# *2007 DRAFTING REQUEST*

## Bill

Received: **09/21/2006**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Milioto**

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

Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Milioto, BB0031 -

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**Topic:**

Family care expansion

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**Instructions:**

See Attached

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**Drafting History:**

| Vers. | Drafted | Reviewed | Typed | Proofed | Submitted | Jacketed | Required |
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| /P1 | rryan<br>10/10/2006<br>rryan<br>11/28/2006 | csicilia<br>10/18/2006<br>csicilia<br>12/06/2006 | rschluet<br>10/18/2006 | _____<br>_____<br>_____<br>_____ | mbarman<br>10/18/2006 | | |
| /P2 | rryan<br>01/02/2007 | csicilia<br>01/10/2007 | pgreensl<br>12/07/2006 | _____<br>_____ | cduerst<br>12/07/2006 | | S&L |
| /P3 | rryan<br>01/25/2007 | csicilia<br>01/25/2007 | rschluet<br>01/10/2007 | _____<br>_____ | cduerst<br>01/10/2007 | | S&L |
| /P4 | rryan<br>01/30/2007 | csicilia<br>01/31/2007 | nnatzke<br>01/26/2007 | _____<br>_____ | sbasford<br>01/26/2007 | | S&L |

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| /P5 | rryan<br>02/01/2007 | csicilia<br>02/01/2007 | jfrantze<br>01/31/2007 | _____<br>_____ | cduerst<br>01/31/2007 | | S&L |
| /P6 | | | nnatzke<br>02/01/2007 | _____<br>_____ | sbasford<br>02/02/2007 | | |

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| /P4 | rryan<br>01/30/2007 | csicilia<br>01/31/2007 | nnatzke<br>01/26/2007 | _____<br>_____ | sbasford<br>01/26/2007 | | S&L |

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| /P3 | rryan<br>01/25/2007 | csicilia<br>01/25/2007 | rschluet<br>01/10/2007 | _____<br>_____ | cduerst<br>01/10/2007 | | S&L |
| /P4 | | | nnatzke<br>01/26/2007 | _____<br>_____ | sbasford<br>01/26/2007 | | |

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FE Sent For: /P4 ijs 1/25/07 nwn 1/26 nwn/ks 1/26

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FE Sent For:

**<END>**

DAK/RLR

LRB-0330

# 2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Family Care Expansion
- Tracking Code: BB0031
- SBO team: Health
- SBO analyst: Steve Milioto
  - Phone: 266-8593
  - Email: Steve.Milioto@Wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435

Priority High

# Family Care Expansion Statutory Changes

## Current Language

Eligibility, benefits, and administration of the Family Care program are governed by statutory sections 46.2805 through 46.2895

## Proposed Change

1. Eliminate statewide cap and Joint Finance Committee review of Family Care care management organization (CMO) expansion.
2. Eliminate Joint Finance Committee review of Family Care aging and disability resource center (ADRC) expansion.
3. Create appropriation for county revenue contributions for Family Care expansion
4. Provide Family Care counties flexibility in spending Community Options Program funds for children and persons with mental illness.
5. Revise the definition of the elderly target group
6. Revise the definition of "immediate family member."
7. Update references to "functional and financial screen."
8. Extend exemption from home health agency licensing requirements to CMO subcontractees.
9. Revise ADRC special outreach statutory duties.

## Background and Rationale for the Change

*1. Statewide cap on and Joint Finance Committee review of care management organization (CMO) expansion.* The original Family Care statute allowed the Department to establish CMOs in "geographic areas in which resides no more than 29 percent of the state population." (s. 46.281(1)(d)2.) The statute further provided that the Department could exceed the cap "only if specifically authorized by the legislature and if the legislature appropriates necessary funding." (s. 46.281(e)1.) In FY 06, the Department sought legislation to remove this cap, to allow expansion statewide. The subsequent legislation, 2005 Act 386, allowed CMO expansion to 50% of the state. The act amended s. 46.281(1)(d) to authorize DHFS to submit proposals to the Joint Finance Committee under 14 day passive review to expand CMO coverage to more than 29% but less than 50% of the state population. The Department must demonstrate to the Committee that the start up, transitional, and ongoing operational costs under the proposed expansion would be cost neutral. In addition, as under the original statute, the Department can only contract with counties, family care districts, tribes or bands, and the Great Lakes Intertribal Council to operate a CMO. Act 386 also created a separate section, s. 46.2804, that appears to establish a parallel process for Joint Finance

review of any managed care expansion. Section 46.2804(1) requires DHFS to notify the committee if it intends to "expand its use of capitation payments under managed care programs for provision of long-term care services." The statute directs the Committee to schedule a meeting within 14 working days to approve, modify, or disapprove the proposed expansion.

The Department has begun implementing the Governor's initiative to expand Family Care statewide over the next five years. The Department's 2007-09 biennial budget request includes funding allocations to reflect continued expansion over the biennium. The Legislature will have the opportunity to review expansion plans and funding levels as part of the biennial budget process. As a result, it is unnecessary to retain Joint Finance review of expansion. Removing the 50% cap and Joint Finance review will allow the Department to proceed as quickly as possible with expansion.

*Proposed Change*: Delete s. 46.2804(1) and modify s. 46.281(1)(d) to allow DHFS to contract with counties, family care districts, tribes or bands, or the Great Lakes Intertribal Council to serve up to 100% of the state's eligible population. Eliminate Joint Finance Committee review of any expansion and the requirement that the expansion be cost neutral.

2. *Joint Finance Committee review of aging and disability resource center (ADRCs) expansion.* As in the case of CMOs, the original Family Care statute capped ADRC expansion at 29% of the eligible population. 2005 Act 25, the 2005-07 biennial budget, amended s.46.281(1)(e)2. to allow DHFS to expand ADRCs statewide and to contract with both public and private entities to operate ADRCs. However, the act required DHFS to obtain approval from the Joint Finance Committee under 14 day passive review for any new ADRC to be established after July 27, 2005.

*Proposed Change*: Modify s. 46.281(1)(e)2. to eliminate Joint Finance review of ADRC expansion. As with CMO expansion, the Legislature will have the opportunity to review ADRC expansion plans and funding levels during the 2007-09 budget process, which makes further Joint Finance review unnecessary. The statutory change will allow DHFS to proceed with expansion within the funding levels provided in the 2007-09 biennial budget.

3. *Appropriation for county revenue contributions for Family Care expansion.* A key assumption in Family Care expansion is that current county long term care funding would be preserved in the new system. The Department has proposed that each county contribute the amount of Community Aids and local property tax funds it used in CY 05 to fund local MA waiver slots and overmatch on state funded slots. The Department has also proposed to give each county the option of making the contribution either through a reduction to its Community Aids Basic County Allocation (BCA), by making a direct payment to the State, or a combination of both. The Department will need an appropriation to receive and spend the direct payments.

*Proposed Change*: Create a new program revenue, continuing appropriation under s. 20.435(7)(g) to allow DHFS to receive and spend revenues from county contributions for Family Care and PACE/Partnership. Reference the new appropriation under s. 46.284(5).

