

2003 DRAFTING REQUEST

Bill

Received: **09/20/2002**

Received By: **dkennedy**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 267-7980**

By/Representing: **Blaine**

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

Drafter: **dkennedy**

May Contact:

Addl. Drafters:

Subject: **Health - medical assistance
Health - long-term care**

Extra Copies: **RLR**

Submit via email: **NO**

Pre Topic:

DOA:.....Blaine - BB0049,

Topic:

Nursing home payment formula changes

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>
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/P1	dkennedy 10/24/2002	csicilia 10/30/2002	pgreensl 10/30/2002	_____	lemery 10/30/2002		S&L
/1	dkennedy 12/18/2002	csicilia 12/23/2002	pgreensl 12/23/2002	_____	mbarman 12/23/2002		S&L
/2	dkennedy 01/17/2003	csicilia 01/21/2003	pgreensl 01/22/2003	_____	sbasford 01/22/2003		S&L
/3	dkennedy	csicilia	jfrantze	_____	mbarman		S&L

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/3	dkennedy	csicilia <i>1/4 WLJ 2/6</i>	jfrantze <i>2/6/03</i>	<i>PS</i>	mbarman		

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/1	dkennedy 12/18/2002	csicilia 12/23/2002	pgreensl 12/23/2002	<u>1/21</u> <i>ps</i>	mbarman 12/23/2002		

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BB0049, Nursing home payment formula changes

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DHFS

Department of Health and Family Services
2003-2005 Statutory Language Request
May 31, 2002

Changes to Nursing Home Cost Centers to Consolidate and Simplify the Nursing Home Formula

Current Language

s. 49.45 (6m)

Proposed Change

- ✓ 1. Renumber s. 49.45 (6m) (am) and (6m)(ar) and add language to s. 49.45 (6m) (am) so that the Medicaid (MA) nursing home cost centers currently separately identified under s. 49.45 (6m) (am) 2., 3., and 5. (Support Services, Fuel & Utilities, and Administrative & General) are combined into one cost center.
- ✓ 2. Renumber s. 49.45 (6m) (am) 1. and (6m) (bc), delete language under s. 49.45 (6m) (av) 6., and add language to s. 49.45 (6m) (am) 1. so that the direct care cost center is subdivided into two groups: a. Non-billable costs for registered nurses, licensed practical nurses, nursing assistants and resident living staff, and b. Personal comfort supplies, medical supplies, over-the-counter drugs, and non-billable services for certain facility personnel.
- 3. Add language to 49.45 (6m) (ag) 3m. and (6m) (ar) 1.a. and delete language in s. 49.45 (6m) (ar) to eliminate the statutory requirement that MA reimbursement for nursing homes be based on cost reports for all cost centers other than the non-billable costs for registered nurses, licensed practical nurses, nursing assistants and resident living staff under direct care; net property taxes or municipal service costs; allowable interest expenses; and capital payments.
- 4. Amend 49.45 (6m)(a)(4) to clarify the definition of net property tax as paid taxes.

See ?
D-N
#9.

See ?
D-N #1.

Effect of the Change

These changes allow the Department to fully implement a reimbursement system that is independent of individual homes' costs for the cost centers excluding the non-billable costs for registered nurses, licensed practical nurses, nursing assistants and resident living staff under direct care; net property taxes and municipal service costs; allowable interest expenses; and capital payments.

These changes will also consolidate several cost centers to allow the Department to establish one rate for those consolidated cost centers.

Rationale for the Change

For MA nursing home reimbursement, the Department has begun a transition from a cost-based system to a flat rate system for costs not associated with direct care to patients, capital expenditures or taxes. Under a flat rate system, the Department determines a fair price based on the value of the services provided. The Department will continue a cost-based reimbursement system, for nursing home costs associated with direct care nursing services, taxes, and capital expenditures,

In FY 02, 25% of a nursing home's MA reimbursement for costs not associated with direct care to patients, capital expenditures or taxes will be based on the new pricing system. In each of the next three fiscal years the percent of flat rate reimbursement will increase 25%, so that by FY 05, MA reimbursements for these selected nursing home costs will be 100% flat rate. All proposed statutory changes are needed to move completely to a flat rate system, with the exception of the amendment to s. 49.45 (6m) (a) 4. that clarifies allowable property taxes as paid taxes (net of all tax credits).

The cost centers that are moving to flat rate reimbursement are as follows: Support Services; Fuel and Utilities; Administrative and General; and, under direct care, personal comfort supplies, medical supplies, over-the-counter drugs, and non-billable services for certain facility personnel such as therapy aids and assistants, recreation persons, and vocational counselors. Of these centers, Support Services, Fuel and Utilities and Administrative and General are very similar. They include the operational costs of management and administration, utilities, maintenance and dietary services. Under a pricing system, there is no need for separate cost centers. Maintaining separate centers creates unnecessary complexity. The Department proposes to combine them into one cost center.

The Department is interested in expanding flat rate reimbursement for the costs associated with personal comfort supplies, medical supplies, over-the-counter drugs, and non-billable services for certain facility personnel currently in direct care. These costs are relatively small, and applying a flat rate system would reduce auditing workload. Direct care costs associated with non-billable costs for registered nurses, licensed practical nurses, nursing assistants and resident living staff will remain cost-based. In order to make this distinction clear, the Department proposes to renumber and add language to the direct care cost center to specify these two distinct reimbursement groups.

Current statutory language also specifies that the Department set nursing home rates based on information from cost reports submitted to the Department by nursing homes. By FY 05, only direct care costs associated with non-billable costs for registered nurses, licensed practical nurses, nursing assistants and resident living staff; allowable interest expenses; capital payments; and net property taxes and municipal service costs will be based on cost report information. In order to allow the move to a flat rate reimbursement system for other cost centers, the

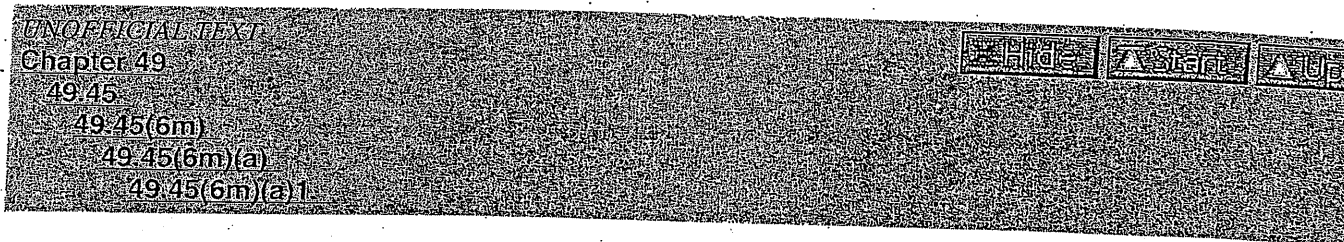
*disagrees w/
proposed language*

Department proposes to add language specifying the cost centers that will continue to be cost-based.

See attached statutory language draft.

Desired Effective Date: For the Change to s.49.45 (6m)(a)4.
Upon Passage of the Budget Bill
For All Other Changes
July 1, 2004

Agency: DHFS
Agency Contact: Anne Miller
Phone: 266-5422



⊕ **49.45 (6m)(a)1.** PDF icon

1. "Active treatment" has the meaning specified in 42 USC 1396r (e) (7) (G) (iii).

⊕ **49.45 (6m)(a)2.** PDF icon

2. "Cost center" means a group of similar facility expenses.

⊕ **49.45 (6m)(a)3.** PDF icon

3. "Facility" means a nursing home or a community-based residential facility that is licensed under 50.03 and that is certified by the department as a provider of medical assistance.

⊕ **49.45 (6m)(a)4.** PDF icon

4. "Net property tax" means property tax ~~from which the Wisconsin state property tax credit has been deducted.~~ *paid*

?

⊕ **49.45 (6m)(a)5.** PDF icon

5. "Nursing home" has the meaning given under s. 50.01 (3).

⊕ **49.45 (6m)(ag)** PDF icon

(ag) Payment for care provided in a facility under this subsection made under s. 20.435 (4) (b), (pa), (o), (w), or (wm) shall, except as provided in pars. (bg), (bm), and (br), be determined according to a prospective payment system updated annually by the department. The payment system shall implement standards that are necessary and proper for providing patient care and that meet quality and safety standards established under subch. II of ch. 50 and ch. 150. The payment system shall reflect all of the following:

⊕ **49.45 (6m)(ag)1.** PDF icon

1. A prudent buyer approach to payment for services, under which a reasonable price recognizing selected factors that influence costs is paid for service that is of acceptable quality.

⊕ **49.45 (6m)(ag)2.** PDF icon

2. Standards established by the department that shall be based upon allowable costs incurred by facilities in the state as available from information submitted under par. (c) 3. and compiled by the department.

⊕ **49.45 (6m)(ag)3m.** PDF icon

3m. For state fiscal year 1999-2000, rates that shall be set by the department based on information from cost reports for the 1998 fiscal year of the facility and for state fiscal year 2000-01, rates that shall be set by the department based on information from cost reports for the 1999 fiscal year of the facility.

✖

*under pars. (am) 1, a., 3., 4., and 5.]
bm., 4., 5m., 6*

+ 49.45 (6m)(ag)5. PDF

5. Consideration for special needs of facility residents.

+ 49.45 (6m)(ag)6. PDF

6. Standards for capital payment that will be based upon replacement value of a facility as determined by a commercial estimator with which the department contracts and criteria and limitations as determined by the department.

+ 49.45 (6m)(ag)7. PDF

7. Assurance of an acceptable quality of care for all medical assistance recipients provided nursing home care.

+ 49.45 (6m)(am) PDF

(am) In determining payments for a facility under the payment system in par. (ag), the department shall consider all of the following cost centers:

+ 49.45 (6m)(am)1. PDF

1. Allowable direct care costs, including, if provided, any of the following:

AM

+ 49.45 (6m)(am)1.a. PDF

1. Personal comfort supplies

(6) bm
CP 49.45(am)1. Nonbillable services of a registered nurse, licensed practical nurse, nursing assistant and resident living staff person, [49.45(6m)(am)1m.]
medical supplies; o-t-c drugs; nonbillable services of therapy aides & assts, etc.

RP

+ 49.45 (6m)(am)1.b. 2. PDF

b. Medical supplies.

RP

+ 49.45 (6m)(am)1.d. PDF

d. ~~Services of facility medical personnel that are not separately billable under medical assistance requirements~~

RP

+ 49.45 (6m)(am)1.e. b. 3. PDF

3. Nonbillable services of a registered nurse, licensed practical nurse, nursing assistant, ward clerk, activity person, recreation person, social worker, volunteer coordinator, teacher for residents aged 22 and older, vocational counselor for residents aged 22 and older, religious person, therapy aide, therapy assistant and counselor on resident living.

+ 49.45 (6m)(am)2. PDF

2. Allowable support service costs, including the following allowable facility expenses:

+ 49.45 (6m)(am)2.a. PDF

a. Dietary service for the provision of meals to facility residents.

+ 49.45 (6m)(am)2.b. PDF


b. Environmental service for the provision of maintenance, housekeeping, laundry and security service.


RA


+ 49.45 (6m)(am)2.c. PDF


2. c. 3. Allowable fuel and utility costs, including the facility expenses that the department determines a allowable for the provision of: *el. service, water + sewer svcs, and heat.*

Repeated;
combined
into
49.45
(6m)
(am)
2.c.


+ 49.45 (6m)(am)3.a.  1. a. Electrical service. *2.c. 1.*


+ 49.45 (6m)(am)3.b.  2. b. Water and sewer services. *2.c. 2.*


+ 49.45 (6m)(am)3.c.  3. c. Heat. *2.c. 3.*

no + 49.45 (6m)(am)4.  3. 4. Net property tax or allowable municipal service costs incurred by the owner of the facility for the facility.

✓ d. 5. Allowable administrative and general costs, including costs related to the facility's overall management and administration and allowable expenses that are not recognized or reimbursed in other cost centers and including the costs of commercial estimators approved by the department under par. (ar) 6.


no } 1. 5m. + 49.45 (6m)(am)5m.  4. Allowable interest expense of the facility, less interest income of the facility and less interest income of affiliated entities, to the extent required under the approved state plan for services under 42 USC 1396.

no 5. 6. + 49.45 (6m)(am)6.  5. Capital payment necessary for the provision of service over time, including allowable facility expenses for suitable space, furnishings, property insurance and movable equipment for patient care.

+ 49.45 (6m)(ap)  (ap) If the bed occupancy of a nursing home is below the minimum patient day occupancy standards that are established by the department under par. (ar) (intro.), the department may approve a request by the nursing home to delicense any of the nursing home's licensed beds. If the department approves the nursing home's request, all of the following apply:

UNOFFICIAL TEXT
 Chapter 49
 49.45
 49.45(6m)
 49.45(6m)(ar)

Hide Start Auto

49.45 (6m)(ar) 

(ar) In determining payments for a facility under par. (ag), the department may establish minimum patient day occupancy standards for determining costs per patient day and shall apply the following methods to calculate amounts payable for the rate year for the cost centers described under par. (am):

49.45 (6m)(ar)1. 

1. For direct care costs:

AM

49.45 (6m)(ar)1.a. 

a. The department shall establish standards for payment of allowable direct care costs, for facilities that do not primarily serve the developmentally disabled, that take into account direct care costs for a sample of all of those facilities in this state and separate standards for payment of allowable direct care costs, for facilities that primarily serve the developmentally disabled, that take into account direct care costs for a sample of all of those facilities in this state. The standards shall be adjusted by the department for regional labor cost variations. *(under (am) 1)*

49.45 (6m)(ar)1.b. 


b. The department shall establish the direct care component of the facility rate for each facility by comparing actual allowable direct care cost information of that facility adjusted for inflation to the standards established under subd. 1. a.

49.45 (6m)(ar)1.c. 

c. If a facility has an approved program for provision of service to mentally retarded residents, residents dependent upon ventilators, or residents requiring supplemental skilled care due to complex medical conditions, a supplement to the direct care component of the facility rate under subd. 1. b. may be made to that facility according to a method developed by the department.

49.45 (6m)(ar)1.cm. 

cm. Funding distributed to facilities for the provision of active treatment to residents with a diagnosis of developmental disability shall be distributed in accordance with a method developed by the department which is consistent with a prudent buyer approach to payment for services.

49.45 (6m)(ar)2. 

2. For support service costs:

49.45 (6m)(ar)2.a. 

a. The department shall establish one or more standards for the payment of support service costs that take into account support service costs for a sample of all facilities within the state.

~~**49.45 (6m)(ar)2.b.** ~~

~~b. The department shall establish the support service component of the facility rate for each facility.~~

~~by comparing actual allowable support service cost information of that facility, adjusted for inflation, to the applicable standard established under subd. 2. a.~~

~~49.45 (6m)(ar) 2.d.~~ 

~~d. The department may provide an efficiency incentive payment to a facility whose allowable support service costs are less than the standards set forth under subd. 2. a. and a cost share payment to a facility whose allowable support service costs are greater than the standards set forth under subd. 2. a.~~

~~49.45 (6m)(ar) 3.~~ 

~~3. For fuel and utility costs:~~

~~49.45 (6m)(ar) 3.a.~~ 


~~a. The department shall establish standards, adjusted for heating degree day variations in the state, for payment of fuel and utility costs that take into account heating fuel and utility costs for a sample of all facilities within the state.~~

~~49.45 (6m)(ar) 3.b.~~ 

~~b. The department shall establish the fuel and utility component of the facility rate for each facility by comparing actual allowable fuel and utility cost information of that facility, adjusted for inflation, to the standard established under subd. 3. a.~~

~~49.45 (6m)(ar) 3.c.~~ 

~~c. The department may provide an efficiency incentive payment to a facility whose allowable heating fuel and utility costs are less than the standard set forth under subd. 3. a. and a cost share payment to a facility whose allowable heating fuel and utility costs are greater than the standards set forth under subd. 3. a.~~

~~49.45 (6m)(ar) 4. 3.~~ 

3. 4. For net property taxes or municipal services, payment shall be made for the amount of the previous calendar year's tax or the amount of municipal service costs for a period specified by the department, subject to a maximum limit as determined by the department.

