

**ASSEMBLY SUBSTITUTE AMENDMENT 2,  
TO 2005 SENATE BILL 653**

1       **AN ACT** *to repeal* 46.281 (1) (d) (intro.), 46.281 (1) (d) 1. and 46.281 (1) (e) (intro.);  
2               *to renumber and amend* 46.281 (1) (d) 2.; *to amend* 46.27 (4) (c) 8., 46.27 (5)  
3               (am), 46.27 (6) (a) 3., 46.27 (6g) (intro.), 46.27 (9) (c), 46.281 (1) (e) 1., 46.281 (1)  
4               (e) 2., 46.281 (1) (g) 3., 46.282 (2) (a) (intro.), 46.283 (2) (b) (intro.), 46.284 (4) (e),  
5               46.285 (1) (a) and 49.45 (3) (ag); and *to create* 46.2804 and 51.06 (8) of the  
6               statutes; **relating to:** contracts with entities to operate resource centers and  
7               care management organizations under the Family Care Program, the option of  
8               self-directed services, review of expansions of capitation of payments under  
9               managed care programs for provision of long-term care services, evaluations  
10              of certain managed care programs for provision of long-term care services,  
11              requiring increased payment to nursing homes for care provided as a Family  
12              Care benefit, and requiring an annual report concerning relocations and

1 diversions from nursing homes, intermediate care facilities for the mentally  
2 retarded, and centers for the developmentally disabled.

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***Analysis by the Legislative Reference Bureau***

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

3 **SECTION 1.** 46.27 (4) (c) 8. of the statutes is amended to read:

4 46.27 **(4)** (c) 8. If a pilot project contract with an entity under s. 46.281 (1) (d)  
5 (e) 1. is established in the county, a description of how the activities of the pilot project  
6 entity relate to and are coordinated with the county's proposed program.

7 **SECTION 2.** 46.27 (5) (am) of the statutes is amended to read:

8 46.27 **(5)** (am) Organize assessment activities specified in sub. (6). The county  
9 department or aging unit shall utilize persons for each assessment who can  
10 determine the needs of the person being assessed and who know the availability  
11 within the county of services alternative to placement in a nursing home. If any  
12 hospital patient is referred to a nursing home for admission, these persons shall work  
13 with the hospital discharge planner in performing the activities specified in sub. (6).  
14 The county department or aging unit shall coordinate the involvement of  
15 representatives from the county departments under ss. 46.215, 46.22, 51.42 and  
16 51.437, health service providers and the county commission on aging in the  
17 assessment activities specified in sub. (6), as well as the person being assessed and  
18 members of the person's family or the person's guardian. This paragraph does not  
19 apply to a county department or aging unit in a county where a pilot project in which  
20 the department has contracted with an entity under s. 46.281 (1) (d) is established  
21 (e) 1.

1           **SECTION 3.** 46.27 (6) (a) 3. of the statutes is amended to read:

2           46.27 **(6)** (a) 3. In each participating county, except in counties where a pilot  
3 project in which the department has contracted with an entity under s. 46.281 (1) ~~(d)~~  
4 ~~is established~~ (e) 1., assessments shall be conducted for those persons and in  
5 accordance with the procedures described in the county's community options plan.  
6 The county may elect to establish assessment priorities for persons in target groups  
7 identified by the county in its plan regarding gradual implementation. If a person  
8 who is already admitted to a nursing home requests an assessment and if funds  
9 allocated for assessments under sub. (7) (am) are available, the county shall conduct  
10 the assessment.

11           **SECTION 4.** 46.27 (6g) (intro.) of the statutes is amended to read:

12           46.27 **(6g)** FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and  
13 within the limitations under sub. (7) (b), the fiscal responsibility of a county for an  
14 assessment, unless the assessment is performed by an entity under a contract as  
15 specified under s. 46.281 (1) ~~(d)~~ (e) 1., case plan, or services provided to a person  
16 under this section is as follows:

17           **SECTION 5.** 46.27 (9) (c) of the statutes is amended to read:

18           46.27 **(9)** (c) All long-term community support services provided under this  
19 pilot project in lieu of nursing home care shall be consistent with those services  
20 described in the participating county's community options plan under sub. (4) (c) 1.  
21 and provided under sub. (5) (b). Unless the department has contracted under s.  
22 46.281 (1) ~~(d)~~ (e) 1. with an entity other than the county department, each county  
23 participating in the pilot project shall assess persons under sub. (6).