4. *COP funding for Children with Disabilities and People with Mental Illness.* Under the Community Options Program (COP), the Department allocates GPR funding to counties to provide long term care services to the elderly, adults and children with physical disabilities or developmental

disabilities, and people with mental illness. Under COP, counties must fulfill a number of requirements, including establishing planning committees, determining eligibility, conducting assessments of client care needs, and developing care plans. In addition, each county must distribute its COP allocation so as to serve a "significant number of persons" in each eligible target group, as defined by the Department. In FY 07, $88,243,900 GPR was budgeted for COP.

As the Department expands long term care managed care statewide, elders and adults with disabilities currently served in COP will begin receiving long term care services through Family Care, and DHFS will reallocate funding from COP to these programs to fund benefit costs. Once counties implement managed care, their remaining COP allocation will be limited to the amounts spent for services to children and people with mental illness. In CY 04, counties spent $11.1 million GPR in COP funding for these two target groups. It is not feasible for these counties to continue to administer the full COP program, including complying with the current significant numbers requirement, for the small number of clients in these two target groups. The Department proposes to allow counties that have implemented long term care managed care to use their remaining COP funding allocations for community mental health treatment and prevention services for people with mental illness and for services allowed under the Family Support program for children with disabilities, without having to comply with current COP program requirements.

*Proposed Change:* Amend s. 46.27 and s. 20.435(7)(bd) to allow counties that implemented long term care managed care for elders, adults with physical disabilities, and adults with developmental disabilities to utilize COP funding allocated under s. 20.435(7)(bd) for community mental health treatment and prevention services for people with mental illness and for services allowed under the Family Support program for children with disabilities. In addition, exempt them from requirements under s. 46.27 for the use of those funds.

5. *Definition of Elderly Target Group.* A recent Legislative Council bill addressing protective services for adults, Act 264, revised the definition of "infirmities of aging," under the protective services statute, Chapter 55. The Family Care statutes reference this definition to define the elderly target group in Family Care. The new definition defines "infirmities of aging" as organic brain damage caused by advanced age or other physical degeneration in connection therewith to the extent that the person so afflicted is substantially impaired in his or her ability to adequately provide for his or her care or custody. The new definition is too restrictive for Family Care eligibility purposes.

*Proposed Change:* Replace the Act 264 definition under s. 46.286(1) with the following definition: "Frail elder means an individual aged 65 or older who has a physical disability, or an irreversible dementia, that restricts the individual's ability to perform normal daily tasks or that threatens the capacity of the individual to live independently."

6. *Definition of Immediate Family Member*: Under the current Family Care statute, immediate family members may serve on local long term care councils, resource center governing boards, and Family Care district boards, but the term "immediate family member" is undefined.

*Proposed Change:* Replace references to "immediate family member" with "family member," as defined under s. 157.061(7). Under this definition, family member means a spouse or an individual

related by blood, marriage or adoption within the 3rd degree of kinship as computed under s. 990.001 (16).

7. *References to "Functional and Financial Screen":* The current statute uses the term "functional and financial screen" as a tool used by the ADRCs to determine a person's eligibility for Family Care and his or her service needs. ADRCs actually use separate tools to screen for financial and functional eligibility, and consumers can choose to participate in one or both. The statute should be amended to refer to "financial and cost-sharing screening" and "functional screening."

*Proposed Change:* Replace references to "financial and functional screen" under s. 46.283 with two separate terms: "Financial and cost-sharing screening," defined as the use of a uniform screening tool prescribed by the department to determine financial eligibility under s. 46.286(1)(a) and (1m), and "Functional screening," defined as the use of a uniform screening tool prescribed by the department to determine functional eligibility under s. 46.286(1)(a) and (1m).

8. *Exemption from Home Health Agency License Requirements:* CMOs are exempt from home health agency licensure requirements. This exemption allows nurses on CMO interdisciplinary care management teams to perform routine skilled nursing services during visits with consumers. However, agencies with whom CMOs subcontract for care management are not exempt, which prevents the subcontractor's nursing staff from performing those activities unless it is a licensed home health agency.

*Proposed Change:* Amend s. 50.49(6m) (a) as follows: A care management organization, as defined in s. 46.2805(1), or an entity with which a care management organization contracts for care management services under s. 46.284(4)(d).

9. *ADRC Special Outreach Activities:* S. 46.283(4) lists the required duties of an ADRC. Among other things, these include certain special outreach efforts, namely providing Family Care program information to nursing home and assisted living residents within 6 months of CMO implementation and offering a functional and financial screen to those residents and others seeking admission to those facilities. The requirement that ADRCs provide information to all nursing home and assisted living residents *within 6 months* is an unreasonable burden to place on ADRCs as Family Care is expanded statewide.

*Proposed Change:* Amend s. 46.283(4)(e) to continue to require ADRCs to provide information about Family to nursing home and assisted living residents, but eliminate the requirement that they do so within 6 months of CMO implementation.

| | |
|---|---|
| **Desired Effective Date:** | Upon passage |
| **Agency:** | DHFS |
| **Agency Contact:** | Andy Forsaith |
| **Phone:** | 266-7684 |

2RB-0330

## Ryan, Robin

**From:** Forsaith, Andrew
**Sent:** Thursday, September 28, 2006 4:50 PM
**To:** Ryan, Robin; Steve - DOA Milioto
**Subject:** RE: family care

Yes -- please limit the PR appropriation to the CMO benefit only, not ADRCs.

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 09/28/06 2:40 PM >>>
My understanding is that the new appropriation is for the Family care benefit alone. Andy can correct me if I'm wrong. Best, Steve

> _____
> From: Ryan, Robin [mailto:Robin.Ryan@legis.wisconsin.gov]
> Sent: Thursday, September 28, 2006 2:31 PM
> To: Milioto, Steve - DOA; Forsaith, Andrew C - DHFS
> Subject: family care
>
> Steve and Andy,
>
> Should the new family care appropriation under item 3 in the request
> be just for the family care benefit or also the resource centers?
>
> also, I in my last e-mail, I referenced s. 46.281 (1) (c) -- I just
> meant to cover (1) (d) and (e).

## Ryan, Robin

**From:** Forsaith, Andrew
**Sent:** Thursday, September 28, 2006 4:56 PM
**To:** Milioto, Steve; Ryan, Robin
**Subject:** Re: family care

Robin -- we would still like to change the definition in the Family Care statute to the one proposed in the drafting instructions, both because the new Chapter 55 definition is not quite appropriate for FC and we don't want FC to be affected by any future revisions to the Chapter 55 definition.

>>> "Ryan, Robin" <Robin.Ryan@legis.wisconsin.gov> 09/28/06 4:29 PM
>>>
Andy, item #5 of the request asks for a new definition of "infirmities of aging" for purposes of eligibility for Family Care.

The term in the statues now is "degenerative brain disorder" not "infirmities of aging," and the definition of "degenerative brain disorder" is different than what is cited in the drafting instructions.
Will you please look at the definition(s) from the 2005-06 galley proofs and determine whether you still think it is too restrictive.

This is what the revisor included in the galley proofs:

55.01(1v)
(1v) "Degenerative brain disorder" means the loss or dysfunction of an individual's brain cells to the extent that he or she [an individual] is substantially impaired in his or her ability to provide adequately for his or her own care or custody.

