

19 **55.045 Funding.** ~~The~~ Except as provided in s. 49.45 (30m) (a), the appropriate
20 county department designated under s. 55.02 shall within the limits of available
21 state and federal funds and of county funds required to be appropriated to match
22 state funds, provide for the reasonable program needs of persons who are
23 protectively placed or who receive protective services under this chapter, including
24 reasonable expenses for the evaluations required by s. 55.06 (8). Payment and
25 collections for protective placement or protective services provided in public facilities

1 specified in s. 46.10 shall be governed in accordance with s. 46.10. The department
2 may require that a person who is protectively placed or receives protective services
3 under this chapter provide reimbursement for services or care and custody received,
4 based on the ability of the person to pay for such costs.

5 **SECTION 20.** 55.06 (5) of the statutes is amended to read:

6 55.06 (5) Notice of a petition for placement shall be served upon the person
7 sought to be placed, by personal service, at least 10 days prior to the time set for a
8 hearing. Upon service of the notice, the person sought to be protected shall be
9 informed of the complete contents of the notice. The person serving the notice shall
10 return a certificate to the circuit judge verifying that the petition has been delivered
11 and notice given. The notice shall include the names of all petitioners. Notice shall
12 also be served personally or by mail upon the person's guardian ad litem, legal
13 counsel, guardian, if any, presumptive adult heirs, and upon other persons who have
14 physical custody of the person to be protected whose names and addresses are known
15 to the petitioner or can with reasonable diligence be ascertained, to any
16 governmental or private body or group from whom the person to be protected is
17 known to be receiving aid, and to such other persons or entities as the court may
18 require. Notice shall also be served personally or by mail upon the department at
19 least 10 days prior to the time set for hearing if the person sought to be protected may
20 be placed in a center for the developmentally disabled. ~~The department shall be~~
21 ~~allowed to submit oral or written testimony regarding such a placement at the~~
22 hearing. Notice shall also be served personally or by mail, at least 10 days before the
23 time set for hearing, upon the county department that is participating in the
24 program under s. 46.278 of the county of residence of the person sought to be
25 protected, if the person has a developmental disability and may be placed in an

1 intermediate facility or a nursing facility. The incompetent or proposed incompetent
2 is presumed able to attend the hearing unless, after a personal interview, the
3 guardian ad litem certifies to the court that the person is unable to attend.

4 **SECTION 21.** 55.06 (8) (intro.) of the statutes is amended to read:

5 55.06 (8) (intro.) Before ordering the protective placement of any individual,
6 the court shall direct a comprehensive evaluation of the person in need of placement,
7 if such an evaluation has not already been made. The court may utilize available
8 multidisciplinary resources in the community in determining the need for
9 placement. The board designated under s. 55.02 or an agency designated by it shall
10 cooperate with the court in securing available resources. Where applicable by reason
11 of the particular disability, the appropriate board designated under s. 55.02 or an
12 agency designated by it having responsibility for the place of legal residence of the
13 individual as provided in s. 49.001 (6) shall make a recommendation for placement.
14 If the court is considering placement of the individual in a center for the
15 developmentally disabled, the court shall request a statement or testimony from the
16 department regarding whether the placement is appropriate for the person's needs
17 and whether it is consistent with the purpose of the center under s. 51.06 (1) ~~unless~~
18 ~~testimony was provided by the department under sub. (5).~~ If the individual has a
19 developmental disability and the court is considering placement of the individual in
20 an intermediate facility or a nursing facility, the court shall request a statement or
21 testimony from the county department of the individual's county of residence that is
22 participating in the program under s. 46.278 as to whether the individual's needs
23 could be met in a noninstitutional setting. A copy of the comprehensive evaluation
24 shall be provided to the guardian, the guardian ad litem, and to the individual or
25 attorney at least 96 hours in advance of the hearing to determine placement. The

1 court or the cooperating agency obtaining the evaluation shall request appropriate
2 information which shall include at least the following:

3 **SECTION 22.** 55.06 (9) (a) of the statutes is amended to read:

4 55.06 (9) (a) The court may order protective services under s. 55.05 (2) (d) as
5 an alternative to placement. When ordering placement, the court, on the basis of the
6 evaluation and other relevant evidence, shall order the appropriate board specified
7 under s. 55.02 or an agency designated by it to protectively place the individual.
8 Placement by the appropriate board or designated agency is subject to s. 46.279 and
9 shall be made in the least restrictive environment consistent with the needs of the
10 person to be placed and with the placement resources of the appropriate board
11 specified under s. 55.02. Factors to be considered in making protective placement
12 shall include the needs of the person to be protected for health, social, or
13 rehabilitative services; the level of supervision needed; the reasonableness of the
14 placement given the cost and the actual benefits in the level of functioning to be
15 realized by the individual; the limits of available state and federal funds and of
16 county funds required to be appropriated to match state funds; and the
17 reasonableness of the placement given the number or projected number of
18 individuals who will need protective placement and given the limited funds
19 available. The Except as provided in s. 49.45 (30m), the county may not be required
20 to provide funding, in addition to its funds that are required to be appropriated to
21 match state funds, in order to protectively place an individual. Placement under this
22 section does not replace commitment of a person in need of acute psychiatric
23 treatment under s. 51.20 or 51.45 (13). Placement Subject to s. 46.279, placement
24 may be made to such facilities as nursing homes, public medical institutions, centers
25 for the developmentally disabled under the requirements of s. 51.06 (3), foster care

1 services and other home placements, or to other appropriate facilities but may not
2 be made to units for the acutely mentally ill. If the appropriate board or designated
3 agency proposes to place an individual who has a developmental disability in an
4 intermediate facility or a nursing facility under an order under this paragraph, the
5 county department shall develop a plan under s. 46.279 (4) and furnish the plan to
6 the board or agency and to the individual's guardian. The board or agency shall place
7 the individual in a noninstitutional community setting in accord with the plan unless
8 the court finds that to do so is not in the individual's best interests. If the individual
9 or the individual's guardian rejects the plan, the court shall take the rejection into
10 consideration in determining whether or not the placement is in the individual's best
11 interests. The prohibition of placements in units for the acutely mentally ill does not
12 prevent placement by a court for short-term diagnostic procedures under par. (d).
13 Placement in a locked unit shall require a specific finding of the court as to the need
14 for such action. A placement facility may transfer a patient from a locked unit to a
15 less restrictive environment without court approval.

16 **SECTION 23.** 55.06 (9) (b) of the statutes is amended to read:

17 55.06 (9) (b) Transfer may be made between placement units or from a
18 placement unit to a medical facility other than those specified in pars. (c) to (e) by a
19 guardian or placement facility without approval by a court. When transfer is made
20 by a placement facility, 24 hours' prior written notice of the transfer shall be provided
21 to the guardian, when feasible. If it is not feasible to notify the guardian in advance,
22 written notice shall be provided immediately upon transfer, and notice shall also be
23 provided to the court and to the board designated under s. 55.02 or an agency
24 designated by it within a reasonable time, not to exceed 48 hours from the time of the
25 transfer. Upon petition to a court by a guardian, ward, or attorney, or other

1 interested person specifying objections to a transfer, or if the person is transferred
2 to an intermediate facility or to a nursing facility, the court shall order a hearing,
3 within 96 hours after filing of the petition or, if the person is transferred to an
4 intermediate facility or to a nursing facility, within 96 hours after the transfer, to
5 determine whether there is probable cause to believe that the transfer is consistent
6 with the requirements specified in par. (a) and is necessary for the best interests of
7 the ward. The court shall notify the ward, guardian, and petitioner of the time and
8 place of the hearing, and a guardian ad litem shall be appointed to represent the
9 ward. If the person is an adult who is indigent, the county of legal settlement shall
10 be liable for guardian ad litem fees. If the person is a child, the person's parents or
11 the county of legal settlement shall be liable for guardian ad litem fees as provided
12 in s. 48.235 (8). The petitioner, ward, and guardian shall have the right to attend,
13 and to present and cross-examine witnesses.

