

# 2003 ASSEMBLY BILL 920

heading → HEALTH AND HUMAN SERVICES  
Sub-heading → (CS) MEDICAL ASSISTANCE

March 2, 2004 - Introduced by Representatives POPE, ROBERTS, KRUSICK, BOYLE, MILLER, BERCEAU, YOUNG and VRIJWINK, cosponsored by Senators HANSEN and JAUCH. Referred to Joint Committee on Finance.

LPS: Please  
proof amended  
stats. w/ Folio

DO NOT GENERATE  
CATALOG

1 AN ACT ~~to renumber~~ 46.277 (1m) (a); ~~to amend~~ 46.277 (1), 46.277 (2) (intro.),  
2 46.277 (3) (a), 46.277 (3) (b) 1., 46.277 (3) (b) 2., 46.277 (4) (a), 46.277 (4) (b),  
3 46.277 (5) (g) and 46.277 (5g) (a); and ~~to create~~ 46.277 (1m) (ag) and 46.277 (4)  
4 (c) of the statutes; ~~relating to~~ provision of home and community-based  
5 services under a community integration program to persons relocated from  
6 facilities, during the period of the relocation.

STET

### Analysis by the Legislative Reference Bureau

Currently, the Department of Health and Family Services (DHFS) administers a Community Integration Program (commonly known as "CIP II"), under which Medical Assistance (MA) moneys are paid to counties to provide home and community-based services, under a waiver of federal Medicaid laws, to elderly and physically disabled persons who meet the level of care requirements for MA-reimbursed nursing home care or are relocated from facilities. DHFS must establish a uniform daily rate for CIP II and reimburse counties up to that rate for each person enrolled in CIP II. ~~Under 2003 Wisconsin Act 334 the biennial budget~~ DHFS may provide enhanced reimbursement for CIP II services for a person who is relocated to the community from a nursing home by a county ~~after July 16, 2002,~~ if the nursing home bed used by the person is delicensed upon the person's relocation.

This bill authorizes DHFS to provide CIP II funding for home and community-based services to an MA-eligible person who relocates from a facility to

**ASSEMBLY BILL 920**

the community. Reimbursement is not conditioned on delicensure of a nursing home bed upon the person's relocation. The funding begins on the date of the relocation and ends on the date that the person discontinues program participation or no longer meets the level of care requirements for MA reimbursement in a nursing home. Funding in the aggregate for these relocated persons may not exceed the total MA costs for the persons if served in nursing homes. DHFS may provide an enhanced reimbursement rate for the services. The total number of persons who may participate in this particular aspect of CIP II is not restricted by limitations on numbers participating in the remainder of CIP II.

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.** 46.277 (1) of the statutes is amended to read:

2           46.277 (1) LEGISLATIVE INTENT. The intent of the program under this section is  
3 to provide home or community-based care to serve in a noninstitutional community  
4 setting a person who meets eligibility requirements under 42 USC 1396n (c) and is  
5 relocated from an institution other than a state center for the developmentally  
6 disabled or meets the level of care requirements for medical assistance  
7 reimbursement in a skilled nursing facility or an intermediate care facility, except  
8 that the number of persons who receive home or community-based care under this  
9 section is not intended, other than under sub. (4) (c), to exceed the number of nursing  
10 home beds that are delicensed as part of a plan submitted by the facility and  
11 approved by the department. The intent of the program is also that counties use all  
12 existing services for providing care under this section, including those services  
13 currently provided by counties.

14           **SECTION 2.** 46.277 (1m) (a) of the statutes is renumbered 46.277 (1m) (ak).

15           **SECTION 3.** 46.277 (1m) (ag) of the statutes is created to read:

**ASSEMBLY BILL 920**

1           46.277 (1m) (ag) "Delicensed" means deducted from the number of beds stated  
2 on a facility's license, as specified under s. 50.03 (4) (e).