55.01 - ANNOT.
NOTE: Sub. (1v) is affected by 2005 Wis. Acts 264, 387, and 388.
The treatments by Acts 264 and 388 are not mutually inconsistent with each other but are mutually inconsistent with the treatment by Act 387.
Sub. (1v) is shown as affected by the last enacted act Act 388 and as affected by Acts 264 and 388 as merged by the revisor under s. 13.93
(2)
(c). The bracketed language was added by Act 264 but rendered surplusage by Act 388. As affected by 2005 Wis. Act 387 it reads:

55.01 - ANNOT.
(1v) "Degenerative brain disorder" means the loss or dysfunction of brain cells to the extent that the individual is substantially impaired in his or her ability to provide adequately for his or her own care or custody or to manage adequately his or her property or financial affairs.

## Ryan, Robin

**From:** Forsaith, Andrew
**Sent:** Thursday, September 28, 2006 5:02 PM
**To:** Ryan, Robin
**Cc:** Milioto, Steve
**Subject:** Re: more family care

Robin -- I need to consult with program staff about this question and the questions in your very first email -- I'll aim to get back to you early next week.

>>> "Ryan, Robin" <Robin.Ryan@legis.wisconsin.gov> 09/28/06 3:49 PM
>>>
Andy, I called Steve to learn what is included under the term long term care "managed care." He said Family Care, PACE/Partnership, and SSI managed care. My initial thought is that it will be clearer, in item
4
of the family care request, if I specifically cite those programs rather than referring to managed care.

Also, what constitutes "implementation" of long term care managed care?
Does this mean that no persons are receiving COP in the target groups for elders, adults with physical disabilities, and adults with developmental disabilities or just that a family care management organization is operating in the county (or pace or partnership)?

I don't work Fridays or Monday mornings, so if you don't get back to me today, there is no need to get back to me til Monday.

Robin

## Ryan, Robin

**From:** Forsaith, Andrew
**Sent:** Friday, September 29, 2006 4:59 PM
**To:** Ryan, Robin
**Cc:** Milioto, Steve
**Subject:** Re: more family care

Robin -- a couple of thoughts:

1) SSI Managed Care would not be included in the term, because it covers only primary and acute care, and we won't be reallocating COP funds to that program. Counties with SSI managed care still operate COP.
2) I would like to specifically cite FC and PACE/Partnership, but the latter two are not in statute. We administer them under the general authority of the MA statute. Could we say "...for counties that implement the benefit under s. 46.286 or other long term care services through capitated risked based payments.." (Feel free to improve upon that)
3) As far as "implementation", let's define it as just that the CMO is operating in the county. We envision that most counties will implement FC pretty quickly for all eligibles in all target groups, so in most cases all county residents will be served by the CMO.

Thanks for your questions, and I'm glad you're our drafter for this request!

>>> "Ryan, Robin" <Robin.Ryan@legis.wisconsin.gov> 09/28/06 3:49 PM
>>>
Andy, I called Steve to learn what is included under the term long term care "managed care." He said Family Care, PACE/Partnership, and SSI managed care. My initial thought is that it will be clearer, in item
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I don't work Fridays or Monday mornings, so if you don't get back to me today, there is no need to get back to me til Monday.

Robin

## Ryan, Robin

**From:** Forsaith, Andrew
**Sent:** Friday, October 06, 2006 5:23 PM
**To:** Ryan, Robin; Steve - DOA Milioto
**Subject:** RE: family care budget draft

Robin -- Sorry for not responding sooner. Here are answers to your questions:

1. Please retain in your first draft the requirement that the LTC council must approve the new CMO. (After I share the draft with program staff, we may ask that it be removed, but please include it for now.)

2. Under current law, we can use COP funds for COP eligible services to people with mental illness and to children. "Community mental health treatment and prevention services for people with mental illness and for services allowed under the Family Support program" is broader than the allowable services under the current COP program. Therefore, we need new language allowing us to use funds for those purposes. We also would like to exempt counties from all the requirements under s.46.27, not only significant numbers requirements but also requirements that they do assessments and care plans, etc, etc.

We do not intend to transfer funds from COP to other appropriations in the next biennium. Once Family Care is fully implemented, we may propose to transfer the residual COP funds to other programs. However, during implementation, we prefer to allow counties more flexibility to spend COP funds within the COP appropriation.

Sorry again for the slow response and please call if you'd like to talk about it.

Andy
6-7684

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 10/04/06 2:37 PM >>>
Hi Robin --

I will defer to Andy on your two questions. Best, Steve

> _____
> From: Ryan, Robin [mailto:Robin.Ryan@legis.wisconsin.gov]
> Sent: Tuesday, October 03, 2006 3:23 PM
> To: Milioto, Steve - DOA; Forsaith, Andrew C - DHFS
> Subject: FW: family care budget draft
>
>
> On the second question, I meant item 4 in the request, not 5.
> _____
> From: Ryan, Robin
> Sent: Tuesday, October 03, 2006 3:21 PM
> To: Milioto, Steve; Forsaith, Andrew
> Subject: family care budget draft
>
> Andy and Steve,
>
> I think I have just one question outstanding from my series of
> questions last week -- that is whether you want to retain the
> requirement in 46.281 (1) (e) 1. that a local long-term care council
> must develop an initial plan before DHFS may contract for a case
> management organization in the county. Basically, I want to know
> what, if anything, you want retained from 46.281 (1) (e) 1.
>
> I also have a new question on item # 5 in the request. This stems
> from my lack of knowledge regarding COP. May counties already use

COP
> funds for community mental health treatment and prevention services
> for people with mental illness and for services allowed under the
> Family Support program? i.e., do I just need to exempt counties that
> have implemented family care from the requirement to fund
significant
> numbers of clients within all the target groups, or do I also have
to
> authorize counties to use COP funds for the mental health and family
> support services? If I need to do the latter, should I be expanding
> the authorized uses of COP funds, or should I be allowing counties
to
> transfer money from their COP allocations to other programs?
>
> Feel free to call if it is easier to explain over the phone.
261-6927
>
> Thanks,
> Robin

# State of Wisconsin
## 2007 - 2008 LEGISLATURE

LRB-0330/P1
RLR:.../...

In 10/10/06

DOA:.....Milioto, BB0031 - Family care expansion

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

SA ✓
x-ref ✓
new CRs ✓
RNs ☒

D-Note

D. NOT Gen Cat

INSERTS

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

---

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

This is a preliminary draft. An analysis will be provided in a later version.

---

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

**SECTION 1.** 20.435 (7) (g) of the statutes is created to read:

20.435 **(7)** (g) *Long-term care; county contributions.* All moneys received from counties as contributions to the family care program under s. 46.2805 to 46.2895, the Pace program described under s. 46.2805 (1) (a), and the Wisconsin Partnership program described under s. 46.2805 (1) (b) for services under the family care benefit under s. 46.284 (5) and for services under the Pace and Wisconsin Partnership programs.

****NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

**SECTION 2.** 46.27 (4) (c) 8. of the statutes is amended to read:

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

**History:** 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103; 2003 a. 33; 2005 a. 22, 25, 264, 386, 387.

**SECTION 3.** 46.27 (5) (am) of the statutes is amended to read:

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

**History:** 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103; 2003 a. 33; 2005 a. 22, 25, 264, 386, 387.

**SECTION 4.** 46.27 (6) (a) 3. of the statutes is amended to read:

46.27 **(6)** (a) 3. In each participating county, except in counties in which the department has contracted with an entity under s. 46.281 ~~(1) (e) 1.~~ (1d), assessments shall be conducted for those persons and in accordance with the procedures described in the county's community options plan. The county may elect to establish

assessment priorities for persons in target groups identified by the county in its plan regarding gradual implementation. If a person who is already admitted to a nursing home requests an assessment and if funds allocated for assessments under sub. (7) (am) are available, the county shall conduct the assessment.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103; 2003 a. 33; 2005 a. 22, 25, 264, 386, 387.

