

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 SENATE BILL 653**

March 30, 2006 – Offered by JOINT COMMITTEE ON FINANCE.

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 of the statutes; **relating**
6 **to:** contracts with entities to operate resource centers and care management
7 organizations under the Family Care Program, the option of self-directed
8 services, review of expansions of capitation of payments under managed care
9 programs for provision of long-term care services, and long-term care
10 evaluations.

Analysis by the Legislative Reference Bureau

Currently, the Department of Health and Family Services (DHFS) administers Family Care, a program that provides in certain areas a flexible long-term care benefit called the Family Care benefit. A person must be at least 18 years of age,

meet functional and financial eligibility requirements, and have a physical disability, a developmental disability, or infirmities of aging to qualify for the Family Care benefit.

Under current law, before July 1, 2001, DHFS was required to establish in certain geographical areas pilot projects under which DHFS contracted with counties, Family Care districts, federally recognized American Indian tribes or bands, or the Great Lakes Inter-Tribal Council, Inc., to operate resource centers (organizations that provide information and referral services and determine financial and functional eligibility of prospective enrollees) or care management organizations (organizations that assess enrollees' service needs, develop comprehensive care plans for each enrollee, and provide or contract for provision of necessary services), or both. After June 30, 2001, if the local long-term care council for an applicable area had developed a required initial plan, and if authorized and funded by the legislature, DHFS was required to contract with one or more entities in addition to those under pilot projects, for services of a resource center or care management organization; however, as affected by 2005 Wisconsin Act 25 (the biennial budget act), any prospective additional contract with an entity to operate a resource center requires advance approval by the Joint Committee on Finance (JCF), on a passive review basis. Currently, DHFS must conduct on-going evaluations of Family Care.

This substitute amendment eliminates the requirements for establishing Family Care pilot projects before July 1, 2001, and integrates requirements for those pilot projects with current requirements for contracts with resource centers and care management organizations. The substitute amendment specifies that DHFS may contract with a county, a Family Care district, a tribe or band, the Great Lakes Inter-Tribal Council, Inc., or two or more of these entities to administer the Family Care benefit as care management organizations or resource centers. The substitute amendment authorizes DHFS to contract with these entities to administer care management organizations in geographic areas in which, in the aggregate, more than 29 percent but less than 50 percent of the state population that is eligible for the family care benefit reside, if such a proposed contract receives advance approval from JCF, under a passive review process. Notification by DHFS to the JCF concerning such a proposed contract must include the contract proposal and an estimate of the fiscal impact of the proposed addition that demonstrates cost neutrality. However, for contracts with the entities to administer care management organizations in geographic areas in which, in the aggregate, 50 percent or more of the state population that is eligible for the Family Care benefit resides, the legislature must provide specific authorization and necessary funding.

The substitute amendment requires that, if DHFS intends to expand its use of capitation payments under managed care programs for provision of long-term care services over the number of capitated payments made on behalf of individuals enrolled in these managed care programs under 2005 Wisconsin Act 25, the department must first notify JCF of that intention, and JCF must approve the expansion. Further, a care manager of a managed care program for provision of long-term care services must provide a mechanism by which an enrollee, beneficiary,

or recipient of the program may arrange for, manage, and monitor his or her benefit directly or with the assistance of another person chosen by the enrollee, beneficiary, or recipient.

The substitute amendment requires that a care management organization provide each Family Care enrollee with a form on which the enrollee must indicate whether he or she has been offered the option of arranging for, managing, and monitoring his or her own Family Care benefit directly or with assistance. The enrollee also must indicate whether he or she accepted or declined the option. This same requirement applies to the care manager of a managed care program for provision of long-term care services.

The substitute amendment also requires that the evaluations that DHFS must make concerning Family Care include client access to services, the availability of client choice of living and service options (including the opportunity for the client to have self-directed services), quality of care, and cost effectiveness. Lastly, the substitute amendment expands these evaluations to include the entire long-term care system.

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

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

2 46.27 **(4)** (c) 8. If a ~~pilot project~~ contract with an entity under s. 46.281 (1) ~~(d)~~
3 (e) 1. is established in the county, a description of how the activities of the ~~pilot project~~
4 entity relate to and are coordinated with the county's proposed program.

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

6 46.27 **(5)** (am) Organize assessment activities specified in sub. (6). The county
7 department or aging unit shall utilize persons for each assessment who can
8 determine the needs of the person being assessed and who know the availability
9 within the county of services alternative to placement in a nursing home. If any
10 hospital patient is referred to a nursing home for admission, these persons shall work
11 with the hospital discharge planner in performing the activities specified in sub. (6).
12 The county department or aging unit shall coordinate the involvement of
13 representatives from the county departments under ss. 46.215, 46.22, 51.42 and

1 51.437, health service providers and the county commission on aging in the
2 assessment activities specified in sub. (6), as well as the person being assessed and
3 members of the person's family or the person's guardian. This paragraph does not
4 apply to a county department or aging unit in a county ~~where a pilot project in which~~
5 the department has contracted with an entity under s. 46.281 (1) ~~(d)~~ is established
6 (e) 1.

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

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

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

18 46.27 **(6g)** FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and
19 within the limitations under sub. (7) (b), the fiscal responsibility of a county for an
20 assessment, unless the assessment is performed by an entity under a contract as
21 specified under s. 46.281 (1) ~~(d)~~ (e) 1., case plan, or services provided to a person
22 under this section is as follows:

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

24 46.27 **(9)** (c) All long-term community support services provided under this
25 pilot project in lieu of nursing home care shall be consistent with those services

1 described in the participating county's community options plan under sub. (4) (c) 1.
2 and provided under sub. (5) (b). Unless the department has contracted under s.
3 46.281 (1) ~~(d)~~ (e) 1. with an entity other than the county department, each county
4 participating in the pilot project shall assess persons under sub. (6).

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

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

17 **(2)** Under a managed care program for provision of long-term care services, the
18 care manager shall provide, within guidelines established by the department, a
19 mechanism by which an enrollee, beneficiary, or recipient of the program may
20 arrange for, manage, and monitor his or her benefit directly or with the assistance
21 of another person chosen by the enrollee, beneficiary, or recipient. The care manager
22 shall provide each enrollee, beneficiary, or recipient with a form on which the
23 enrollee, beneficiary, or recipient shall indicate whether he or she has been offered
24 the option under this subsection and whether he or she has accepted or declined the
25 option. If the enrollee, beneficiary, or recipient accepts the option, the care manager

1 shall monitor the use by the enrollee, beneficiary, or recipient of a fixed budget for
2 purchase of services or support items from any qualified provider, monitor the health
3 and safety of the enrollee, beneficiary, or recipient, and provide assistance in
4 management of the budget and services of the enrollee, beneficiary, or recipient at
5 a level tailored to the need and desire of the enrollee, beneficiary, or recipient for the
6 assistance.

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

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

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

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

1 department within 14 working days after the date of the department's notification
2 that the committee has scheduled a meeting for the purpose of reviewing the
3 proposed contract, the department may enter into the proposed contract. If within
4 14 days after the date of the department's notification the cochairpersons of the
5 committee notify the department that the committee has scheduled a meeting for the
6 purpose of reviewing the proposed contract, the department may enter into the
7 proposed contract only upon approval of the committee. The department may
8 contract with these entities to administer care management organizations in
9 geographic areas in which, in the aggregate, resides 50 percent or more of the state
10 population that is eligible for the family care benefit only if specifically authorized
11 by the legislature and if the legislature appropriates necessary funding.

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

14 **SECTION 11.** 46.281 (1) (e) 1. of the statutes, as affected by 2005 Wisconsin Act
15 25, is amended to read:

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

23 **SECTION 12.** 46.281 (1) (e) 2. of the statutes, as created by 2005 Wisconsin Act
24 25, is amended to read:

1 46.281 (1) (e) 2. Contract with entities specified under par. (d) and may contract
2 with other entities for the provision of services under s. 46.283 (3) and (4), except that
3 after July 27, 2005, the department shall notify the joint committee on finance in
4 writing of any proposed contract with an entity that did not have a contract to provide
5 services under s. 46.283 (3) and (4) before July 27, 2005. If the cochairpersons of the
6 committee do not notify the department within 14 working days after the date of the
7 department's notification that the committee has scheduled a meeting for the
8 purpose of reviewing the proposed contract, the department may enter into the
9 proposed contract. If within 14 working days after the date of the department's
10 notification the cochairpersons of the committee notify the department that the
11 committee has scheduled a meeting for the purpose of reviewing the proposed
12 contract, the department may enter into the proposed contract only upon approval
13 of the committee.

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

15 46.281 (1) (g) 3. Conduct ongoing evaluations of the long-term care system
16 specified in ss. 46.2805 to 46.2895 as to client access to services, the availability of
17 client choice of living and service options, quality of care, and cost-effectiveness. In
18 evaluating the availability of client choice, the department shall evaluate the
19 opportunity for a client to arrange for, manage, and monitor his or her family care
20 benefit directly or with assistance, as specified in s. 46.284 (4) (e).

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

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

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

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

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

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

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