3           **SECTION 4.** 46.277 (2) (intro.) of the statutes is amended to read:

4           46.277 (2) DEPARTMENTAL POWERS AND DUTIES. (intro.) The department may  
5 request a waiver from the secretary of the federal department of health and human  
6 services, under 42 USC 1396n (c), authorizing the department to serve medical  
7 assistance recipients, who meet the level of care requirements for medical assistance  
8 reimbursement in a skilled nursing facility or an intermediate care facility, in their  
9 communities by providing home or community-based services as part of medical  
10 assistance. ~~The~~ Except under sub. (4) (c), the number of persons for whom the waiver  
11 is requested may not exceed the number of nursing home beds that are delicensed  
12 as part of a plan submitted by the facility and approved by the department. If the  
13 department requests a waiver, it shall include all assurances required under 42 USC  
14 1396n (c) (2) in its request. If the department receives this waiver, it may request  
15 one or more 3-year extensions of the waiver under 42 USC 1396n (c) and shall  
16 perform the following duties:

17           **SECTION 5.** 46.277 (3) (a) of the statutes is amended to read:

18           46.277 (3) (a) Sections 46.27 (3) (b) and 46.275 (3) (a) and (c) to (e) apply to  
19 county participation in this program, except that services provided in the program  
20 shall substitute for care provided a person in a skilled nursing facility or  
21 intermediate care facility who meets the level of care requirements for medical  
22 assistance reimbursement to that facility rather than for care provided at a state  
23 center for the developmentally disabled. ~~The~~ Except in sub. (4) (c), the number of  
24 persons who receive services provided by the program under this paragraph may not  
25 exceed the number of nursing home beds, other than beds specified in sub. (5g) (b),

**ASSEMBLY BILL 920**

1 that are delicensed as part of a plan submitted by the facility and approved by the  
2 department.

3 **SECTION 6.** 46.277 (3) (b) 1. of the statutes is amended to read:

4 46.277 (3) (b) 1. ~~If Except under sub. (4) (c),~~ if the provision of services under  
5 this section results in a decrease in the statewide nursing home bed limit under s.  
6 150.31 (3), the facility affected by the decrease shall submit a plan for delicensing all  
7 or part of the facility that is approved by the department.

8 **SECTION 7.** 46.277 (3) (b) 2. of the statutes is amended to read:

9 46.277 (3) (b) 2. Each county department participating in the program shall  
10 provide home or community-based care to persons eligible under this section, except  
11 that the number of persons who receive home or community-based care under this  
12 section may not exceed, ~~other than under sub. (4) (c),~~ the number of nursing home  
13 beds, other than beds specified in sub. (5g) (b), that are delicensed as part of a plan  
14 submitted by the facility and approved by the department.

15 **SECTION 8.** 46.277 (4) (a) of the statutes is amended to read:

16 46.277 (4) (a) Any medical assistance recipient who meets the level of care  
17 requirements for medical assistance reimbursement in a skilled nursing facility or  
18 intermediate care facility is eligible to participate in the program, except that the  
19 number of participants may not exceed, ~~other than under par. (c),~~ the number of  
20 nursing home beds, other than beds specified in sub. (5g) (b), that are delicensed as  
21 part of a plan submitted by the facility and approved by the department. Such a  
22 recipient may apply, or any person may apply on behalf of such a recipient, for  
23 participation in the program. Section 46.275 (4) (b) applies to participation in the  
24 program.

25 **SECTION 9.** 46.277 (4) (b) of the statutes is amended to read:

**ASSEMBLY BILL 920**

1           46.277 (4) (b) To the extent authorized under 42 USC 1396n and except under  
2 par. (c), if a person discontinues participation in the program, a medical assistance  
3 recipient may participate in the program in place of the participant who discontinues  
4 if that recipient meets the level of care requirements for medical assistance  
5 reimbursement in a skilled nursing facility or intermediate care facility, except that  
6 the number of participants may not exceed the number of nursing home beds, other  
7 than beds specified in sub. (5g) (b), that are delicensed as part of a plan submitted  
8 by the facility and approved by the department.

9           **SECTION 10.** 46.277 (4) (c) of the statutes is created to read:

10           46.277 (4) (c) The department may, under this paragraph, provide funding  
11 under this section for services for a medical assistance recipient who relocates from  
12 a facility to the community, beginning on the date of the relocation and ending on the  
13 date that the individual discontinues participation in the program or no longer meets  
14 the level of care requirements for medical assistance reimbursement in a skilled  
15 nursing facility or an intermediate care facility. Funding for medical assistance costs  
16 for individuals relocated under this paragraph may not exceed, in the aggregate,  
17 total medical assistance costs for the individuals if served in facilities. The total  
18 number of individuals who may participate in the program under this paragraph is  
19 not restricted by any otherwise applicable limitation on the number of individuals  
20 who may participate in the program under this section.