**SECTION 5.** 46.27 (6g) (intro.) of the statutes is amended to read:

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

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103; 2003 a. 33; 2005 a. 22, 25, 264, 386, 387.

**SECTION 6.** 46.27 (9) (c) of the statutes is amended to read:

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

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103; 2003 a. 33; 2005 a. 22, 25, 264, 386, 387.

**SECTION 7.** 46.27 (13) of the statutes is created to read:

46.27 **(13)** PROGRAM PHASE-OUT. Notwithstanding sub. (7), a county in which a care management organization is operating pursuant to a contract under s. 46.283 (1g) may use funds appropriated under 20.435 (7) (bd) and allocated to the county under sub. (7) to provide community mental health treatment and prevention services for people with mental illness and to provide services described under s.

46.985 for families who are eligible for such services under 46.986 (5). Subsections (2) to (12) do not apply to the provision of services under this subsection.

****NOTE: Do you want to describe "community mental health treatment and prevention services" with any greater specificity? Are they community mental health services under 42 USC 300x-21 to 300x-35, as described under s. 46.40 (2m) (b)? Should all requirements under 46.985 apply to use of COP funds to provide Family Support program services?

****NOTE: I don't think you need to amend s. 20.435 (7) (bd) because it currently covers services under s. 46.27, which include services under this new subsection (13).

**SECTION 8.** 46.2804 (title) of the statutes is amended to read:

**46.2804** (title) ~~**Managed care programs for**~~ **Client management of managed care long-term care ~~services~~ benefit.**

History: 2005 a. 386.

**SECTION 9.** 46.2804 (1) of the statutes is repealed.

History: 2005 a. 386.

**SECTION 10.** 46.2804 (2) of the statutes is renumbered 46.2804.

**SECTION 11.** 46.2805 (6m) of the statutes is created to read:

46.2805 **(6m)** "Family member" means a spouse or an individual related by blood, marriage, or adoption within the 3rd degree of kinship as computed under s. 990.001 (16).

**SECTION 12.** 46.2805 (6r) of the statutes is created to read:

46.2805 **(6r)** "Financial and cost-sharing screening" means a screening to determine financial eligibility under s. 46.286 (1) (b) using a uniform tool prescribed by the department.

****NOTE: This definition does not address determination of a person's cost sharing responsibility. Should it? The definition in the drafting instructions includes determining financial eligibility under s. 46.286 (1) (a) and (1m). I presume DHFS meant s. 46.281 (1) (b), not (a). Also, there is no s. 46.286 (1m). Should the definition reference calculating the cost sharing amount under 46.286 (2)?

**SECTION 13.** 46.2805 (6v) of the statutes is created to read:

46.2805 **(6v)** "Frail elder" means an individual who is 65 years of age or older and has a physical disability or irreversible dementia that restricts the individual's

ability to perform normal daily tasks or that threatens the capacity of the individual to live independently.

**SECTION 14.** 46.2805 (7) of the statutes is amended to read:

46.2805 **(7)** "Functional ~~and financial screen~~ screening" means a ~~screen prescribed by the department that is used~~ screening to determine functional eligibility under s. 46.286 (1) (a) ~~and financial eligibility under s. 46.286 (1) (b)~~ using a uniform tool prescribed by the department.

****NOTE: See note under created s. 46.2805 (6r) -- there is no s. 46.286 (1m)

History: 1999 a. 9, 185; 2003 a. 33.

**SECTION 15.** 46.281 (1) (title) and (intro.) of the statutes are renumbered 46.281 (1n) (title) and (intro.) and (1n) (title), as renumbered, is amended to read:

46.281 **(1n)** (title) ~~DUTIES~~ OTHER DUTIES OF THE DEPARTMENT.

History: 1999 a. 9; 2001 a. 103; 2005 a. 25, 386.

**SECTION 16.** 46.281 (1) (c) of the statutes is renumbered 46.281 (1d).

**SECTION 17.** 46.281 (1) (d) and (1) (e) 1. of the statutes are consolidated, renumbered 46.281 (1) (g) and amended to read:

46.281 **(1)** (g) CONTRACTING FOR CARE MANAGEMENT ORGANIZATIONS. In geographic areas in which, in the aggregate, resides no more than 29 percent of the state population that is eligible for the family care benefit, the department shall, and in additional areas the department may, contract with a county, a family care district, a tribe or band, the Great Lakes Inter-Tribal Council, Inc., or with 2 or more of these entities to manage all long-term care programs and administer the family care benefit as care management organizations. ~~If the department proposes to contract with these entities to administer care management organizations in geographic areas in which, in the aggregate, resides more than 29 percent but less than 50 percent of the state population that is eligible for the family care benefit, the~~

~~department shall first notify the joint committee on finance in writing of the proposed contract. The notification shall include the contract proposal; and an estimate of the fiscal impact of the proposed addition that demonstrates that the addition will be cost neutral, including startup, transitional, and ongoing operational costs and any proposed county contribution. If the cochairpersons of the committee do not notify the department within 14 working days after the date of the department's notification that the committee has scheduled a meeting for the purpose of reviewing the proposed contract, the department may enter into the proposed contract. If within 14 days after the date of the department's notification the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed contract, the department may enter into the proposed contract only upon approval of the committee. The department may contract with these entities to administer care management organizations in geographic areas in which, in the aggregate, resides 50 percent or more of the state population that is eligible for the family care benefit only if specifically authorized by the legislature and if the legislature appropriates necessary funding.~~

History: ~~1999 a. 9; 2001 a. 103; 2005 a. 25, 386.~~

~~(1)~~ ~~(e) 1. Subject to the requirements of par. (d),~~ After July 1, 2006, the department may contract with an entity to serve as a care management organization for an area only if the local long-term care council for the ~~applicable~~ area has developed the initial plan under s. 46.282 (3) (a) 1.~~, contract with entities specified under par. (d) and may, only if~~ If specifically authorized by the legislature and if the legislature appropriates necessary funding, the department may contract ~~as so authorized~~ with ~~one or more entities in addition to those specified in par. (d)~~ an entity

other than a county, a family care district, a tribe or band, the Great Lakes Inter-Tribal Council, Inc. that is certified as meeting requirements under s. 46.284 (3) for services of the entity as a care management organization.

**History:** 1999 a. 9; 2001 a. 103; 2005 a. 25, 386.

****NOTE: Section 46.281 (1) (d) provides that the department may contract for CMOs. Section 48.281 (1) (e) 1. provides that the department may contract for a CMO only if the local long term care council has developed an initial plan. Under the 2003-04 statutes, par. (d) applied to contracts entered into before July 1, 2001, and par. (e) applied to contracts enter into after June 30, 2001. Since the dates have been deleted from pars. (d) and (e), I didn't know how to reconcile the two paragraphs. Please let me know to which contracts, if any, the initial plan requirement should apply. Also, do you want to retain the provision from par. (e) 1. that authorizes the department to contract with entities other than counties, family care districts, tribes, bands, or the Great Lakes Inter-Tribal Council if the legislature authorizes and provides funding for such contracts? How does this authority fit with s. 46.284 (2) (b) 3., which does not require legislative approval in order for DHFS to contract with a private organization.