14 **SECTION 24.** 55.06 (9) (c) of the statutes is amended to read:

15 55.06 (9) (c) ~~Transfer~~ Subject to s. 46.279, transfer to a more restrictive
16 placement, including a locked unit, may be made with notice to the guardian, the
17 court and appropriate board designated under s. 55.02 or an agency designated by
18 it in the manner prescribed in par. (b). Upon petition by a guardian, ward or attorney,
19 or other interested person specifying objections to the transfer or if the person has
20 a developmental disability and is transferred to an intermediate facility or a nursing
21 facility, the court shall order a hearing as provided in par. (b).

22 **SECTION 25.** 55.06 (10) (a) of the statutes is renumbered 55.06 (10) (a) 1.

23 **SECTION 26.** 55.06 (10) (a) 2. of the statutes is created to read:

24 55.06 (10) (a) 2. If the person has a developmental disability and is placed in
25 an intermediate facility or a nursing facility, the agency that is responsible for the

1 protective placement shall notify in writing the county department of the county of
2 residence of the person that is participating in the program under s. 46.278, at least
3 90 days before the review. The county department so notified shall develop a plan
4 under s. 46.279 (4) and furnish the plan to the court that ordered the placement and
5 to the person's guardian. The court shall order that the person be transferred to the
6 noninstitutional community setting in accordance with the plan unless the court
7 finds that to do so is not in the person's best interests. If the person or the person's
8 guardian rejects the transfer, the court shall take the rejection into consideration in
9 determining whether or not the transfer is in the person's best interests.

10 **SECTION 27.** 55.06 (11) (c) of the statutes is amended to read:

11 55.06 (11) (c) Upon a finding of probable cause under par. (b), the court may
12 order temporary placement up to 30 days pending the hearing for a permanent
13 placement, or the court may order such protective services as may be required. If an
14 individual who has a developmental disability is ordered, under this paragraph, to
15 be temporarily placed in an intermediate facility or in a nursing facility, and if at the
16 hearing for permanent placement the court orders that the individual be protectively
17 placed, the court may, before permanent placement, extend the temporary placement
18 order for not more than 60 days if necessary for the county department that is
19 participating in the program under s. 46.278 to develop the plan required under s.
20 46.279 (4).

21 **SECTION 9324. Initial applicability; health and family services.**

22 (1) PREADMISSION SCREENING AND RESIDENT REVIEW. The treatment of section
23 49.45 (6c) (b) and (c) (intro.), 1., 2., and 3. of the statutes first applies to a screening
24 or resident review performed on April 1, 2004.

1 (2) PETITIONS FOR PROTECTIVE PLACEMENT. The treatment of section 55.06 (5), (8)
2 (intro.), and (9) (a) of the statutes first applies to petitions for protective placement
3 filed on April 1, 2004.

4 (3) TRANSFERS OF PROTECTIVELY PLACED PERSONS. The treatment of section 55.06
5 (9) (b) and (c) of the statutes first applies to transfers of protectively placed
6 individuals that are made on April 1, 2004.

7 (4) ANNUAL REVIEWS OF PROTECTIVELY PLACED INDIVIDUALS. The renumbering of
8 section 55.06 (10) (a) of the statutes and the creation of section 55.06 (10) (a) 2. of the
9 statutes first apply to reviews that are due on April 1, 2004.

10 (5) TEMPORARY PROTECTIVE PLACEMENTS. The treatment of section 55.06 (11) (c)
11 of the statutes first applies to temporary protective placements that occur on April
12 1, 2004.

13 (6) REQUIRED COUNTY FUNDING OF SERVICES. The creation of section 49.45 (30m)
14 (a) 2. and (c) of the statutes first applies to services provided to an individual who is
15 initially placed in a facility under a petition for protective placement that is filed on,
16 a transfer under section 55.06 (9) of the statutes that is made on, or a temporary
17 protective placement under section 55.06 (11) (c) of the statutes that occurs on, April
18 1, 2004, or to a person who is initially placed in a facility before April 1, 2004, with
19 respect to whom a review under section 55.06 (10) of the statutes is due on April 1,
20 2004.

21 (7) LIMITATION ON PAYMENT. The creation of section 49.45 (30m) (b) of the statutes
22 first applies with respect to services under section 49.45 (30m) (a) 1. and 3. of the
23 statutes that are provided to an individual on April 1, 2004.

24 **SECTION 9424. Effective dates; health and family services.**