21 <sup>LPS:</sup> <sup>Please</sup> <sup>Fix</sup> <sup>comp.</sup> → **SECTION 11.** 46.277 (5) (g) of the statutes, ~~as created by 2003 Wisconsin Act 33,~~  
22 is amended to read:

23           46.277 (5) (g) The department may provide enhanced reimbursement for  
24 services provided under this section to an individual who is relocated to the  
25 community from a nursing home by a county department on or after July 26, 2003,

**ASSEMBLY BILL 920**

1 if the nursing home bed that was used by the individual is delicensed upon relocation  
2 of the individual or if the individual is relocated under sub. (4) (c). The department  
3 shall develop and utilize a formula to determine the enhanced reimbursement rate.

4 **SECTION 12.** 46.277 (5g) (a) of the statutes is amended to read:

5 46.277 (5g) (a) The Except under sub. (4) (c), the number of persons served  
6 under this section may not exceed the number of nursing home beds that are  
7 delicensed as part of a plan submitted by the facility and approved by the  
8 department.

9

(END)

1/21/05 From Steve Miliato:

0344

Revise draft; when person in n. h. is relocated to community, bed must be reserved for that person's potential future use until person dies.

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**Kennedy, Debora**

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**From:** Milioto, Steve  
**Sent:** Friday, January 21, 2005 8:50 AM  
**To:** Kennedy, Debora  
**Cc:** Johnston, James  
**Subject:** Draft 344

**Importance:** High

Hi Debora --

I have a last minute change for you in regard to draft 344.

The Governor hates the Life Lease concept and name. So, the only change he wants is to reduce a bed when a person relocated to the community under CIP II dies. In effect, this would mean a reduction in the statewide bed cap each year (dependent, of course, on whether relocations continue at a steady clip or not.)

Please revise draft 344 to reflect this idea. Feel free to give me a call about this. Best, Steve





( I u edit 1/21 )  
**State of Wisconsin**  
**2005 - 2006 LEGISLATURE**

LRB-0344/22  
DAK:wlj:3

DOA:.....Milioto, BB0019 - Life Lease

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

TODAY  
Please

DO NOT GEN

- 1 AN ACT ...; relating to: provision of home and community-based services under
- 2 a community integration program to persons relocated from facilities, during
- 3 the period of the relocation.

*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

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rather, the nursing home must reserve a bed for potential future use by the relocated person. At the death of the person, DHFS must delicense the nursing home bed.

and ends on the date that the person discontinues program participation or no longer meets the level of care requirements for MA reimbursement in a nursing home. Funding in the aggregate for these relocated persons may not exceed the total MA costs for the persons if served in nursing homes. DHFS may provide an enhanced reimbursement rate for the services. The total number of persons who may participate in this particular aspect of CIP II is not restricted by limitations on numbers participating in the remainder of CIP II.

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INSERT 5-13

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11 date that the individual <sup>dies</sup> discontinues participation in the program <sup>or</sup> no longer meets  
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16 number of individuals who may participate in the program under this paragraph is  
17 not restricted by any otherwise applicable limitation on the number of individuals  
18 who may participate in the program under this section.

19 SECTION 11. 46.277 (5) (g) of the statutes is amended to read:

20 46.277 (5) (g) The department may provide enhanced reimbursement for  
21 services provided under this section to an individual who is relocated to the  
22 community from a nursing home by a county department on or after July 26, 2003,  
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24 of the individual or if the individual is relocated under sub. (4) (c). The department  
25 shall develop and utilize a formula to determine the enhanced reimbursement rate.



INSERT 5-13

no# = A nursing home bed corresponding to the bed that was used by the individual shall be reserved by the nursing home for the individual's potential future use. Upon the death of the individual, the bed shall be deaccessioned by the department.

## Life Lease Statutory Change

Proposed Statutory Change:

Step 1: Withdraw Life Lease changes in DHFS Request (LRB-0344)

Step 2: Make the following change to current law s. 46.277(5)(g):

46,277(5)(g) The department may provide enhanced reimbursement for services provided under this section to an individual who is relocated to the community from a nursing home bed by a county department on or after July 26, 2003, ~~if the nursing home bed that was used by the individual is delicensed upon relocation of the individual as long as the number of people served under this section does not exceed the number of nursing home beds that have been delicensed.~~ The Department shall develop and utilize a formula to determine the enhanced reimbursement rate.

are

under

as a  
as

part of plans

submitted by

facilities and

approved by

the department



## Kennedy, Debora

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**From:** Milioto, Steve  
**Sent:** Friday, January 28, 2005 3:14 PM  
**To:** Kennedy, Debora  
**Cc:** Johnston, James  
**Subject:** FW: Life Lease Stat language

**Importance:** High



Life Lease Stat  
Language Gov's...

Hi Debora --

I hesitate to ask but is it too late to make the change contained in the attachment below? This would be for draft 344. All DHFS and DOA requested changes prior to the one contained below would no longer apply.

I am extremely apologetic for the last minute nature of this and will certainly understand if this has to appear as an errata on our part. Best, Steve

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

**From:** Forsaith, Andrew  
**Sent:** Friday, January 28, 2005 2:28 PM  
**To:** Johnston, James; Milioto, Steve  
**Subject:** Life Lease Stat language

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**Kennedy, Debora**

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**From:** Johnston, James  
**Sent:** Monday, January 31, 2005 2:19 PM  
**To:** Bove, Fredi-Ellen; Forsaith, Andrew  
**Cc:** Miioto, Steve; Kennedy, Debora  
**Subject:** FW: CIP II language

We are also planning to update the applicability date for the new language so that the enhanced rate for relocations, under the changes we are making to s. 46.277(5)(g), applies to relocations that take place after the effective date of the bill.

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

**From:** Johnston, James  
**Sent:** Monday, January 31, 2005 1:50 PM  
**To:** Forsaith, Andrew  
**Cc:** Bove, Fredi-Ellen  
**Subject:** CIP II language

As long as the number of people served under this section does not exceed the number of nursing home beds that have been delicensed as part of plans submitted by facilities and approved by the department.



NOW  
State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0344/3  
DAK:wlj:js

DOA:.....Milioto, BB0019 - Life Lease

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Do Not Gen

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*if the number of persons served does not exceed the number of nursing home beds delicensed as part of plans submitted by nursing homes and approved by DHFS.*

potential future use by the relocated person. At the death of the person, DHFS must delicense the nursing home bed. The funding begins on the date of the relocation and ends on the date that the person discontinues program participation or no longer meets the level of care requirements for MA reimbursement in a nursing home. Funding in the aggregate for these relocated persons may not exceed the total MA costs for the persons if served in nursing homes. DHFS may provide an enhanced reimbursement rate for the services. The total number of persons who may participate in this particular aspect of CIP II is not restricted by limitations on numbers participating in the remainder of CIP II.

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

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3 **SECTION 6.** 46.277 (3) (b) 1. of the statutes is amended to read:

4 46.277 (3) (b) 1. ~~If Except under sub. (4) (c), if~~ the provision of services under  
5 this section results in a decrease in the statewide nursing home bed limit under s.  
6 150.31 (3), the facility affected by the decrease shall submit a plan for delicensing all  
7 or part of the facility that is approved by the department.

8 **SECTION 7.** 46.277 (3) (b) 2. of the statutes is amended to read:

9 46.277 (3) (b) 2. Each county department participating in the program shall  
10 provide home or community-based care to persons eligible under this section, except  
11 that the number of persons who receive home or community-based care under this  
12 section may not exceed, ~~other than under sub. (4) (c),~~ the number of nursing home  
13 beds, other than beds specified in sub. (5g) (b), that are delicensed as part of a plan  
14 submitted by the facility and approved by the department.

15 **SECTION 8.** 46.277 (4) (a) of the statutes is amended to read:

16 46.277 (4) (a) Any medical assistance recipient who meets the level of care  
17 requirements for medical assistance reimbursement in a skilled nursing facility or  
18 intermediate care facility is eligible to participate in the program, except that the  
19 number of participants may not exceed, ~~other than under par. (c),~~ the number of  
20 nursing home beds, other than beds specified in sub. (5g) (b), that are delicensed as  
21 part of a plan submitted by the facility and approved by the department. Such a  
22 recipient may apply, or any person may apply on behalf of such a recipient, for  
23 participation in the program. Section 46.275 (4) (b) applies to participation in the  
24 program.

25 **SECTION 9.** 46.277 (4) (b) of the statutes is amended to read:

1           46.277 (4) (b) To the extent authorized under 42 USC 1396n and except under  
2 par. (c), if a person discontinues participation in the program, a medical assistance  
3 recipient may participate in the program in place of the participant who discontinues  
4 if that recipient meets the level of care requirements for medical assistance  
5 reimbursement in a skilled nursing facility or intermediate care facility, except that  
6 the number of participants may not exceed the number of nursing home beds, other  
7 than beds specified in sub. (5g) (b), that are delicensed as part of a plan submitted  
8 by the facility and approved by the department.