**SECTION 18.** 46.281 (1) (e) 2. of the statutes is renumbered 46.281 (1k) and amended to read:

46.281 **(1k)** ~~Contract with entities specified under par. (d) and~~ CONTRACTING FOR RESOURCE CENTERS. The department may contract with ~~other~~ entities for the provision of services under s. 46.283 (3) and (4)~~, except that after July 27, 2005, the department shall notify the joint committee on finance in writing of any proposed contract with an entity that did not have a contract to provide services under s. 46.283 (3) and (4) before July 27, 2005. If the cochairpersons of the committee do not notify the department within 14 working days after the date of the department's notification that the committee has scheduled a meeting for the purpose of reviewing the proposed contract, the department may enter into the proposed contract. If within 14 working days after the date of the department's notification the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed contract, the department may enter into the proposed contract only upon approval of the committee~~.

****NOTE: This draft authorizes but does not require the department to contract for resource centers. Should this subsection require contracting in areas that have up to 29% of the potential client population and make expansion permissive. I treated the contracting provisions for resource centers differently than the contracting provisions for CMOs because the current law provisions have evolved to be different. Do you want them to be the same? Also, should the department's contract authority under proposed sub. (1k) be subject to the conditions under s. 46.283 (2)(b)?

History: 1999 a. 9; 2001 a. 103; 2005 a. 25, 386.

**SECTION 19.** 46.281 (1) (f) of the statutes is renumbered 46.281 (1n) (a).

**SECTION 20.** 46.281 (1) (g) of the statutes is renumbered 46.281 (1n) (b).

**SECTION 21.** 46.281 (1) (h) of the statutes is renumbered 46.281 (1n) (c).

**SECTION 22.** 46.281 (1) (i) of the statutes is renumbered 46.281 (1n) (d).

**SECTION 23.** 46.281 (1d) (title) of the statutes is created to read:

46.281 **(1d)** (title) WAIVER REQUEST.

**SECTION 24.** 46.281 (2) (title) of the statutes is amended to read:

46.281 **(2)** (title) ~~POWERS~~ OTHER POWERS OF THE DEPARTMENT.

History: 1999 a. 9; 2001 a. 103; 2005 a. 25, 386.

**SECTION 25.** 46.281 (3) of the statutes is amended to read:

46.281 **(3)** DUTY OF THE SECRETARY. The secretary shall certify to each county, hospital, nursing home, community-based residential facility, adult family home and residential care apartment complex the date on which a resource center that serves the area of the county, hospital, nursing home, community-based residential facility, adult family home or residential care apartment complex is first available to ~~provide a~~ perform functional screenings and financial ~~screen~~ and cost-sharing screenings. To facilitate phase-in of services of resource centers, the secretary may certify that the resource center is available for specified groups of eligible individuals or for specified facilities in the county.

History: 1999 a. 9; 2001 a. 103; 2005 a. 25, 386.

**SECTION 26.** 46.282 (2) (a) (intro.) of the statutes is amended to read:

46.282 **(2)** (a) *Appointment by a county.* (intro.) In a county in which the department has a contract under s. 46.281 ~~(1) (e)~~ (1g) or (1k) and before a county participates in the program under ss. 46.2805 to 46.2895, the following shall be done:

History: 1999 a. 9; 2001 a. 103; 2005 a. 386.

**SECTION 27.** 46.282 (2) (a) 2. of the statutes is amended to read:

46.282 **(2)** (a) 2. A county board of supervisors or, in a county with a county executive or a county administrator, the county executive or county administrator shall appoint members of the local long-term care council who are required to be older persons or persons with physical or developmental disabilities or their ~~immediate~~ family members or other representatives from nominations that are submitted to the county board of supervisors or the county executive or county administrator by older persons or persons with physical or developmental disabilities or their ~~immediate~~ family members or other representatives and by local organizations that represent older persons or persons with physical or developmental disabilities.

History: 1999 a. 9; 2001 a. 103; 2005 a. 386.

**SECTION 28.** 46.282 (2) (b) 1. of the statutes is amended to read:

46.282 **(2)** (b) 1. A local long-term care council that serves a single-county area shall consist of 17 members, at least 9 of whom are older persons or persons with physical or developmental disabilities or their ~~immediate~~ family members or other representatives. The age or disability represented by these 9 members shall correspond to the proportion of numbers of persons, as determined by the department, receiving long-term care in this state who are aged 65 or older or have a physical or developmental disability. The total remaining 8 members shall consist of providers of long-term care services, persons residing in the county with

recognized ability and demonstrated interest in long-term care and up to 3 members of the county board of supervisors or other elected officials.

History: 1999 a. 9; 2001 a. 103; 2005 a. 386.

**SECTION 29.** 46.282 (2) (b) 2. (intro.) of the statutes is amended to read:

46.282 **(2)** (b) 2. (intro.) A local long-term care council that serves an area of 2 or more contiguous counties shall consist of 23 members, at least 12 of whom are older persons or persons with physical or developmental disabilities or their ~~immediate~~ family members or other representatives. The age or disability represented by these 12 members shall correspond to the proportion of numbers of persons, as determined by the department, receiving long-term care in this state who are aged 65 or older or have a physical or developmental disability. The total remaining 11 members shall consist of all of the following:

History: 1999 a. 9; 2001 a. 103; 2005 a. 386.

**SECTION 30.** 46.283 (2) (b) (intro.) of the statutes is amended to read:

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

History: 1999 a. 9; 2001 a. 16, 103; 2003 a. 33; 2005 a. 25, 234, 264, 386, 388.

**SECTION 31.** 46.283 (4) (e) of the statutes is amended to read:

46.283 **(4)** (e) ~~Within 6 months after the family care benefit is available to all eligible persons in the area of the resource center, provide~~ Provide information about the services of the resource center, including the services specified in sub. (3) (d), about assessments under s. 46.284 (4) (b) and care plans under s. 46.284 (4) (c) and

about the family care benefit to all older persons and persons with a physical disability who are residents of nursing homes, community-based residential facilities, adult family homes and residential care apartment complexes in the area of the resource center.

History: 1999 a. 9; 2001 a. 16, 103; 2003 a. 33; 2005 a. 25, 254, 264, 386, 388.

**SECTION 32.** 46.283 (4) (f) of the statutes is amended to read:

46.283 **(4)** (f) ~~Provide~~ Perform a functional screening and a financial ~~screen to~~ and cost-sharing screening for any resident, as specified in par. (e), who requests a ~~screen~~ screening and assist any resident who is eligible and chooses to enroll in a care management organization to do so.

History: 1999 a. 9; 2001 a. 16, 103; 2003 a. 33; 2005 a. 25, 254, 264, 386, 388.