~~49.45 (6m)(ar) 5.~~ 

~~5. For administrative and general costs:~~

~~49.45 (6m)(ar) 5.a.~~ 

~~a. The department shall establish one or more standards for the payment of administrative and general costs that take into account administrative and general costs for a sample of all facilities within the state.~~

~~49.45 (6m)(ar) 5.b.~~ 

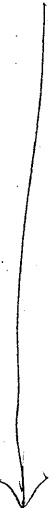
~~b. The department shall establish the administrative and general component of the facility rate for each facility by comparing actual allowable administrative and general cost information of that facility, adjusted for inflation, to the applicable standard established under subd. 5. a.~~

~~49.45 (6m)(ar) 5.c.~~ 

~~c. The department may provide an efficiency incentive payment to a facility whose allowable~~

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
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~~administrative and general costs are less than the standards set forth under subd. 5. a.~~


49.45 (6m) (ar) 4 

no 4. Capital payment shall be based on a replacement value for a facility. The replacement value shall be determined by a commercial estimator contracted for by the department and paid for by the facility. The replacement value shall be subject to limitations determined by the department.


49.45(6m)(av) 
(av)

49.45 (6m) (av) 1. 


AM 1. The department shall calculate a payment rate for a facility by applying the criteria set forth under pars. (ag) 1. to 5. and 7., (am) 1. to 5. and (ar) 1. to 8. to information from cost reports submitted by the facility. 4. 6.

49.45(6m)(av)2. 


2. The department shall compile an average payment rate for each facility based on that facility's rates for cost centers described under par. (am) 1. to 5. that were in effect on June 30, 1994. The department may develop a method for adjusting the facility's rate for the cost center under par. (am) 1. in compiling the average payment rate under this subdivision.

49.45(6m)(av)3. 


3. The department shall calculate the facility's projected cost per patient day, based on that facility's cost centers under par. (am) 1. to 5., adjusted for inflation.

49.45(6m)(av)4. 


4. If the facility's payment rate under subd. 1. is a decrease from its average payment rate under subd. 2., and if the figure calculated under subd. 3. exceeds the payment rate for the facility under subd. 1., the facility's average payment rate shall be the greater of its average payment rate under subd. 2. or its rate under subd. 1.

49.45(6m)(av)5. 


5. If subd. 4. does not apply, the facility's payment rate shall be the payment rate calculated under subd. 1.

49.45(6m)(av)5m. 

5m. The rate under subd. 1., 4. or 5. may be adjusted by the department to reflect payments for the provision of active treatment to facility residents with a diagnosis of developmental disability.

49.45 (6m) (av) 6. 

AM 6. The total payment rate for a facility as calculated under subd. 1., 4., 5. or 5m. shall be the sum of the rate so calculated, plus capital payment calculated under pars. (am) 6. and (ar) 6. and payment for ancillary services and materials under par. (b) and for nonprescription drugs under par. (bc).

49.45(6m)(b) 

(b) The charges for ancillary materials and services that would be incurred by a prudent buyer may be included as an adjustment to the rate determined by par. (av) when so determined by the department. The department may not authorize any adjustments to the rate established under par. (av)

and services for which payment may be made include, if provided, oxygen, medical transportation and laboratory and X-ray services. Payment for these services and materials shall not exceed medicare assistance limitations for reimbursement of the services and materials. For services in a facility for which the department may make payment to a service provider other than a facility, the department may make payment to the facility but not in excess of the estimated amount of payment available if separate service provider provided the service. The department may promulgate rules setting forth conditions of and limitations to this paragraph.


(am) l.b. 4.

49.45 (6m)(be) 

(be) The department may include charges for nonprescription drugs approved by the department as an adjustment to the rate determined under par. (av).

49.45 (6m)(bg) 


(bg) The department shall determine payment levels for the provision of skilled, intermediate, limited, personal or residential care or care for the mentally retarded in the state centers for the developmentally disabled, in the Wisconsin Veterans Home at King and in the nursing care facility operated by the department of veterans affairs under s. 45.385 separately from the payment principles, applicable costs and methods established under this subsection.

49.45 (6m)(bm) 


(bm) Except as provided in par. (bo), the department may establish payment methods for a facility for which any of the following apply:

49.45 (6m)(bm)1. 


1. The facility is newly constructed.

49.45 (6m)(bm)2. 


2. The total of licensed beds for the facility has significantly increased or decreased prior to calculation of its rate under the payment system.

49.45 (6m)(bm)3. 


3. The facility has undergone a change in certification or licensure level.

49.45 (6m)(bm)5. 


5. The facility has received approval or disapproval for provision of service to residents requiring supplemental skilled care due to complex medical conditions.

49.45 (6m)(bm)6. 

6. The facility has received approval or been disapproved for provision of service to residents who have any of the following:

49.45 (6m)(bm)6.a. 

a. Brain injury, as defined in s. 51.01 (2g).

49.45 (6m)(bm)6.b. 

b. A diagnosis of acquired immunodeficiency syndrome.

no; repeated 4. (see amdt to 49.45 (6m)(am) l.a.



D-NOTE

cjs

DOA:.....Blaine - BB0049 Nursing home payment formula changes
FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

SA ✓
x-reb ✓

check request sheet

The bill eliminates the requirement that nursing homes submit cost reports for these costs.

Do NOT GEN

- 1 AN ACT relating to: changes to the formula for payment to nursing homes for
- 2 services to medical assistance recipients.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

Under current law, payments to nursing homes for services to recipients under the Medical Assistance program (MA), are made under a cost-based formula that considers certain costs of individual nursing homes, based on information from reports that the nursing homes submit to DHFS. The formula specifies cost centers of direct care, support services, fuel and utilities, net property tax or municipal services, administrative and general costs, interest expenses, and necessary capital payments.

Beginning July 1, 2004, in order to permit MA payment to nursing homes to be made partially on a flat rate basis, this bill eliminates the requirement that nursing homes submit cost reports for support services, fuel and utilities, administrative and general costs, and direct care costs for ancillary nursing home personnel. Under the bill, the cost centers on which payment will continue to be based are non-billable direct care costs for registered nurses, licensed practical nurses, nurse's assistants, and resident living staff; net property taxes or municipal services costs; allowable interest expenses; and capital payments. Lastly, the bill combines the cost centers identified as support services, fuel and utilities costs, and administrative and

→

necessary

cost-based

made

this bill requires

general costs into a single cost center and clarifies that "net property taxes" refers to paid, rather than incurred, property tax.

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:

For costs specified under par. (am) 1. bm., 4., 5m., and 6.

1 SECTION 1. 49.45 (6m) (a) 4. of the statutes is amended to read.
2 49.45 (6m) (a) 4. "Net property tax" means paid property tax from which the
3 Wisconsin state property tax credit has been deducted.

INSERT
2-3

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, 57, 67, 104, 109.

4 SECTION 2. 49.45 (6m) (ag) 3m. of the statutes is amended to read:
5 49.45 (6m) (ag) 3m. For state fiscal year ~~1999-2000~~ 2003-04, rates that shall
6 be set by the department based on information from cost reports for the ~~1998~~ 2002
7 fiscal year of the facility and for state fiscal year ~~2000-01~~ 2004-05, rates ~~under par.~~
8 ~~(am) 1. bm., 4., 5m., and 6.~~ that shall be set by the department based on information
9 from cost reports for the ~~1999~~ 2003 fiscal year of the facility.

INSERT
2-10

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, 57, 67, 104, 109.

10 SECTION 3. 49.45 (6m) (am) 1. a. of the statutes is amended to read:
11 49.45 (6m) (am) 1. a. Personal comfort supplies; medical supplies;
12 over-the-counter drugs covered by Medical Assistance under s. 49.46 (2) (b) 6. i.; and
13 nonbillable services of a ward clerk, activity person, recreation person, social worker,
14 volunteer coordinator, teacher for residents aged 22 and older, vocational counselor

- 1 for residents aged 22 and older, religious person, therapy aide, therapy assistant, and
 2 counselor on resident living.

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, 57, 67, 104, 109.

- 3 **SECTION 4.** 49.45 (6m) (am) 1. b. of the statutes is repealed.

- 4 **SECTION 5.** 49.45 (6m) (am) 1. bm. of the statutes is created to read:

- 5 49.45 (6m) (am) 1. bm. Nonbillable services of a registered nurse, licensed
 6 practical nurse, nurse's assistant, and resident living staff person.

- 7 **SECTION 6.** 49.45 (6m) (am) 1. d. of the statutes is repealed.

- 8 **SECTION 7.** 49.45 (6m) (am) 1. e. of the statutes is repealed.

- 9 **SECTION 8.** 49.45 (6m) (am) 3. (intro.) of the statutes is renumbered 49.45 (6m)
 10 (am) 2. c. and amended to read:

- 11 49.45 (6m) (am) 2. c. Allowable fuel and utility costs, including the facility
 12 expenses that the department determines are allowable for the provision of:
 13 electrical service, water and sewer services, and heat.

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, 57, 67, 104, 109.

- 14 **SECTION 9.** 49.45 (6m) (am) 3. a. of the statutes is repealed.

- 15 **SECTION 10.** 49.45 (6m) (am) 3. b. of the statutes is repealed.

- 16 **SECTION 11.** 49.45 (6m) (am) 3. c. of the statutes is repealed.

- 17 **SECTION 12.** 49.45 (6m) (am) 5. of the statutes is renumbered 49.45 (6m) (am)
 18 2. d.

- 19 **SECTION 13.** 49.45 (6m) (ar) 1. a. of the statutes is amended to read:

- 20 49.45 (6m) (ar) 1. a. The department shall establish standards for payment of
 21 allowable direct care costs under par. (am) 1., for facilities that do not primarily serve

1 the developmentally disabled, that take into account direct care costs for a sample
 2 of all of those facilities in this state and separate standards for payment of allowable
 3 direct care costs, for facilities that primarily serve the developmentally disabled,
 4 that take into account direct care costs for a sample of all of those facilities in this
 5 state. The standards shall be adjusted by the department for regional labor cost
 6 variations. For facilities in Douglas, Pierce, and St. Croix counties, the department
 7 shall perform the adjustment by use of the wage index that is used by the federal
 8 department of health and human services for hospital reimbursement under 42 USC
 9 1395 to 1395ggg.

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, 57, 67, 104, 109.

10 **SECTION 14.** 49.45 (6m) (ar) 2. (intro.) and 2. a. of the statutes are consolidated,
 11 renumbered 49.45 (6m) (ar) 2. and amended to read:
 12 **49.45 (6m) (ar) 2.** For support service costs: ~~2. a. The~~ the department shall
 13 establish one or more standards for the payment of support service costs that take
 14 into account support service costs for a sample of all facilities within the state.

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, 57, 67, 104, 109.

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, 57, 67, 104, 109.

15 **SECTION 15.** 49.45 (6m) (ar) 2. b. of the statutes is repealed.

16 **SECTION 16.** 49.45 (6m) (ar) 2. d. of the statutes is repealed.

17 **SECTION 17.** 49.45 (6m) (ar) 3. of the statutes is repealed.

18 **SECTION 18.** 49.45 (6m) (ar) 5. of the statutes is repealed.

19 **SECTION 19.** 49.45 (6m) (av) 1. of the statutes is amended to read:

1 49.45 (6m) (av) 1. The department shall calculate a payment rate for a facility
2 by applying the criteria set forth under pars. (ag) 1. to 5. and 7., (am) 1. ~~to 5.~~ bm., 4.,
3 5m. and 6., and (ar) 1. ~~to 5., 4., and 6.~~ to information from cost reports submitted by
4 the facility.

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, 57, 67, 104, 109.

5 SECTION 20. 49.45 (6m) (av) 6. of the statutes is amended to read:

6 49.45 (6m) (av) 6. The total payment rate for a facility as calculated under subd.
7 1., 4., 5. or 5m. shall be the sum of the rate so calculated, plus capital payment
8 calculated under pars. (am) 6. and (ar) 6. and payment for ancillary services and
9 materials under par. (b) ~~and for nonprescription drugs under par. (be).~~

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, 57, 67, 104, 109.

10 SECTION 21. 49.45 (6m) (bc) of the statutes is repealed.

copy 2,

11 SECTION 9424. Effective dates; health and family services.

12 (1) NURSING HOME PAYMENT FORMULA. The treatment of section 49.45 (6m)
13 ~~(am)~~ (am) 1. a., b., ~~bm.~~ d., and e., 3. (intro.), a., b., and c., and 5., (ar) 1. a., 2. (intro.),
14 a., b., and d., 3., and 5., (av) 1. and 6., and (bc) of the statutes takes effect on July 1,
15 2004.

stat: leave as typed

(END)

D-NOTE

Section #. 49.45 (6m) (ag) 2. of the statutes is amended to read:

Except as provided in subd. 3r., standards

49.45 (6m) (ag) 2. ~~Standards~~ established by the department that shall be based upon allowable costs incurred by facilities in the state as available from information submitted under par. (c) 3. and compiled by the department.

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, 57, 67, 104, 109.

✓ INSERT 2-10

¶ SECTION . CR; 49.45 (6m) (ag) 3r. For state

¶ 49.45 (6m) (ag) 3r. For state fiscal year 2004-05 ✓

and thereafter, flat-rate payment for costs

specified under par. (am) 1. a. and 2. ✓

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0210/P1dn

DAK:.....

gs

To Robert Blaine and Anne Miller:

1. Your language proposed to amend the definition of "net property tax" in s. 49.45 (6m) (a) 4., stats, modifies "property tax" by "paid" and strikes "from which the Wisconsin state property tax credit has been deducted." If the latter language is stricken, what is the tax net of? That proposal also is in conflict with language in your "Rationale for Change" that states "All proposed statutory changes are needed to move completely to a flat rate system, with the exception of the amendment to s. 49.45 (6m) (a) 4. that clarifies allowable property taxes as paid taxes (*net of all tax credits*)." (Emphasis mine.) What do you want? Note that this term (net property tax) is used only in s. 49.45 (6m) (am) 4., stats.; would it not be clearer, instead of amending the definition, to amend s. 49.45 (6m) (am) 4. to read "Net property tax *paid* . . ."? If this suggested language is used, it might also be prudent to relate the payment to a specific time frame, such as the previous year, so that entire tax payments made over several years would not be required to be considered. ✓

2. Please review the amendment of s. 49.45 (6m) (ag) 3m., stats., in light of Drafter's Note # 4. In addition, I have no idea what state fiscal year this amendment is intended to address; your proposal says that all provisions except the amendment to s. 49.45 (6m) (a) 4., stats., are to take effect on July 1, 2004, so I have amended s. 49.45 (6m) (ag) 3m., stats., to apply the (partial) flat rate payment only to state fiscal year 2004-05. If that is what you want, you will need at least one additional provision that clarifies how rates shall be set for state fiscal year 2002-03. Please also review my amendment of s. 49.45 (6m) (av) 1. ✓

INSERT DN-1
3. I am unable to make the changes proposed for s. 49.45 (6m) (am) 1., stats., in the manner proposed; the smallest statutory unit is a subdivision unit (e.g., s. 49.45 (6m) (am) 1. b.), and what was proposed was a subunit of that unit (e.g., s. 49.45 (6m) (am) 1. b. 1.), in order to accommodate the difference between cost-based and flat rate direct care costs. Instead, I have amended s. 49.45 (6m) (am) 1. a. to include, besides personal comfort supplies, medical supplies, over-the-counter drugs, and nonbillable services of a ward clerk, activity person, recreation person, social worker, volunteer coordinator, teacher for residents aged 22 and older, vocational counselor for residents aged 22 and older, religious person, therapy aide, therapy assistant, and counselor on resident living. I also created s. 49.45 (6m) (am) 1. bm. ✓

and have made the provision on effective date of the budget act

5. Notice the language concerning over-the-counter drugs that I created in s. 49.45 (6m) (am) 1. a. and the fact that I repealed s. 49.45 (6m) (bc), stats., rather than amending that language into s. 49.45 (6m) (am) 1. a. I created the language because it is more specific than that in current law under s. 49.45 (6m) (bc), stats., and is used in s. 49.46 (2) (b) 6. i., stats., which is, I presume, the authority for provision of this benefit to recipients. In addition, your proposed language strikes reference to s. 49.45 (6m) (bc) in s. 49.45 (6m) (av) 6., so the language currently in s. 49.45 (6m) (bc), stats., appears to serve little purpose.

6. In s. 49.45 (6m) (am) 1. bm. of this bill, what, exactly is a "resident living staff person"? Should not the term be "residential," rather than "resident"? How do the services of this person differ from a "counselor on resident living" (see s. 49.45 (6m) (am) 1. a.)?

7. Note that I changed the term "nursing assistant" to "nurse's assistant" under s. 49.45 (6m) (am) 1. bm.; nurse's assistants are regulated under s. 146.40, stats.; "nursing assistants" are not regulated.

8. I am unable to make the changes proposed for s. 49.45 (6m) (am) 3. a. to c., for the reason stated in Drafter's Note #4. Note, however, that I repealed these provisions after amending s. 49.45 (6m) (am) 3. (intro.) (renumbered s. 49.45 (6m) (am) 2. c.) to include their language.

9. Because renumbering is expensive and may lead to mistakes and confusion in the statutes, we do not renumber provisions solely in order to make them exactly sequential (e.g., 1., 2., 3., 4., etc.); provisions that are not exactly sequential (e.g., 1., 1m., 2., 4., etc.) are kept as they are in order to give the reader a clue that previous legislative history has created change in that particular statutory area. Therefore, I did not renumber s. 49.45 (6m) (am) 4., 5., 5m., and 6. and (ar) 4. and 6., as proposed.

10. Is s. 49.45 (6m) (av) 2., stats., still accurate, and accurate under this bill?

11. Please carefully review the amendment to s. 49.45 (6m) (ar) 1. a., stats. I have amended it exactly according to the language proposed, but I am concerned that you may have intended in the amendment to differentiate between those direct care costs that are to be cost-based (s. 49.45 (6m) (am) 1. bm.) and those that are to have flat rate reimbursement (s. 49.45 (6m) (am) 1. a.)—is it possible that your Xerox transmittal left out this distinction?

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

INSERT DN-1

3. Note that I created s. 49.45 (6m) (ag) 3r.
and amended s. 49.45 (6m) (ag) 2. These changes
make explicit the flat-rate basis for payment
that your proposal requests, ^(beginning with state fiscal year 2004-05) I was not sure
what to do with the assertion under your
"Rationale for Change" that refers to increasing
the percentage of flat-rate reimbursement by
25% each year beginning in FY 02; this
contradicts your request that the changes
be effective July 1, 2004, and, in addition,
indicates that DHS is paying on that basis
now, which, if true, is in conflict with
the statutes.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0210/P1dn
DAK:cjs:pg

October 30, 2002

To Robert Blaine and Anne Miller:

1. Your language proposed to amend the definition of "net property tax" in s. 49.45 (6m) (a) 4., stats., modifies "property tax" by "paid" and strikes "from which the Wisconsin state property tax credit has been deducted." If the latter language is stricken, what is the tax net of? That proposal also is in conflict with language in your "Rationale for Change" that states "All proposed statutory changes are needed to move completely to a flat-rate system, with the exception of the amendment to s. 49.45 (6m) (a) 4. that clarifies allowable property taxes as paid taxes (*net of all tax credits*)." (Emphasis mine.) What do you want? Note that this term (net property tax) is used only in s. 49.45 (6m) (am) 4., stats.; would it not be clearer, instead of amending the definition, to amend s. 49.45 (6m) (am) 4. to read "Net property tax *paid . . .*"? If this suggested language is used, it might also be prudent to relate the payment to a specific time frame, such as the previous year, so that entire tax payments made over several years would not be required to be considered.

2. Please review the amendment of s. 49.45 (6m) (ag) 3m., stats., in light of Drafter's Note # 4. In addition, I have no idea what state fiscal year this amendment is intended to address; your proposal says that all provisions except the amendment to s. 49.45 (6m) (a) 4., stats., are to take effect on July 1, 2004, so I have amended s. 49.45 (6m) (ag) 3m., stats., to apply the partial flat-rate payment only to state fiscal year 2004-05 and have made the provision effective on publication of the budget act. If that is what you want, you will need at least one additional provision that clarifies how rates shall be set for state fiscal year 2002-03. Please also review my amendment of s. 49.45 (6m) (av) 1.

3. Note that I created s. 49.45 (6m) (ag) 3r. and amended s. 49.45 (6m) (ag) 2. These changes make explicit the flat-rate basis for payment that your proposal requests, beginning with state fiscal year 2004-05. I was not sure what to do with the assertion under your "Rationale for Change" that refers to increasing the percentage of flat-rate reimbursement by 25% each year beginning in FY02; this contradicts your request that the changes be effective July 1, 2004, and, in addition, indicates that DHFS is paying on that basis now, which, if true, is in conflict with the statutes.

4. I am unable to make the changes proposed for s. 49.45 (6m) (am) 1., stats., in the manner proposed; the smallest statutory unit is a subdivision unit (e.g., s. 49.45 (6m)

(am) 1. b.), and what was proposed was a subunit of that unit (e.g., s. 49.45 (6m) (am) 1. b. 1.), in order to accommodate the difference between cost-based and flat-rate direct care costs. Instead, I have amended s. 49.45 (6m) (am) 1. a. to include, besides personal comfort supplies, medical supplies, over-the-counter drugs, and nonbillable services of a ward clerk, activity person, recreation person, social worker, volunteer coordinator, teacher for residents aged 22 and older, vocational counselor for residents aged 22 and older, religious person, therapy aide, therapy assistant, and counselor on resident living. I also created s. 49.45 (6m) (am) 1. bm.

5. Notice the language concerning over-the-counter drugs that I created in s. 49.45 (6m) (am) 1. a. and the fact that I repealed s. 49.45 (6m) (bc), stats., rather than amending that language into s. 49.45 (6m) (am) 1. a. I created the language because it is more specific than that in current law under s. 49.45 (6m) (bc), stats., and is used in s. 49.46 (2) (b) 6. i., stats., which is, I presume, the authority for provision of this benefit to recipients. In addition, your proposed language strikes reference to s. 49.45 (6m) (bc) in s. 49.45 (6m) (av) 6., so the language currently in s. 49.45 (6m) (bc), stats., appears to serve little purpose.

6. In s. 49.45 (6m) (am) 1. bm. of this bill, what, exactly is a "resident living staff person"? Should not the term be "residential," rather than "resident"? How do the services of this person differ from a "counselor on resident living" (see s. 49.45 (6m) (am) 1. a.)?

7. Note that I changed the term "nursing assistant" to "nurse's assistant" under s. 49.45 (6m) (am) 1. bm.; nurse's assistants are regulated under s. 146.40, stats.; "nursing assistants" are not regulated.

8. I am unable to make the changes proposed for s. 49.45 (6m) (am) 3. a. to c., for the reason stated in Drafter's Note #4. Note, however, that I repealed these provisions after amending s. 49.45 (6m) (am) 3. (intro.) (renumbered s. 49.45 (6m) (am) 2. c.) to include their language.

9. Because renumbering is expensive and may lead to mistakes and confusion in the statutes, we do not renumber provisions solely in order to make them exactly sequential (e.g., 1., 2., 3., 4., etc.); provisions that are not exactly sequential (e.g., 1., 1m., 2., 4., etc.) are kept as they are in order to give the reader a clue that previous legislative history has created change in that particular statutory area. Therefore, I did not renumber s. 49.45 (6m) (am) 4., 5., 5m., and 6. and (ar) 4. and 6., as proposed.

10. Is s. 49.45 (6m) (av) 2., stats., still accurate, and accurate under this bill?

11. Please carefully review the amendment to s. 49.45 (6m) (ar) 1. a., stats. I have amended it exactly according to the language proposed, but I am concerned that you may have intended in the amendment to differentiate between those direct care costs that are to be cost-based (s. 49.45 (6m) (am) 1. bm.) and those that are to have flat-rate

reimbursement (s. 49.45 (6m) (am) 1. a.) — is it possible that your Xerox transmittal left out this distinction?

Debora A. Kennedy
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HOW STATUTES WOULD LOOK IF 03-0210/P1 IS ENACTED

FLAT RATE

49.45 (6m) (am) 1. a. Direct care — Personal comfort supplies; medical supplies; o-t-c drugs; non-billable services for certain facility personnel

49.45 (6m) (am) 2. Support services

- a. Dietary services
- b. Environmental services
- c. Fuel and utilities (electrical, water and sewer services, heat)
- d. Administrative and general

COST BASED

49.45 (6m) (am) 1. bm. Direct care — Nonbillable costs for rn's, lpn's, nurse's assistants, and residential living staff

49.45 (6m) (am) 4. Net property taxes and allowable mun. costs.

49.45 (6m) (am) 5m. Allowable interest expenses

49.45 (6m) (am) 6. Capital payments

Kennedy, Debora

From: Gebhart, Neil
Sent: Wednesday, November 13, 2002 2:39 PM
To: Kennedy, Debora
Subject: MSAs

There are several WI statutory references to the term "federal standard metropolitan statistical area," but no really good definition. Federal web sites use both the term "Metropolitan Statistical Area" and "Metropolitan Area." These areas seem to be named for the major cities located in each. The two we are concerned with are called the MINNEAPOLIS-ST. PAUL, MN-WI MSA (FIPS Code 5120) and the DULUTH-SUPERIOR (MN-WI) MSA (FIPS Code 2240). I could not readily find what "FIPS" stands for. I think it's probably sufficient to refer to the two MSAs by name, at least if that is acceptable from a drafting perspective.

"1/13/02 Mtg. w/ Neil Gebhart, Robert Blaine, Dave Heund,
hyle, Anne Miller re 0210/P1

- ✓ 1. Repeal def. of net property tax (49.45 (6m)(a) 4.)
- ✓ 2. Amend 49.45 (6m)(am) 4. Prop tax or mun serv costs paid by the owner of the facil for the facil.
- ✓ 3. 49.45 (6m)(am) 1. a. - take out ref. to MA
- ✓ 4. 49.45 (6m)(am) 1. bm. - take out res. living staff person
- ✓ 5. Repeal (6m)(av) 2. - D-NOTE
- ✓ 6. Add "bm." to ref. under s. 49.45-(6m)(ar) 1. a.
- ✓ 7. Amend 49.45 (6m)(ag) 3m. : For each st fiscal year rates that shall be set by dept based on info from cost reports from the most recently completed fiscal year
- ✓ 8. 49.45 (6m)(ag) 3r. Elim. ref. to st. fis. yr 04-05.
- ✓ 9. 49.45 (6m)(ar) 1. a. - Delete reference to counties + substitute metropolitan statistical areas for Minneapolis + Duluth - N.C. will supply language



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-0210/P1 1

DAK:cjs

D-NOTE

STAMP

DOA:.....Blaine -BB0049, BB0049, Nursing home payment formula changes

FOR 2003-05 BUDGET - NOT READY FOR INTRODUCTION

w/ # For direct care costs, DHFS must use standards that sample nursing homes in the state, as adjusted for regional labor cost variations. For nursing homes in Douglas, Pierce, and St. Croix counties, DHFS uses a federal Medicare Program hospital wage index.

INSERT A1

Do NOT GET

1 AN ACT ...; relating to: changes to the formula for payment to nursing homes for
2 services to medical assistance recipients.

(personal comfort supplies, medical supplies, over-the-counter

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
MEDICAL ASSISTANCE

drugs and nonbillable services

Under current law, payments to nursing homes for services to recipients under the Medical Assistance program (MA), are made under a cost-based formula that considers certain costs of individual nursing homes, based on information from reports that the nursing homes submit to DHFS. The formula specifies cost centers of direct care, support services, fuel and utilities, net property tax or municipal services, administrative and general costs, interest expenses, and necessary capital payments.

Beginning July 1, 2004, this bill requires MA payment to nursing homes to be made on a flat-rate basis for support services, fuel and utilities, administrative and general costs, and direct care costs for ancillary nursing home personnel. The bill eliminates the requirement that nursing homes submit cost reports for these costs. Under the bill, the cost centers on which cost-based payment will continue to be made are nonbillable direct care costs for registered nurses, licensed practical nurses, nurse's assistants, and resident living staff, net property tax or municipal services; interest expenses; and necessary capital payments. ~~Costly~~, the bill combines the cost centers identified as support services, fuel and utilities, and

(dietary services, environmental services,

and

This bill requires DHFS to make a flat-rate payment for MA nursing home costs, as determined by DHFS, for personal comfort supplies and allowable support service costs.

and municipal services

costs for

administrative and general costs into a single cost center and clarifies that ~~that~~ property taxes refer to paid, rather than incurred, ~~property tax~~.

costs

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

INSERT
A2

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

Fix
COM-
POWENT

SECTION 1. 49.45 (6m) (a) 4. of the statutes is ~~amended to read~~ repealed.

~~49.45 (6m) (a) 4. "Net property tax" means paid property tax from which the Wisconsin state property tax credit has been deducted.~~

SECTION 2. 49.45 (6m) (ag) 2. of the statutes is amended to read:

49.45 (6m) (ag) 2. ~~Standards~~ Except as provided in subd. 3r., standards established by the department that shall be based upon allowable costs incurred by facilities in the state as available from information submitted under par. (c) 3. and compiled by the department.

most recently completed

SECTION 3. 49.45 (6m) (ag) 3m. of the statutes is amended to read:

49.45 (6m) (ag) 3m. For state fiscal year 1999-2000 ~~2003-04~~, rates that shall be set by the department based on information from cost reports for the 1998 ~~2002~~ fiscal year of the facility ~~and for state fiscal year 2000-01~~ ~~2004-05~~, rates that shall be set by the department based on information from cost reports ~~for costs specified under par. (am) 1, 4, 5m, and 6~~ for the 1999 ~~2003~~ fiscal year of the facility.

each

SECTION 4. 49.45 (6m) (ag) 3r. of the statutes is created to read:

49.45 (6m) (ag) 3r. ~~For state fiscal year 2004-05 and thereafter~~ flat-rate payment for costs specified under par. (am) 1. a. and 2. as determined by the department,

SECTION 5. 49.45 (6m) (am) 1. a. of the statutes is amended to read:

49.45 (6m) (am) 1. a. Personal comfort supplies; medical supplies; over-the-counter drugs covered by Medical Assistance under s. 49.46 (2) (b) (ii); and

INSERT 2-14

INSERT 2-17

1 nonbillable services of a ward clerk, activity person, recreation person, social worker,
2 volunteer coordinator, teacher for residents aged 22 and older, vocational counselor
3 for residents aged 22 and older, religious person, therapy aide, therapy assistant, and
4 counselor on resident living.

5 SECTION 6. 49.45 (6m) (am) 1. b. of the statutes is repealed.

6 SECTION 7. 49.45 (6m) (am) 1. bm. of the statutes is created to read:

7 49.45 (6m) (am) 1. bm. Nonbillable services of a registered nurse, licensed
8 practical nurse, ^{and} nurse's assistant ~~and resident living staff person.~~

9 SECTION 8. 49.45 (6m) (am) 1. d. of the statutes is repealed.

10 SECTION 9. 49.45 (6m) (am) 1. e. of the statutes is repealed.

11 SECTION 10. 49.45 (6m) (am) 3. (intro.) of the statutes is renumbered 49.45 (6m)
12 (am) 2. c. and amended to read:

13 49.45 (6m) (am) 2. c. Allowable fuel and utility costs, including the facility
14 expenses that the department determines are allowable for the provision of:
15 electrical service, water and sewer services, and heat.

16 SECTION 11. 49.45 (6m) (am) 3. a. of the statutes is repealed.

17 SECTION 12. 49.45 (6m) (am) 3. b. of the statutes is repealed.

18 SECTION 13. 49.45 (6m) (am) 3. c. of the statutes is repealed.

19 SECTION 14. 49.45 (6m) (am) 5. of the statutes is renumbered 49.45 (6m) (am)

20 2. d.

*as affected by 2003 Wisconsin Act
... (this act)*

bm.

21 SECTION 15. 49.45 (6m) (ar) 1. a. of the statutes is amended to read:

22 49.45 (6m) (ar) 1. a. The department shall establish standards for payment of
23 allowable direct care costs under par. (am) 1. for facilities that do not primarily serve
24 the developmentally disabled, that take into account direct care costs for a sample
25 of all of those facilities in this state and separate standards for payment of allowable

INSERT 3-18

INSERT 3-20

AUTO REF

1 direct care costs, for facilities that primarily serve the developmentally disabled,
 2 that take into account direct care costs for a sample of all of those facilities in this
 3 state. The standards shall be adjusted by the department for regional labor cost
 4 variations. For facilities in ~~Douglas, Pierce, and St. Croix counties,~~ the department
 5 shall perform the adjustment by use of the wage index that is used by the federal
 6 department of health and human services for hospital reimbursement under 42 USC
 7 1395 to 1395ggg. *(The Minneapolis - St. Paul and the Duluth - Superior federal standard metropolitan statistical areas)*

8 SECTION 16. 49.45 (6m) (ar) 2. (intro.) and 2. a. of the statutes are consolidated,
 9 renumbered 49.45 (6m) (ar) 2. and amended to read:

10 49.45 (6m) (ar) 2. For support service costs: ~~2. a. The~~, the department shall
 11 establish one or more standards for the payment of support service costs that take
 12 into account support service costs for a sample of all facilities within the state.

13 SECTION 17. 49.45 (6m) (ar) 2. b. of the statutes is repealed.

14 SECTION 18. 49.45 (6m) (ar) 2. d. of the statutes is repealed.

15 SECTION 19. 49.45 (6m) (ar) 3. of the statutes is repealed.

16 SECTION 20. 49.45 (6m) (ar) 5. of the statutes is repealed.

17 SECTION 21. 49.45 (6m) (av) 1. of the statutes is amended to read:

18 49.45 (6m) (av) 1. The department shall calculate a payment rate for a facility
 19 by applying the criteria set forth under pars. (ag) 1. to 5. and 7., (am) 1. ~~to 5. 4.,~~
 20 5m. and 6., and (ar) 1. ~~to 5., 4., and 6.~~ to information from cost reports submitted by
 21 the facility.

22 SECTION 22. 49.45 (6m) (av) 6. of the statutes is amended to read:

23 49.45 (6m) (av) 6. The total payment rate for a facility as calculated under subd.
 24 1., 4., 5. or 5m. shall be the sum of the rate so calculated, plus capital payment

INSERT 4-21

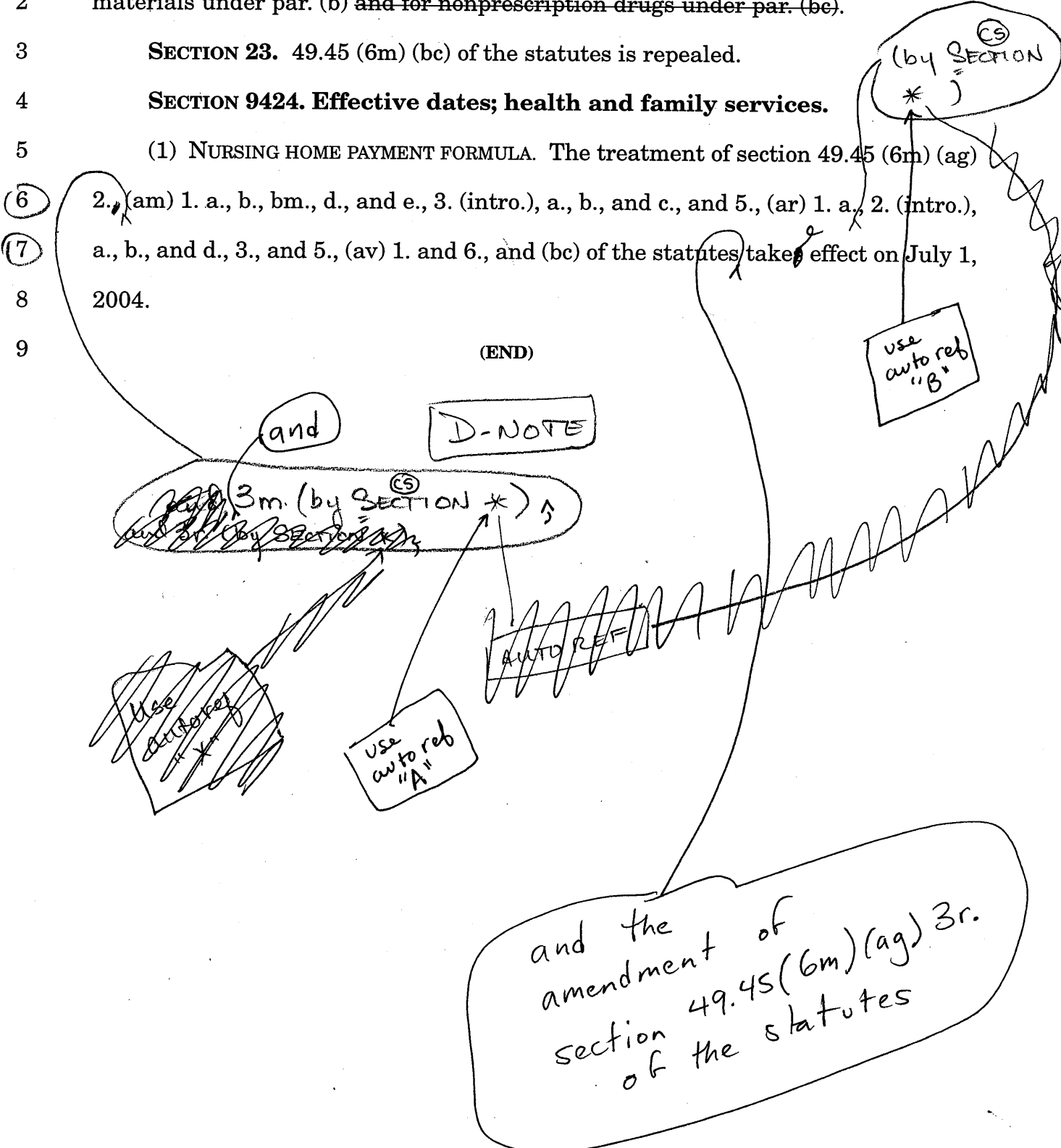
1 calculated under pars. (am) 6. and (ar) 6. and payment for ancillary services and
2 materials under par. (b) and for nonprescription drugs under par. (bc).

3 SECTION 23. 49.45 (6m) (bc) of the statutes is repealed.

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

5 (1) NURSING HOME PAYMENT FORMULA. The treatment of section 49.45 (6m) (ag)
6 2. (am) 1. a., b., bm., d., and e., 3. (intro.), a., b., and c., and 5., (ar) 1. a., 2. (intro.),
7 a., b., and d., 3., and 5., (av) 1. and 6., and (bc) of the statutes takes effect on July 1,
8 2004.

9 (END)



INSERT A1

100 A To calculate a nursing home's payment rate, DHFS establishes a tentative payment rate by applying to information from nursing home cost reports certain standards and methods in calculating amounts payable for a rate year for the cost centers. DHFS then compiles a tentative average payment rate for each nursing home based on that nursing home's rates for cost centers that were in effect on June 30, 1994. Next, DHFS calculates a nursing home's projected cost per patient day. If the tentative payment rate is less than the tentative average payment rate, and if the projected cost per patient day is more than the tentative payment rate, DHFS sets the nursing home's average payment rate as the tentative average payment rate or the tentative payment rate, whichever is greater; if not, DHFS sets the nursing home's average payment rate as the tentative payment rate.

INSERT A2

In addition, the bill requires that under the standards for direct care costs of nursing homes, as adjusted for regional labor cost variations, DHFS use the federal Medicare Program hospital wage index for nursing homes in the Minneapolis-St. Paul and Duluth-Superior federal standard metropolitan statistical areas (which include Douglas, Pierce, St. Croix, and Polk counties).

Lastly, the bill changes the criteria by which DHFS compiles a tentative average payment rate for a nursing home, to base that rate on the nursing home's rates for cost centers that were in effect on June 30 of the calendar year before the previous calendar year, rather than on June 30, 1994.

INSERT 2-14

1 **SECTION 1.** 49.45 (6m) (ag) 3m. of the statutes, as affected by 2003 Wisconsin

2 Act (this act), is amended to read:

3 49.45 (6m) (ag) 3m. For each state fiscal year, rates that shall be set by the
4 department based on information from cost reports for costs specified under par. (am)

5 1. bm., 4., 5m., and 6. for the most recently completed fiscal year of the facility.

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, 57, 67, 104, 109.

INSERT 3-18

6 **SECTION 2.** 49.45 (6m) (am) 4. of the statutes is amended to read:

1 **49.45 (6m) (am) 4. Net-property Property tax or allowable municipal service**
2 **costs incurred paid by the owner of the facility for the facility.**

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, 57, 67, 104, 109.

✓ **INSERT 3-20**

4 **SECTION 3. 49.45 (6m) (ar) 1. a. of the statutes is amended to read:**

5 **49.45 (6m) (ar) 1. a. The department shall establish standards for payment of**
6 **allowable direct care costs, for facilities that do not primarily serve the**
7 **developmentally disabled, that take into account direct care costs for a sample of all**
8 **of those facilities in this state and separate standards for payment of allowable direct**
9 **care costs, for facilities that primarily serve the developmentally disabled, that take**
10 **into account direct care costs for a sample of all of those facilities in this state. The**
11 **standards shall be adjusted by the department for regional labor cost variations. For**
12 **facilities in ~~Douglas, Pierce, and St. Croix counties~~ the Minneapolis-St. Paul and the**
13 **Duluth-Superior federal standard metropolitan statistical areas, the department**
14 **shall perform the adjustment by use of the wage index that is used by the federal**
15 **department of health and human services for hospital reimbursement under 42 USC**
16 **1395 to 1395ggg.**

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, 57, 67, 104, 109.

✓ **INSERT 4-21**

18 **SECTION 4. 49.45 (6m) (av) 2. of the statutes is amended to read:**

1 49.45 (6m) (av) 2. The department shall compile an average payment rate for
 2 each facility based on that facility's rates for cost centers described under par. (am)
 3 1. to 5. that were in effect on June 30, 1994 of the penultimate calendar year. The
 4 department may develop a method for adjusting the facility's rate for the cost center
 5 under par. (am) 1. in compiling the average payment rate under this subdivision.

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, 2909j; 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, 57, 67, 104, 109.

calendar year immediately
 preceding ~~the~~ the
 most recently completed
~~calendar year~~

~~SECTION 49.45~~

INSERT 2-17

created

SECTION 49.45 (am); 49.45 (com) (ag) 3r., as ~~amended~~ by

2003 Wisconsin Act (this act)

49.45 (com) (ag) 3r. Flat-rate payment, as determined

by the department, for all costs specified under

par. (am) 1. a. and 2.

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

LRB-0210/1dn
DAK:cjs:pg

Stamp

To Robert Blaine and Anne Miller: ✓

Please review my treatment of s. 49.45 (6m) (av) 2., stats. Although it was decided in our meeting of November 13 to repeal this subdivision, it is tied into the rest of the provisions in that paragraph by cross reference. I have been unable to get an opinion from Dave Lund as to how he would like to handle this, so, in order to get the draft out for a second review I amended it to refer back two years, rather than to 1994. Note also that I made this change effective on enactment of the act. Please let me know what you want here. ✓

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-0210/1dn
DAK:cjs:pg

December 23, 2002

To Robert Blaine and Anne Miller:

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

Kennedy, Debora

From: Blaine, Robert
Sent: Tuesday, January 14, 2003 10:02 AM
To: Kennedy, Debora
Cc: Miller, Anne
Subject: RE: FW: LRB Draft: 03-0210/1 Nursing home payment formula changes

Hello Debora --

Well, I thought I might be able to save you some work, but it looks like we need another redraft one way or the other. Please redraft as DHFS has requested, deleting s. 49.45 (6m) (av) 2. through s. 49.45 (6m) (av) 6., and modifying s. 49.45 (6m) (av) 1. to include, at the end, the sentence "and payment for ancillary services and materials under par. (b)" which is currently at the end of s. 49.45 (6m) (av) 6.

Please call me if this is problematic, or if I'm not available, Anne Miller directly.

Thanks,
Robert

-----Original Message-----

From: Miller, Anne
Sent: Monday, January 13, 2003 4:04 PM
To: Blaine, Robert
Cc: Kennedy, Debora; Lund, C. David; Updike, Lyle; Gebhart, Neil; Megna, Richard
Subject: RE: FW: LRB Draft: 03-0210/1 Nursing home payment formula changes

Hi Robert!

I talked to Lyle about this language. Debora's placeholder language under s. 49.45 (6m) (av) 2. that refers back for two years does not work. The two workable options for that section would be to leave the language like it was before (which requires the Nursing Home section to make comparison calculations which are obsolete) or to make the deletions as recommended in the last email.

Of course, we prefer the deletions, but, in the interest of Debora's time, we can live with keeping the language as it was before, without referring back two years.

I hope this information helps. If you need more information on why the referring back language doesn't work, could you please contact Lyle. Any other questions, please feel free to contact me with.

- Anne

>>> Blaine, Robert 01/12/03 12:58PM >>>
Anne --

In the interest in saving time, will the language as Debora has drafted it not work? I would like to avoid a redraft unless the department is concerned that the language as drafted will actually prevent the department from meeting its objective. In addition to time considerations, I'm a bit concerned that this draft will morph into more of a policy item than a true budget, fiscal provision. The Governor has expressed an interest in keeping all policy items out of the budget and I'm a bit concerned that if we start cleaning up language, while making all our jobs easier in the long run, the provision won't pass the policy item smell test (esp. when LFB looks at it).

Of course, if the language in (av) 2. through 6. actually keep this draft from working, I'm more amenable to the change.

Robert

-----Original Message-----

From: Miller, Anne
Sent: Friday, January 10, 2003 1:37 PM
To: Blaine, Robert
Cc: Kennedy, Debora; Lund, C. David; Updike, Lyle; Gebhart, Neil; Megna, Richard
Subject: Re: FW: LRB Draft: 03-0210/1 Nursing home payment formula changes

Hi Robert!

This draft is pretty close to final. Regarding Debora's question on s. 49.45 (6m) (av) 2., we believe that the majority of (av) can be deleted. Specifically, we recommend s. 49.45 (6m) (av) 2. through s. 49.45 (6m) (av) 6. be deleted, and s. 49.45 (6m) (av) 1. be modified to include, at the end, the sentence "and payment for ancillary services and materials under par. (b)" which is currently at the end of s. 49.45 (6m) (av) 6.

I hope this information is helpful, and please feel free to contact me with any questions.

- Anne

>>> Blaine, Robert 12/31/02 09:37AM >>>
Hi Anne --

Yet another complicated draft. I would really like to get comments back to Debora by January 10 (one week from Friday). Please call me ASAP if this is not workable. These drafts should be considered top priorities.

Thanks,
Robert

-----Original Message-----

From: Greenslet, Patty
Sent: Monday, December 23, 2002 1:31 PM
To: Blaine, Robert
Cc: Kraus, Jennifer; Schaeffer, Carole; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 03-0210/1 Nursing home payment formula changes

Following is the PDF version of draft 03-0210/1.

Kennedy, Debora

From: Miller, Anne
Sent: Friday, January 10, 2003 1:36 PM
To: Blaine, Robert
Cc: Kennedy, Debora; Lund, C. David; Updike, Lyle; Megna, Richard
Subject: Re: FW: LRB Draft: 03-0210/1 Nursing home payment formula changes

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- Anne

, as affected by any adjustment

>>> Blaine, Robert 12/31/02 09:37AM >>>
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Robert

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Cc: Kraus, Jennifer; Schaeffer, Carole; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 03-0210/1 Nursing home payment formula changes

Following is the PDF version of draft 03-0210/1.