24           **SECTION 6.** 46.2804 of the statutes is created to read:

1           **46.2804 Managed care programs for long-term care services. (1)** If the  
2 department intends to expand its use of capitation payments under managed care  
3 programs for provision of long-term care services over the number of capitated  
4 payments made on behalf of individuals enrolled in these managed care programs  
5 under 2005 Wisconsin Act 25, the department shall first notify the joint committee  
6 on finance in writing of the proposed expansion. Unless the proposed expansion is  
7 a part of a biennial budget bill, the joint committee on finance shall, within 14  
8 working days after the date of the department's notification, schedule a meeting  
9 under s. 13.10 to approve, modify, or disapprove the proposed expansion. The  
10 department may make the expansion only as approved or modified by the joint  
11 committee on finance.

12           **(2)** Under a managed care program for provision of long-term care services, the  
13 care manager shall provide, within guidelines established by the department, a  
14 mechanism by which an enrollee, beneficiary, or recipient of the program may  
15 arrange for, manage, and monitor his or her benefit directly or with the assistance  
16 of another person chosen by the enrollee, beneficiary, or recipient. The care manager  
17 shall provide each enrollee, beneficiary, or recipient with a form on which the  
18 enrollee, beneficiary, or recipient shall indicate whether he or she has been offered  
19 the option under this subsection and whether he or she has accepted or declined the  
20 option. If the enrollee, beneficiary, or recipient accepts the option, the care manager  
21 shall monitor the use by the enrollee, beneficiary, or recipient of a fixed budget for  
22 purchase of services or support items from any qualified provider, monitor the health  
23 and safety of the enrollee, beneficiary, or recipient, and provide assistance in  
24 management of the budget and services of the enrollee, beneficiary, or recipient at

1 a level tailored to the need and desire of the enrollee, beneficiary, or recipient for the  
2 assistance.

3 **SECTION 7.** 46.281 (1) (d) (intro.) of the statutes is repealed.

4 **SECTION 8.** 46.281 (1) (d) 1. of the statutes is repealed.

5 **SECTION 9.** 46.281 (1) (d) 2. of the statutes is renumbered 46.281 (1) (d) and  
6 amended to read:

7 46.281 (1) (d) In geographic areas in which, in the aggregate, resides no more  
8 than ~~29%~~ 29 percent of the state population that is eligible for the family care benefit,  
9 ~~contract with counties or tribes or bands under a pilot project to demonstrate the~~  
10 ~~ability of counties or tribes or bands~~ a county, a family care district, a tribe or band,  
11 the Great Lakes Inter-Tribal Council, Inc., or with 2 or more of these entities to  
12 manage all long-term care programs and administer the family care benefit as care  
13 management organizations. If the department proposes to contract with these  
14 entities to administer care management organizations in geographic areas in which,  
15 in the aggregate, resides more than 29 percent but less than 50 percent of the state  
16 population that is eligible for the family care benefit, the department shall first  
17 notify the joint committee on finance in writing of the proposed contract. The  
18 notification shall include the contract proposal; and an estimate of the fiscal impact  
19 of the proposed addition that demonstrates that the addition will be cost neutral,  
20 including startup, transitional, and ongoing operational costs and any proposed  
21 county contribution. If the cochairpersons of the committee do not notify the  
22 department within 14 working days after the date of the department's notification  
23 that the committee has scheduled a meeting for the purpose of reviewing the  
24 proposed contract, the department may enter into the proposed contract. If within  
25 14 days after the date of the department's notification the cochairpersons of the

1 committee notify the department that the committee has scheduled a meeting for the  
2 purpose of reviewing the proposed contract, the department may enter into the  
3 proposed contract only upon approval of the committee. The department may  
4 contract with these entities to administer care management organizations in  
5 geographic areas in which, in the aggregate, resides 50 percent or more of the state  
6 population that is eligible for the family care benefit only if specifically authorized  
7 by the legislature and if the legislature appropriates necessary funding.