9           **SECTION 10.** 46.277 (4) (c) of the statutes is created to read:

10           46.277 (4) (c) The department may, under this paragraph, provide funding  
11 under this section for services for a medical assistance recipient who relocates from  
12 a facility to the community, beginning on the date of the relocation and ending on the  
13 date that the individual dies, discontinues participation in the program, or no longer  
14 meets the level of care requirements for medical assistance reimbursement in a  
15 skilled nursing facility or an intermediate care facility. A nursing home bed  
16 corresponding to the bed that was used by the individual shall be reserved by the  
17 nursing home for the individual's potential future use. Upon the death of the  
18 individual, the bed shall be delicensed by the department. Funding for medical  
19 assistance costs for individuals relocated under this paragraph may not exceed, in  
20 the aggregate, total medical assistance costs for the individuals if served in facilities.  
21 The total number of individuals who may participate in the program under this  
22 paragraph is not restricted by any otherwise applicable limitation on the number of  
23 individuals who may participate in the program under this section.

24           **SECTION 11.** 46.277 (5) (g) of the statutes is amended to read:





## Kennedy, Debora

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**From:** Milioto, Steve  
**Sent:** Tuesday, February 01, 2005 2:29 PM  
**To:** Johnston, James; Kennedy, Debora  
**Subject:** Community Relocations draft

**Importance:** High

Jim and Debora --

I was rereading draft 344 this afternoon. I'm less certain today than I was yesterday about the enhanced reimbursement and how it will work for those relocations that have occurred since July 26, 2003.

Since the draft now refers to the effective date of the bill and deletes the July 26, 2003 reference, the post-July 26, 2003/pre-effective date relocations that enjoy enhanced reimbursement may fall into a kind of limbo where there is no governing language for these relocations.

I guess I would feel more comfortable if we specified in 46.277(5)(g) that relocations made with the enhanced reimbursement after July 26, 2003 but before the effective date of the bill would still be able to enjoy the enhanced reimbursement.

If it's not too late to make this change, I would like to make it. If not, this may be a candidate for the errata list. Best, Steve

2/1/05: From Steve Milioto; they decided not to make this change.

DAK: word "section" should be changed to "paragraph"; Steve agreed



State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0344/4  
DAK:wlj:ms

DOA:.....Milioto, BB0019 - Life Lease

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

Wed. am  
Please

1 *Do Not Gen*  
AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

Currently, DHFS administers a Community Integration Program (commonly known as "CIP II"), under which Medical Assistance (MA) moneys are paid to counties to provide home and community-based services, under a waiver of federal Medicaid laws, to elderly and physically disabled persons who meet the level of care requirements for MA-reimbursed nursing home care or who are relocated from facilities. DHFS must establish a uniform daily rate for CIP II and reimburse counties up to that rate for each person enrolled in CIP II. DHFS may provide enhanced reimbursement for CIP II services for a person who is relocated to the community from a nursing home by a county if the nursing home bed used by the person is delicensed upon the person's relocation.

This bill authorizes DHFS to provide enhanced CIP II funding for home and community-based services to an MA-eligible person who relocates from a facility to the community, if the number of persons served does not exceed the number of nursing home beds delicensed as part of plans submitted by nursing homes and approved by DHFS.

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

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

1           **SECTION 1.** 46.277 (1m) (ag) of the statutes is created to read:

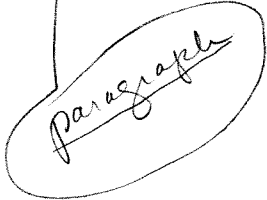
2           46.277 (1m) (ag) "Delicensed" means deducted from the number of beds stated  
3 on a facility's license, as specified under s. 50.03 (4) (e).

4           **SECTION 2.** 46.277 (5) (g) of the statutes is amended to read:

5           46.277 (5) (g) The department may provide enhanced reimbursement for  
6 services provided under this section to an individual who is relocated to the  
7 community from a nursing home by a county department on or after ~~July 26, 2003~~  
8 the effective date of this paragraph .... [revisor inserts date], if the nursing home bed  
9 that was used by the individual is delicensed upon relocation of the individual  
10 number of individuals served under this ~~section~~ does not exceed the number of  
11 nursing home beds that are delicensed as part of plans submitted by nursing homes  
12 and approved by the department. The department shall develop and utilize a  
13 formula to determine the enhanced reimbursement rate.

14

(END)





State of Wisconsin  
2005 - 2006 LEGISLATURE

LRB-0344/4

DAK:wlj:pg

DOA:.....Milioto, BB0019 - Life Lease

FOR 2005-07 BUDGET -- NOT READY FOR INTRODUCTION

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

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