**SECTION 33.** 46.283 (4) (g) of the statutes is amended to read:

46.283 **(4)** (g) ~~Provide~~ Perform a functional screening and a financial ~~to screen~~ and cost-sharing screening for any person seeking admission to a nursing home, community-based residential facility, residential care apartment complex, or adult family home if the secretary has certified that the resource center is available to the person and the facility and the person is determined by the resource center to have a condition that is expected to last at least 90 days that would require care, assistance, or supervision. A resource center may not require a financial ~~screen~~ and cost-sharing screening for a person seeking admission or about to be admitted on a private pay basis who waives the requirement for a financial ~~screen~~ and cost-sharing screening under this paragraph, unless the person is expected to become eligible for medical assistance within 6 months. A resource center need not ~~provide~~ perform a functional ~~screen for~~ screening for a person seeking admission or about to be

admitted ~~who has received a screen~~ for whom a functional ~~eligibility under s. 46.286 (1) (a)~~ screening was performed within the previous 6 months.

History: 1999 a. 9; 2001 a. 16, 103; 2003 a. 33; 2005 a. 25, 254, 264, 386, 388.

**SECTION 34.** 46.285 (1) (a) of the statutes is amended to read:

46.285 **(1)** (a) For an entity with which the department has contracted under s. 46.281 ~~(1) (e) 1.~~ (1d), provision of the services specified under s. 46.283 (3) (b), (e), (f) and (g) shall be structurally separate from the provision of services of the care management organization by January 1, 2001.

History: 1999 a. 9; 2005 a. 386.

**SECTION 35.** 46.286 (1) (intro.) of the statutes is amended to read:

46.286 **(1)** ELIGIBILITY. (intro.) A person is eligible for, but not necessarily entitled to, the family care benefit if the person is at least 18 years of age; has a physical disability, as defined in s. 15.197 (4) (a) 2., a developmental disability, as defined in s. 51.01 (5) (a), or ~~degenerative brain disorder, as defined in s. 55.01 (1v)~~ is a frail elder; and meets all of the following criteria:

History: 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25, 264, 388.

**SECTION 36.** 49.45 (3) (ag) of the statutes is amended to read:

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

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; 2003 a. 33, 318, 321; 2005 a. 22; 2005 a. 25 ss. 1120 to 1149f, 2503 to 2510; 2005 a. 107, 165, 253, 254, 264, 301, 340, 386, 441.

**SECTION 37.** 49.46 (1) (a) 14m. of the statutes is amended to read:

49.46 **(1)** (a) 14m. Any person who would meet the financial and other eligibility requirements for home or community-based services under the family care benefit but for the fact that the person engages in substantial gainful activity under 42 USC 1382c (a) (3), if a waiver under s. 46.281 ~~(1) (e)~~ (1d) is in effect or federal law permits

federal financial participation for medical assistance coverage of the person and if funding is available for the person under the family care benefit.

History: 1971 c. 125, 211, 215; 1973 c. 90, 147; 1975 c. 39; 1977 c. 29 ss. 592m, 1656 (18); 1977 c. 389, 418; 1979 c. 34, 221; 1981 c. 20, 93, 317; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 245 ss. 10, 15; 1983 a. 538; 1985 a. 29, 120, 176, 253; 1987 a. 27, 307, 339, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1454d to 1460 and 2909g, 2909i; 1989 a. 122, 173, 333, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 99, 269, 277, 446, 450, 491; 1995 a. 27, 77, 164, 289, 303, 457; 1997 a. 27, 35, 105, 237; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 253.

**SECTION 38.** 49.46 (2) (b) 8. of the statutes is amended to read:

49.46 **(2)** (b) 8. Home or community-based services, if provided under s. 46.27 (11), 46.275, 46.277, 46.278, or 46.2785, under the family care benefit if a waiver is in effect under s. 46.281 ~~(1) (c)~~ (1d), or under a waiver requested under 2001 Wisconsin Act 16, section 9123 (16rs), or 2003 Wisconsin Act 33, section 9124 (8c).

History: 1971 c. 125, 211, 215; 1973 c. 90, 147; 1975 c. 39; 1977 c. 29 ss. 592m, 1656 (18); 1977 c. 389, 418; 1979 c. 34, 221; 1981 c. 20, 93, 317; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 245 ss. 10, 15; 1983 a. 538; 1985 a. 29, 120, 176, 253; 1987 a. 27, 307, 339, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1454d to 1460 and 2909g, 2909i; 1989 a. 122, 173, 333, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 99, 269, 277, 446, 450, 491; 1995 a. 27, 77, 164, 289, 303, 457; 1997 a. 27, 35, 105, 237; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 253.

**SECTION 39.** 49.47 (4) (as) 1. of the statutes is amended to read:

49.47 **(4)** (as) 1. The person would meet the financial and other eligibility requirements for home or community-based services under s. 46.27 (11), 46.277, or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 ~~(1) (c)~~ (1d) but for the fact that the person engages in substantial gainful activity under 42 USC 1382c (a) (3).

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 215; 1973 c. 90, 147, 333; 1977 c. 29 ss. 593, 1656 (18); 1977 c. 105 s. 59; 1977 c. 273, 418; 1979 c. 34; 1981 c. 20, 93; 1981 c. 314 s. 144; 1983 a. 27, 245; 1985 a. 29; 1987 a. 27, 307, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1462k to 1466d, 2909c to 2909i; 1989 a. 173, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 269, 277, 437; 1995 a. 27 ss. 3026 to 3028, 9126 (19); 1995 a. 225, 289, 295; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 25, 253.

**SECTION 40.** 49.47 (4) (as) 3. of the statutes is amended to read:

49.47 **(4)** (as) 3. Funding is available for the person under s. 46.27 (11), 46.277, or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 ~~(1) (c)~~ (1d).

INS 13-18

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 215; 1973 c. 90, 147, 333; 1977 c. 29 ss. 593, 1656 (18); 1977 c. 105 s. 59; 1977 c. 273, 418; 1979 c. 34; 1981 c. 20, 93; 1981 c. 314 s. 144; 1983 a. 27, 245; 1985 a. 29; 1987 a. 27, 307, 399, 413; 1989 a. 9; 1989 a. 31 ss. 1462k to 1466d, 2909c to 2909i; 1989 a. 173, 336, 351; 1991 a. 39, 178, 269, 316; 1993 a. 16, 269, 277, 437; 1995 a. 27 ss. 3026 to 3028, 9126 (19); 1995 a. 225, 289, 295; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2005 a. 25, 253.

**SECTION 41.** 50.49 (6m) (a) of the statutes is amended to read:

50.49 **(6m)** (a) A care management organization, as defined in s. 46.2805 (1), or an entity with which a care management organization contracts for care management services under s. 46.284 (4) (d).

****NOTE: Should this provision, which exempts entities with whom CMOs contract from the home health agency licensing requirement, apply only when the entity provides services under the contract with the CMO, or to all services provided by the entity?

**History:** 1981 c. 93 ss. 162 to 166, 184; 1989 a. 31, 316; 1993 a. 27 s. 279; Stats. 1993 s. 50.49; 1993 a. 482; 1995 a. 225; 1997 a. 27, 237; 1999 a. 9, 83; 2005 a. 187.

**(END)**

WAIVER REQUEST.
CS

**Ins 5-11:**

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

46.281 **(1d)** ~~Request~~ The department shall request from the secretary of the federal department of health and human services any waivers of federal medicaid laws necessary to permit the use of federal moneys to provide the family care benefit to recipients of medical assistance. The department shall implement any waiver that is approved and that is consistent with ss. 46.2805 to 46.2895. Regardless of whether a waiver is approved, the department may implement operation of resource centers, care management organizations, and the family care benefit.

**History:** 1999 a. 9; 2001 a. 103; 2005 a. 25, 386.

**Ins 12-13:**

**SECTION 2.** 46.286 (3) (a) (intro.) of the statutes is amended to read:

46.286 **(3)** (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may receive the family care benefit through enrollment in a care management organization if he or she is at least 18 years of age, has a physical disability, as defined in s. 15.197 (4) (a) 2., or a developmental disability, as defined in s. 51.01 (5) (a), or ~~degenerative brain disorder, as defined in s. 55.01 (1v)~~ is a frail elder, is financially eligible, fulfills any applicable cost-sharing requirements, and meets any of the following criteria:

**History:** 1999 a. 9, 185; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25, 264, 388.

**Ins 13-18**

**SECTION 3.** 50.033 (2r) of the statutes is amended to read:

50.033 **(2r)** PROVISION OF INFORMATION REQUIRED. Subject to sub. (2t), an adult family home shall, within the time period after inquiry by a prospective resident that is prescribed by the department by rule, inform the prospective resident of the services of a resource center under s. 46.283, the family care benefit under s. 46.286, and the availability of a functional screening and a financial ~~screen~~ and cost-sharing screening to determine the prospective resident's eligibility for the family care benefit under s. 46.286 (1).

History: 1993 a. 327; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16.

**SECTION 4.** 50.033 (2s) (a) of the statutes is amended to read:

50.033 **(2s)** (a) For a person ~~who has received a screen~~ for whom a screening for functional eligibility under s. 46.286 (1) (a) has been performed within the previous 6 months, the referral under this subsection need not include performance of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

History: 1993 a. 327; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16.

**SECTION 5.** 50.033 (2s) (d) of the statutes is amended to read:

50.033 **(2s)** (d) For a person who seeks admission or is about to be admitted on a private pay basis and who waives the requirement for a financial ~~screen~~ and cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may not include performance of a financial ~~screen~~ and cost-sharing screening under s. 46.283 (4) (g), unless the person is expected to become eligible for medical assistance within 6 months.

History: 1993 a. 327; 1995 a. 27; 1997 a. 27; 1999 a. 9; 2001 a. 16.

**SECTION 6.** 50.034 (5m) of the statutes is amended to read:

50.034 **(5m)** PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), a residential care apartment complex shall, within the time period after inquiry by a

prospective resident that is prescribed by the department by rule, inform the prospective resident of the services of a resource center under s. 46.283, the family care benefit under s. 46.286, and the availability of a functional screening and a financial ~~screen~~ and cost-sharing screening to determine the prospective resident's eligibility for the family care benefit under s. 46.286 (1).

History: 1995 a. 27; 1997 a. 13, 252; 1999 a. 9, 63, 185; 2001 a. 16; 2003 a. 33; 2005 a. 22.

**SECTION 7.** 50.034 (5n) (a) of the statutes is amended to read:

50.034 **(5n)** (a) For a person ~~who has received a screen~~ for whom a screening for functional eligibility under s. 46.286 (1) (a) has been performed within the previous 6 months, the referral under this subsection need not include performance of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

History: 1995 a. 27; 1997 a. 13, 252; 1999 a. 9, 63, 185; 2001 a. 16; 2003 a. 33; 2005 a. 22.

**SECTION 8.** 50.034 (5n) (d) of the statutes is amended to read:

50.034 **(5n)** (d) For a person who seeks admission or is about to be admitted on a private pay basis and who waives the requirement for a financial ~~screen~~ and cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may not include performance of a financial ~~screen~~ and cost-sharing screening under s. 46.283 (4) (g), unless the person is expected to become eligible for medical assistance within 6 months.

History: 1995 a. 27; 1997 a. 13, 252; 1999 a. 9, 63, 185; 2001 a. 16; 2003 a. 33; 2005 a. 22.

**SECTION 9.** 50.035 (4m) of the statutes is amended to read:

50.035 **(4m)** PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), a community-based residential facility shall, within the time period after inquiry by a prospective resident that is prescribed by the department by rule, inform the prospective resident of the services of a resource center under s. 46.283, the family care benefit under s. 46.286, and the availability of a functional screening and a

financial ~~screen~~ and cost-sharing screening to determine the prospective resident's eligibility for the family care benefit under s. 46.286 (1).

**History:** 1983 a. 363; 1985 a. 176; 1987 a. 403 ss. 67, 256; 1989 a. 336; 1991 a. 39; 1995 a. 27 ss. 3235 to 3237, 9116 (5); 1997 a. 27, 114, 237; 1999 a. 9, 32, 103, 186; 2001 a. 16; 2003 a. 33.

**SECTION 10.** 50.035 (4n) (a) of the statutes is amended to read:

50.035 **(4n)** (a) For a person ~~who has received a screen~~ for whom a functional eligibility screening under s. 46.286 (1) (a) has been performed within the previous 6 months, the referral under this subsection need not include performance of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

**History:** 1983 a. 363; 1985 a. 176; 1987 a. 403 ss. 67, 256; 1989 a. 336; 1991 a. 39; 1995 a. 27 ss. 3235 to 3237, 9116 (5); 1997 a. 27, 114, 237; 1999 a. 9, 32, 103, 186; 2001 a. 16; 2003 a. 33.

**SECTION 11.** 50.035 (4n) (d) of the statutes is amended to read:

50.035 **(4n)** (d) For a person who seeks admission or is about to be admitted on a private pay basis and who waives the requirement for a financial ~~screen~~ and cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may not include performance of a financial ~~screen~~ and cost-sharing screening under s. 46.283 (4) (g), unless the person is expected to become eligible for medical assistance within 6 months.

**History:** 1983 a. 363; 1985 a. 176; 1987 a. 403 ss. 67, 256; 1989 a. 336; 1991 a. 39; 1995 a. 27 ss. 3235 to 3237, 9116 (5); 1997 a. 27, 114, 237; 1999 a. 9, 32, 103, 186; 2001 a. 16; 2003 a. 33.

**SECTION 12.** 50.04 (2g) (a) of the statutes is amended to read:

50.04 **(2g)** PROVISION OF INFORMATION REQUIRED. (a) Subject to sub. (2i), a nursing home shall, within the time period after inquiry by a prospective resident that is prescribed by the department by rule, inform the prospective resident of the services of a resource center under s. 46.283, the family care benefit under s. 46.286, and the availability of a functional screening and a financial ~~screen~~ and cost-sharing screening to determine the prospective resident's eligibility for the family care benefit under s. 46.286 (1).

**History:** 1977 c. 170 ss. 6, 29; 1977 c. 272; 1979 c. 34; 1981 c. 20, 121, 317, 391; 1983 a. 27 s. 2200 (1); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (7); 1987 a. 27, 127, 399; 1989 a. 31, 336; 1991 a. 39, 269, 315; 1995 a. 27; 1997 a. 27, 114, 237, 252, 280; 1999 a. 9, 32, 103; 2003 a. 33.

**SECTION 13.** 50.04 (2h) (a) 1. of the statutes is amended to read:

50.04 **(2h)** (a) 1. For a person ~~who has received a screen~~ for whom a functional eligibility ~~screening~~ screening under s. 46.286 (1) (a) has been performed within the previous 6 months, the referral under this paragraph need not include performance of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

**History:** 1977 c. 170 ss. 6, 29; 1977 c. 272; 1979 c. 34; 1981 c. 20, 121, 317, 391; 1983 a. 27 s. 2200 (1); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (7); 1987 a. 27, 127, 399; 1989 a. 31, 336; 1991 a. 39, 269, 315; 1995 a. 27; 1997 a. 27, 114, 237, 252, 280; 1999 a. 9, 32, 103; 2003 a. 33.

**SECTION 14.** 50.04 (2h) (a) 4. of the statutes is amended to read:

50.04 **(2h)** (a) 4. For a person who seeks admission or is about to be admitted on a private pay basis and who waives the requirement for a financial ~~screen~~ and cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may not include performance of a financial ~~screen~~ and cost-sharing screening under s. 46.283 (4) (g), unless the person is expected to become eligible for medical assistance within 6 months.

**History:** 1977 c. 170 ss. 6, 29; 1977 c. 272; 1979 c. 34; 1981 c. 20, 121, 317, 391; 1983 a. 27 s. 2200 (1); 1985 a. 29; 1985 a. 182 s. 57; 1985 a. 332 s. 251 (1), (7); 1987 a. 27, 127, 399; 1989 a. 31, 336; 1991 a. 39, 269, 315; 1995 a. 27; 1997 a. 27, 114, 237, 252, 280; 1999 a. 9, 32, 103; 2003 a. 33.

**SECTION 15.** 50.06 (7) of the statutes is amended to read:

50.06 **(7)** An individual who consents to an admission under this section may request that an assessment be conducted for the incapacitated individual under the long-term support community options program under s. 46.27 (6) or, if the secretary has certified under s. 46.281 (3) that a resource center is available for the individual, a functional screening and a financial ~~screen~~ and cost-sharing screening to determine eligibility for the family care benefit under s. 46.286 (1). If admission is sought on behalf of the incapacitated individual or if the incapacitated individual is about to be admitted on a private pay basis, the individual who consents to the admission may waive the requirement for a financial ~~screen~~ and cost-sharing

screening under s. 46.283 (4) (g), unless the incapacitated individual is expected to become eligible for medical assistance within 6 months.

**History:** 1993 a. 187; 1999 a. 9; 2005 a. 264, 387; s. 13.93 (2) (c).

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

LRB-0330/P1dn
RLR:...:...
cjs

Steve and Andy:

I reorganized s. 46.281 (1) so that grants of permissive authority to DHFS are not included under the subsection titled "Duties of the Department."

Provisions concerning DHFS authority to contract for care management organizations are included in two sections, proposed s. 46.281 (1g) and s. 46.284 (2). Similarly, provisions concerning DHFS authority to contract for resource centers are included in in two sections, proposed s. 46.281 (1k) and s. 46.283 (2). Would it be helpful to consolidate, or at least better cross-reference, the paired sections? Do you want to repeal provisions under s. 46.283 (2) and 46.284 (2) that govern time periods that have passed?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

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

LRB-0330/P1dn
RLR:cjs:rs

October 18, 2006

Steve and Andy:

I reorganized s. 46.281 (1) so that grants of permissive authority to DHFS are not included under the subsection titled "Duties of the Department."

Provisions concerning DHFS authority to contract for care management organizations are included in two sections, proposed s. 46.281 (1g) and, current s. 46.284 (2). Similarly, provisions concerning DHFS authority to contract for resource centers are included in in two sections, proposed s. 46.281 (1k) and current s. 46.283 (2). Would it be helpful to consolidate, or at least better cross-reference, the paired sections? Do you want to repeal provisions under ss. 46.283 (2) and 46.284 (2) that govern time periods that have passed?

Robin Ryan
Legislative Attorney
Phone: (608) 261-6927
E-mail: robin.ryan@legis.wisconsin.gov

0330

## Ryan, Robin

**From:** Milioto, Steve - DOA [steve.milioto@wisconsin.gov]
**Sent:** Monday, November 20, 2006 2:39 PM
**To:** Ryan, Robin
**Cc:** Forsaith, Andrew
**Subject:** FW: FW: LRB Draft: 07-0330/P1 Family care expansion

**Attachments:** 07-0330P1.pdf; 07-0330P1dn.pdf


07-0330P1.pdf (67 KB)


07-0330P1dn.pdf (6 KB)

Hi Robin --

Attached are the department's suggested changes to the Family Care draft. Please make the changes as suggested in the e-mail below. If you have any questions, please e-mail Andy and me.

You have my permission to send the revised draft to the department. Best, Steve

-----Original Message-----
From: Andrew Forsaith [mailto:forsaac@dhfs.state.wi.us]
Sent: Saturday, November 18, 2006 1:25 PM
To: Milioto, Steve - DOA
Cc: Bove, Fredi-Ellen E - DHFS; Frye, Judith E - DHFS; Jones, Charles M - DHFS
Subject: Re: FW: LRB Draft: 07-0330/P1 Family care expansion

Steve -- Here are preliminary comments on this draft. As we've talked about, we are putting together a second package of Family Care changes which would involve further changes to the draft.

Thanks for considering these comments, and let me know if you have questions.

1. Page 3 line 17. Instead of "Program Phase Out," could we label this subsection, "Program After Managed Care Implementation," or something similar?

2. Page 3 Lines 20-22. Please replace "community mental health treatment and prevention services for people with mental illness," with "community mental health and substance abuse services and supports for people with mental illness and people with substance abuse."

3. Revisor's questions for Section 7 -- With the revised language above, no more specificity is needed for the mental health services.
And yes, please amend the section to have all requirements under s. 46.985 apply to COP funds used for Family Support services under this subsection.

4. Revisor's question for Section 12 -- Yes, please revise the definition to read "...means a screening to determine financial eligibility under s. 46.286(1)(b) and cost-sharing under s.46.286(2) using a uniform tool prescribed by the department."

5. Page, Section 17. Could we revise the paragraph as follows so that is less awkward and to eliminate any reference to the old 29% limit:

"s.46.281(1g) Contracting for Care Management Organizations. The department may contract with a county, a family care district, a tribe or band, the Great Lakes Inter-Tribal Council, Inc., or with 2 or more of these entities..."

6. Drafter's note to Section 17: We agreed that there are several inconsistencies and awkward phrases in this section. Our second package of changes will address these problems.

7. Drafter's note for Section 18: We like the way Robin drafted it, to have permissive authority to contract with ADRCs. Also, please include the cross reference to s. 46.283(2)(b). (In my mind, this would add clarity to the section but does not representative a substantive change. Please let me know if Robin disagrees.)

8. Drafter's note to Section 54 -- Please amend the section so that the exemption applies only to services provided under the contract with the CMO.

9. Robin's separate drafter's note -- We will address the possible consolidation of the subsections in 46.281 and 46.283/4 in our second package. Yes, please remove the provisions in 46.283(2) and .284(2) that govern past periods.

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 11/13/06 10:08 AM >>>

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From: Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]
Sent: Wednesday, October 18, 2006 2:25 PM
To: Milioto, Steve - DOA
Cc: Johnston, James - DOA; Hanaman, Cathlene; Palchik, Laurie A - DOA
Subject: LRB Draft: 07-0330/P1 Family care expansion

Following is the PDF version of draft 07-0330/P1.