8 **SECTION 10.** 46.281 (1) (e) (intro.) of the statutes, as affected by 2005 Wisconsin  
9 Act 25, is repealed.

10 **SECTION 11.** 46.281 (1) (e) 1. of the statutes, as affected by 2005 Wisconsin Act  
11 25, is amended to read:

12 46.281 (1) (e) 1. If Subject to the requirements of par. (d), if the local long-term  
13 care council for the applicable area has developed the initial plan under s. 46.282 (3)  
14 (a) 1., contract with entities specified under par. (d) and may, only if specifically  
15 authorized by the legislature and if the legislature appropriates necessary funding,  
16 contract as so authorized with one or more entities in addition to those specified in  
17 par. (d) certified as meeting requirements under s. 46.284 (3) for services of the entity  
18 as a care management organization.

19 **SECTION 12.** 46.281 (1) (e) 2. of the statutes, as created by 2005 Wisconsin Act  
20 25, is amended to read:

21 46.281 (1) (e) 2. Contract with entities specified under par. (d) and may contract  
22 with other entities for the provision of services under s. 46.283 (3) and (4), except that  
23 after July 27, 2005, the department shall notify the joint committee on finance in  
24 writing of any proposed contract with an entity that did not have a contract to provide  
25 services under s. 46.283 (3) and (4) before July 27, 2005. If the cochairpersons of the

1 committee do not notify the department within 14 working days after the date of the  
2 department's notification that the committee has scheduled a meeting for the  
3 purpose of reviewing the proposed contract, the department may enter into the  
4 proposed contract. If within 14 working days after the date of the department's  
5 notification the cochairpersons of the committee notify the department that the  
6 committee has scheduled a meeting for the purpose of reviewing the proposed  
7 contract, the department may enter into the proposed contract only upon approval  
8 of the committee.

9 **SECTION 13.** 46.281 (1) (g) 3. of the statutes is amended to read:

10 46.281 (1) (g) 3. Conduct ongoing evaluations of the ~~long-term care system~~  
11 specified in ss. 46.2805 to 46.2895 managed care programs for provision of long-term  
12 care services that are funded by medical assistance, as defined in s. 46.278 (1m) (b),  
13 as to client access to services, the availability of client choice of living and service  
14 options, quality of care, and cost-effectiveness. In evaluating the availability of  
15 client choice, the department shall evaluate the opportunity for a client to arrange  
16 for, manage, and monitor his or her family care benefit directly or with assistance,  
17 as specified in s. 46.284 (4) (e).

18 **SECTION 14.** 46.282 (2) (a) (intro.) of the statutes is amended to read:

19 46.282 (2) (a) *Appointment by a county.* (intro.) In a county ~~that participates~~  
20 ~~in a pilot project~~ in which the department has a contract under s. 46.281 (1) ~~(d) (e)~~  
21 and before a county participates in the program under ss. 46.2805 to 46.2895, the  
22 following shall be done:

23 **SECTION 15.** 46.283 (2) (b) (intro.) of the statutes, as affected by 2005 Wisconsin  
24 Act 25, is amended to read:

1           46.283 (2) (b) (intro.) After June 30, 2001, the department shall contract with  
2     ~~the entities specified under s. 46.281 (1) (d) 1.~~ and may, if the applicable review  
3     conditions under s. ~~48.281 (1) (e) 2.~~ s. 46.281 (1) (e) 2. are satisfied, ~~in addition to~~  
4     ~~contracting with these entities,~~ contract to operate a resource center with counties,  
5     family care districts, or the governing body of a tribe or band or the Great Lakes  
6     Inter-Tribal Council, Inc., under a joint application of any of these, or with a private  
7     nonprofit organization if the department determines that the organization has no  
8     significant connection to an entity that operates a care management organization  
9     and if any of the following applies:

10           **SECTION 16.** 46.284 (4) (e) of the statutes is amended to read:

11           46.284 (4) (e) Provide, within guidelines established by the department, a  
12     mechanism by which an enrollee may arrange for, manage, and monitor his or her  
13     family care benefit directly or with the assistance of another person chosen by the  
14     enrollee. The care management organization shall provide each enrollee with a form  
15     on which the enrollee shall indicate whether he or she has been offered the option  
16     under this paragraph and whether he or she has accepted or declined the option. If  
17     the enrollee accepts the option, the care management organization shall monitor the  
18     enrollee's use of a fixed budget for purchase of services or support items from any  
19     qualified provider, monitor the health and safety of the enrollee, and provide  
20     assistance in management of the enrollee's budget and services at a level tailored to  
21     the enrollee's need and desire for the assistance.

22           **SECTION 17.** 46.285 (1) (a) of the statutes is amended to read:

23           46.285 (1) (a) For ~~a pilot project established~~ an entity with which the  
24     department has contracted under s. 46.281 (1) ~~(d) 2.~~ (e) 1., provision of the services



1 specified under s. 46.283 (3) (b), (e), (f) and (g) shall be structurally separate from the  
2 provision of services of the care management organization by January 1, 2001.

3 **SECTION 18.** 49.45 (3) (ag) of the statutes is amended to read:

4 49.45 (3) (ag) Reimbursement shall be made to each entity contracted with  
5 under s. 46.281 (1) ~~(d)~~ (e) for functional screens performed ~~under s. 46.281 (1) (d)~~ by  
6 the entity.

7 **SECTION 18m.** 51.06 (8) of the statutes is created to read:

8 51.06 (8) RELOCATIONS; REPORT. (a) In this subsection:

9 1. “Intermediate care facility for the mentally retarded” has the meaning given  
10 in 42 USC 1396d (d).

11 2. “Medical Assistance” has the meaning given in s. 49.43 (8).

12 3. “Nursing home” has the meaning given in s. 50.01 (3).

13 (b) Annually by October 1, the department shall submit to the joint committee  
14 on finance and to the appropriate standing committees of the legislature under s.  
15 13.172 (3) a report that includes information collected from the previous fiscal year  
16 on the relocation or diversion of individuals who are Medical Assistance eligibles or  
17 recipients from nursing homes, intermediate care facilities for the mentally  
18 retarded, and centers for the developmentally disabled. The report shall include all  
19 of the following information:

20 1. The impact of the relocations and diversions on the health and safety of the  
21 individuals relocated or diverted.

22 2. The extent of involvement of guardians or family members of the individuals  
23 in efforts to relocate or divert the individuals.

1           3. The nature and duration of relocations or diversions that specifies the  
2 locations of relocated or diverted individuals every year after home or community  
3 placement occurs, so as to keep track of the individuals on an ongoing basis.

4           4. An accounting of the costs and savings under the Medical Assistance  
5 program of relocations and diversions and the resulting reduction in capacity for  
6 services of nursing homes, intermediate care facilities for the mentally retarded, and  
7 centers for the developmentally disabled. The accounting shall include the per  
8 individual savings as well as the collective savings of relocations and diversions.

9           5. The costs under the Medical Assistance program of administration, housing,  
10 and other services, including nursing, personal care, and physical therapy services,  
11 that are associated with the relocations and diversions.

12           6. The extent of Medical Assistance provided to relocated or diverted  
13 individuals that is in addition to Medical Assistance provided to the individuals  
14 under s. 46.27 (11), 46.275, 46.277, or 46.278, as a family care benefit under ss.  
15 46.2805 to 46.2895, or under any other home-based or community-based program  
16 for which the department has received a waiver under 42 USC 2396n (c).

17           7. Staff turnover rates for nursing homes, intermediate care facilities for the  
18 mentally retarded, and centers for the developmentally disabled in communities in  
19 which an individual relocated or diverted from a nursing home, intermediate care  
20 facility for the mentally retarded, or center for the developmentally disabled  
21 currently resides.

22           **SECTION 19. Nonstatutory provisions.**

23           (1) INCREASED PAYMENTS FOR NURSING HOMES PROVIDING FAMILY CARE BENEFIT  
24 SERVICES.

25           (a) In this subsection:

