



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0330/P1

RLR:ej:ms

stays

In 11/28/06

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

RMNR

D-note

Do NOT Gen Cat.

1 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:*

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

3 20.435 (7) (g) *Long-term care; county contributions.* All moneys received from  
4 counties as contributions to the family care program under s. 46.2805 to 46.2895, the  
5 Pace program described under s. 46.2805 (1) (a), and the Wisconsin Partnership  
6 Program described under s. 46.2805 (1) (b), to fund services under the family care  
7 benefit under s. 46.284 (5) and services under the Pace and Wisconsin Partnership  
8 programs.

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

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

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

5           **SECTION 3.** 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  
14 51.437, health service providers and the county commission on aging in the  
15 assessment activities specified in sub. (6), as well as the person being assessed and  
16 members of the person's family or the person's guardian. This paragraph does not  
17 apply to a county department or aging unit in a county in which the department has  
18 contracted with an entity under s. 46.281 (1) (e) 1. (1g).

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

20           46.27 (6) (a) 3. In each participating county, except in counties in which the  
21 department has contracted with an entity under s. 46.281 (1) (e) 1. (1g), assessments  
22 shall be conducted for those persons and in accordance with the procedures described  
23 in the county's community options plan. The county may elect to establish  
24 assessment priorities for persons in target groups identified by the county in its plan  
25 regarding gradual implementation. If a person who is already admitted to a nursing

*or substance abuse*

*or providing services of supports for substance abuse*

1 home requests an assessment and if funds allocated for assessments under sub. (7)  
2 (am) are available, the county shall conduct the assessment.

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

4 46.27 (6g) FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and  
5 within the limitations under sub. (7) (b), the fiscal responsibility of a county for an  
6 assessment, unless the assessment is performed by an entity under a contract as  
7 specified under s. 46.281 (1) (e) 1. (1g), case plan, or services provided to a person  
8 under this section is as follows:

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

10 46.27 (9) (c) All long-term community support services provided under this  
11 pilot project in lieu of nursing home care shall be consistent with those services  
12 described in the participating county's community options plan under sub. (4) (c) 1.  
13 and provided under sub. (5) (b). Unless the department has contracted under s.  
14 46.281 (1) (e) 1. (1g) with an entity other than the county department, each county  
15 participating in the pilot project shall assess persons under sub. (6).

*and support*

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

17 46.27 (13) (PROGRAM PHASE-OUT) Notwithstanding sub. (7), a county in which  
18 a care management organization is operating pursuant to a contract under s. 46.281  
19 (1g) may use funds appropriated under 20.435 (7) (bd) and allocated to the county  
20 under sub. (7) to provide community mental health treatment and prevention  
21 services for persons people with mental illness and to provide services described under s.  
22 46.985 for families who are eligible for such services under 46.985 (5). Subsections  
23 (2) to (12) do not apply to the provision of services under this subsection.

*PROVISIONS FOR COUNTIES IMPLEMENTING FAMILY CARE*

\*\*\*\*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

*the Family Support Program under*

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).

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

2 46.2804 (title) ~~Managed care programs for~~ Client management of  
3 managed care long-term care services benefit.

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

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

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

7 46.2805 (6m) "Family member" means a spouse or an individual related by  
8 blood, marriage, or adoption within the 3rd degree of kinship as computed under s.  
9 990.001 (16).

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

11 46.2805 (6r) "Financial and cost-sharing screening" means a screening to  
12 determine financial eligibility under s. 46.286 (1) (b) using a uniform tool prescribed  
13 by the department.

and cost-sharing under s. 46.286 (2)

\*\*\*\*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. 46.286 (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)?

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

15 46.2805 (6v) "Frail elder" means an individual who is 65 years of age or older  
16 and has a physical disability or irreversible dementia that restricts the individual's  
17 ability to perform normal daily tasks or that threatens the capacity of the individual  
18 to live independently.

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

1           46.2805 (7) “Functional and financial screen screening” means a screen  
2           prescribed by the department that is used screening to determine functional  
3           eligibility under s. 46.286 (1) (a) and financial eligibility under s. 46.286 (1) (b) using  
4           a uniform tool prescribed by the department.

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

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

7           46.281 (1n) (title) DUTIES OTHER DUTIES OF THE DEPARTMENT.

8           **SECTION 16.** 46.281 (1) (c) of the statutes is renumbered 46.281 (1d) and  
9           amended to read:

10          46.281 (1d) WAIVER REQUEST. Request The department shall request from the  
11          secretary of the federal department of health and human services any waivers of  
12          federal medicaid laws necessary to permit the use of federal moneys to provide the  
13          family care benefit to recipients of medical assistance. The department shall  
14          implement any waiver that is approved and that is consistent with ss. 46.2805 to  
15          46.2895. Regardless of whether a waiver is approved, the department may  
16          implement operation of resource centers, care management organizations, and the  
17          family care benefit.

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

20          46.281 (1g) CONTRACTING FOR CARE MANAGEMENT ORGANIZATIONS. ~~In geographic~~  
21          ~~areas in which, in the aggregate, resides no more than 29 percent of the state~~  
22          ~~population that is eligible for the family care benefit, the department shall, and in~~  
23          ~~additional areas~~ the department may, contract with a county, a family care district,  
24          a tribe or band, the Great Lakes Inter-Tribal Council, Inc., or with 2 or more of these

~~organizational~~  
in an area

(a)  
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1 entities to manage all long-term care programs and administer the family care  
 2 benefit as care management organizations. If the department proposes to contract  
 3 with these entities to administer care management organizations in geographic  
 4 areas in which, in the aggregate, resides more than 29 percent but less than 50  
 5 percent of the state population that is eligible for the family care benefit, the  
 6 department shall first notify the joint committee on finance in writing of the  
 7 proposed contract. The notification shall include the contract proposal; and an  
 8 estimate of the fiscal impact of the proposed addition that demonstrates that the  
 9 addition will be cost neutral, including startup, transitional, and ongoing  
 10 operational costs and any proposed county contribution. If the cochairpersons of the  
 11 committee do not notify the department within 14 working days after the date of the  
 12 department's notification that the committee has scheduled a meeting for the  
 13 purpose of reviewing the proposed contract, the department may enter into the  
 14 proposed contract. If within 14 days after the date of the department's notification  
 15 the cochairpersons of the committee notify the department that the committee has  
 16 scheduled a meeting for the purpose of reviewing the proposed contract, the  
 17 department may enter into the proposed contract only upon approval of the  
 18 committee. The department may contract with these entities to administer care  
 19 management organizations in geographic areas in which, in the aggregate, resides  
 20 50 percent or more of the state population that is eligible for the family care benefit  
 21 only if specifically authorized by the legislature and if the legislature appropriates  
 22 necessary funding. (e) 1. Subject to the requirements of par. (d), After July 1, 2006,  
 23 the department may contract with an entity to serve as a care management  
 24 organization for an area only if the local long-term care council for the applicable  
 25 area has developed the initial plan under s. 46.282 (3) (a) 1., contract with entities

organization.

1 specified under par. (d) and may, only if If specifically authorized by the legislature  
 2 and if the legislature appropriates necessary funding, the department may contract  
 3 as so authorized with one or more entities in addition to those specified in par. (d) an  
 4 entity other than a county, a family care district, a tribe or band, or the Great Lakes  
 5 Inter-Tribal Council, Inc., that is certified as meeting requirements under s. 46.284  
 6 (3) for services of the entity as a care management organization.

\*\*\*\*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 entered 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?

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

9 **46.281 (1k) CONTRACTING FOR RESOURCE CENTERS.** ~~Contract with entities~~  
 10 ~~specified under par. (d) and~~ The department may contract with other entities for the  
 11 provision of services under s. 46.283 (3) and (4), ~~except that after July 27, 2005, the~~  
 12 ~~department shall notify the joint committee on finance in writing of any proposed~~  
 13 ~~contract with an entity that did not have a contract to provide services under s.~~  
 14 ~~46.283 (3) and (4) before July 27, 2005. If the cochairpersons of the committee do not~~  
 15 ~~notify the department within 14 working days after the date of the department's~~  
 16 ~~notification that the committee has scheduled a meeting for the purpose of reviewing~~  
 17 ~~the proposed contract, the department may enter into the proposed contract. If~~  
 18 ~~within 14 working days after the date of the department's notification the~~  
 19 ~~cochairpersons of the committee notify the department that the committee has~~

Subject to the conditions under s. 46.283 (2) (b),

1 ~~scheduled a meeting for the purpose of reviewing the proposed contract, the~~  
2 ~~department may enter into the proposed contract only upon approval of the~~  
3 ~~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)?

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

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

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

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

8 **SECTION 23.** 46.281 (2) (title) of the statutes is amended to read:

9 46.281 (2) (title) ~~POWERS~~ OTHER POWERS OF THE DEPARTMENT.

10 **SECTION 24.** 46.281 (3) of the statutes is amended to read:

11 46.281 (3) DUTY OF THE SECRETARY. The secretary shall certify to each county,  
12 hospital, nursing home, community-based residential facility, adult family home  
13 and residential care apartment complex the date on which a resource center that  
14 serves the area of the county, hospital, nursing home, community-based residential  
15 facility, adult family home or residential care apartment complex is first available  
16 to ~~provide a perform functional screenings and financial screen and cost-sharing~~  
17 screenings. To facilitate phase-in of services of resource centers, the secretary may  
18 certify that the resource center is available for specified groups of eligible individuals  
19 or for specified facilities in the county.

20 **SECTION 25.** 46.282 (2) (a) (intro.) of the statutes is amended to read:



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

2 46.282 (2) (b) 2. (intro.) A local long-term care council that serves an area of  
3 2 or more contiguous counties shall consist of 23 members, at least 12 of whom are  
4 older persons or persons with physical or developmental disabilities or their  
5 immediate family members or other representatives. The age or disability  
6 represented by these 12 members shall correspond to the proportion of numbers of  
7 persons, as determined by the department, receiving long-term care in this state  
8 who are aged 65 or older or have a physical or developmental disability. The total  
9 remaining 11 members shall consist of all of the following:

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10 SECTION 29. 46.283 (2) (b) (intro.) of the statutes is amended to read:

renumbered 46.283(2) as  
and 46.283(2)(intro.) as  
renumbered 15

11 46.283 (2) (b) (intro.) ~~After June 30, 2001, the~~ department may, if the  
12 ~~applicable review conditions under s. 46.281 (1) (e) 2. are satisfied,~~ contract to  
13 operate a resource center with counties, family care districts, or the governing body  
14 of a tribe or band or the Great Lakes Inter-Tribal Council, Inc., under a joint  
15 application of any of these, or with a private nonprofit organization if the department  
16 determines that the organization has no significant connection to an entity that  
17 operates a care management organization and if any of the following applies:

18 SECTION 30. 46.283 (4) (e) of the statutes is amended to read:

19 46.283 (4) (e) ~~Within 6 months after the family care benefit is available to all~~  
20 ~~eligible persons in the area of the resource center, provide~~ Provide information about  
21 the services of the resource center, including the services specified in sub. (3) (d),  
22 about assessments under s. 46.284 (4) (b) and care plans under s. 46.284 (4) (c) and  
23 about the family care benefit to all older persons and persons with a physical  
24 disability who are residents of nursing homes, community-based residential

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

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

5           46.282 (2) (a) 2. A county board of supervisors or, in a county with a county  
6 executive or a county administrator, the county executive or county administrator  
7 shall appoint members of the local long-term care council who are required to be  
8 older persons or persons with physical or developmental disabilities or their  
9 immediate family members or other representatives from nominations that are  
10 submitted to the county board of supervisors or the county executive or county  
11 administrator by older persons or persons with physical or developmental  
12 disabilities or their immediate family members or other representatives and by local  
13 organizations that represent older persons or persons with physical or  
14 developmental disabilities.

15           **SECTION 27.** 46.282 (2) (b) 1. of the statutes is amended to read:

16           46.282 (2) (b) 1. A local long-term care council that serves a single-county area  
17 shall consist of 17 members, at least 9 of whom are older persons or persons with  
18 physical or developmental disabilities or their immediate family members or other  
19 representatives. The age or disability represented by these 9 members shall  
20 correspond to the proportion of numbers of persons, as determined by the  
21 department, receiving long-term care in this state who are aged 65 or older or have  
22 a physical or developmental disability. The total remaining 8 members shall consist  
23 of providers of long-term care services, persons residing in the county with  
24 recognized ability and demonstrated interest in long-term care and up to 3 members  
25 of the county board of supervisors or other elected officials.

1 facilities, adult family homes and residential care apartment complexes in the area  
2 of the resource center.

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

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

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

9 46.283 (4) (g) ~~Provide~~ Perform a functional screening and a financial screen to  
10 and cost-sharing screening for any person seeking admission to a nursing home,  
11 community-based residential facility, residential care apartment complex, or adult  
12 family home if the secretary has certified that the resource center is available to the  
13 person and the facility and the person is determined by the resource center to have  
14 a condition that is expected to last at least 90 days that would require care,  
15 assistance, or supervision. A resource center may not require a financial screen and  
16 cost-sharing screening for a person seeking admission or about to be admitted on a  
17 private pay basis who waives the requirement for a financial screen and cost-sharing  
18 screening under this paragraph, unless the person is expected to become eligible for  
19 medical assistance within 6 months. A resource center need not ~~provide~~ perform a  
20 functional screen ~~for~~ screening for a person seeking admission or about to be  
21 admitted who has received a screen for whom a functional eligibility under s. 46.286  
22 (1) (a) screening was performed within the previous 6 months.

23 **SECTION 33.** 46.285 (1) (a) of the statutes is amended to read:

24 46.285 (1) (a) For an entity with which the department has contracted under  
25 s. 46.281 (1) (e) ~~1.~~ (1g), provision of the services specified under s. 46.283 (3) (b), (e),

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1 (f) and (g) shall be structurally separate from the provision of services of the care  
2 management organization by January 1, 2001.

3 **SECTION 34.** 46.286 (1) (intro.) of the statutes is amended to read:

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

9 **SECTION 35.** 46.286 (3) (a) (intro.) of the statutes is amended to read:

10 46.286 (3) (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may  
11 receive the family care benefit through enrollment in a care management  
12 organization if he or she is at least 18 years of age, has a physical disability, as defined  
13 in s. 15.197 (4) (a) 2., or a developmental disability, as defined in s. 51.01 (5) (a), or  
14 ~~degenerative brain disorder, as defined in s. 55.01 (1v)~~ is a frail elder, is financially  
15 eligible, fulfills any applicable cost-sharing requirements, and meets any of the  
16 following criteria:

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

18 49.45 (3) (ag) Reimbursement shall be made to each entity contracted with  
19 under s. 46.281 (1) (e) (1k) for functional screens screenings performed by the entity.

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

21 49.46 (1) (a) 14m. Any person who would meet the financial and other eligibility  
22 requirements for home or community-based services under the family care benefit  
23 but for the fact that the person engages in substantial gainful activity under 42 USC  
24 1382c (a) (3), if a waiver under s. 46.281 (1) (e) (1d) is in effect or federal law permits

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

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

4 49.46 (2) (b) 8. Home or community-based services, if provided under s. 46.27  
5 (11), 46.275, 46.277, 46.278, or 46.2785, under the family care benefit if a waiver is  
6 in effect under s. 46.281 ~~(1)-(e)~~ (1d), or under a waiver requested under 2001  
7 Wisconsin Act 16, section 9123 (16rs), or 2003 Wisconsin Act 33, section 9124 (8c).

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

9 49.47 (4) (as) 1. The person would meet the financial and other eligibility  
10 requirements for home or community-based services under s. 46.27 (11), 46.277, or  
11 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 ~~(1)-(e)~~  
12 (1d) but for the fact that the person engages in substantial gainful activity under 42  
13 USC 1382c (a) (3).

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

15 49.47 (4) (as) 3. Funding is available for the person under s. 46.27 (11), 46.277,  
16 or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 ~~(1)~~  
17 (e) (1d).

18 **SECTION 41.** 50.033 (2r) of the statutes is amended to read:

19 50.033 (2r) PROVISION OF INFORMATION REQUIRED. Subject to sub. (2t), an adult  
20 family home shall, within the time period after inquiry by a prospective resident that  
21 is prescribed by the department by rule, inform the prospective resident of the  
22 services of a resource center under s. 46.283, the family care benefit under s. 46.286,  
23 and the availability of a functional screening and a financial screen and cost-sharing  
24 screening to determine the prospective resident's eligibility for the family care  
25 benefit under s. 46.286 (1).

1           **SECTION 42.** 50.033 (2s) (a) of the statutes is amended to read:

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

6           **SECTION 43.** 50.033 (2s) (d) of the statutes is amended to read:

7           50.033 (2s) (d) For a person who seeks admission or is about to be admitted on  
8 a private pay basis and who waives the requirement for a financial ~~screen~~ and  
9 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may  
10 not include performance of a financial ~~screen~~ and cost-sharing screening under s.  
11 46.283 (4) (g), unless the person is expected to become eligible for medical assistance  
12 within 6 months.

13           **SECTION 44.** 50.034 (5m) of the statutes is amended to read:

14           50.034 (5m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), a  
15 residential care apartment complex shall, within the time period after inquiry by a  
16 prospective resident that is prescribed by the department by rule, inform the  
17 prospective resident of the services of a resource center under s. 46.283, the family  
18 care benefit under s. 46.286, and the availability of a functional screening and a  
19 financial screen and cost-sharing screening to determine the prospective resident's  
20 eligibility for the family care benefit under s. 46.286 (1).

21           **SECTION 45.** 50.034 (5n) (a) of the statutes is amended to read:

22           50.034 (5n) (a) For a person ~~who has received a screen~~ for whom a screening  
23 for functional eligibility under s. 46.286 (1) (a) has been performed within the  
24 previous 6 months, the referral under this subsection need not include performance  
25 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

1           **SECTION 46.** 50.034 (5n) (d) of the statutes is amended to read:

2           50.034 (5n) (d) For a person who seeks admission or is about to be admitted on  
3 a private pay basis and who waives the requirement for a financial screen and  
4 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may  
5 not include performance of a financial screen and cost-sharing screening under s.  
6 46.283 (4) (g), unless the person is expected to become eligible for medical assistance  
7 within 6 months.

8           **SECTION 47.** 50.035 (4m) of the statutes is amended to read:

9           50.035 (4m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), a  
10 community-based residential facility shall, within the time period after inquiry by  
11 a prospective resident that is prescribed by the department by rule, inform the  
12 prospective resident of the services of a resource center under s. 46.283, the family  
13 care benefit under s. 46.286, and the availability of a functional screening and a  
14 financial screen and cost-sharing screening to determine the prospective resident's  
15 eligibility for the family care benefit under s. 46.286 (1).

16           **SECTION 48.** 50.035 (4n) (a) of the statutes is amended to read:

17           50.035 (4n) (a) For a person ~~who has received a screen for~~ whom a screening  
18 for functional eligibility under s. 46.286 (1) (a) has been performed within the  
19 previous 6 months, the referral under this subsection need not include performance  
20 of an additional functional screen screening under s. 46.283 (4) (g).

21           **SECTION 49.** 50.035 (4n) (d) of the statutes is amended to read:

22           50.035 (4n) (d) For a person who seeks admission or is about to be admitted on  
23 a private pay basis and who waives the requirement for a financial screen and  
24 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may  
25 not include performance of a financial screen and cost-sharing screening under s.

1 46.283 (4) (g), unless the person is expected to become eligible for medical assistance  
2 within 6 months.

3 **SECTION 50.** 50.04 (2g) (a) of the statutes is amended to read:

4 50.04 (2g) (a) Subject to sub. (2i), a nursing home shall, within the time period  
5 after inquiry by a prospective resident that is prescribed by the department by rule,  
6 inform the prospective resident of the services of a resource center under s. 46.283,  
7 the family care benefit under s. 46.286, and the availability of a functional screening  
8 and a financial screen and cost-sharing screening to determine the prospective  
9 resident's eligibility for the family care benefit under s. 46.286 (1).

10 **SECTION 51.** 50.04 (2h) (a) 1. of the statutes is amended to read:

11 50.04 (2h) (a) 1. For a person ~~who has received a screen for whom a screening~~  
12 for functional eligibility under s. 46.286 (1) (a) has been performed within the  
13 previous 6 months, the referral under this paragraph need not include performance  
14 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

15 **SECTION 52.** 50.04 (2h) (a) 4. of the statutes is amended to read:

16 50.04 (2h) (a) 4. For a person who seeks admission or is about to be admitted  
17 on a private pay basis and who waives the requirement for a financial ~~screen and~~  
18 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may  
19 not include performance of a financial ~~screen and cost-sharing screening~~ under s.  
20 46.283 (4) (g), unless the person is expected to become eligible for medical assistance  
21 within 6 months.

22 **SECTION 53.** 50.06 (7) of the statutes is amended to read:

23 50.06 (7) An individual who consents to an admission under this section may  
24 request that an assessment be conducted for the incapacitated individual under the  
25 long-term support community options program under s. 46.27 (6) or, if the secretary



1 has certified under s. 46.281 (3) that a resource center is available for the individual,  
 2 a functional screening and a financial screen and cost-sharing screening to  
 3 determine eligibility for the family care benefit under s. 46.286 (1). If admission is  
 4 sought on behalf of the incapacitated individual or if the incapacitated individual is  
 5 about to be admitted on a private pay basis, the individual who consents to the  
 6 admission may waive the requirement for a financial screen and cost-sharing  
 7 screening under s. 46.283 (4) (g), unless the incapacitated individual is expected to  
 8 become eligible for medical assistance within 6 months.

INS  
17-8

9 **SECTION 54.** 50.49 (6m) (a) of the statutes is amended to read:

10 50.49 (6m) (a) A care management organization, as defined in s. 46.2805 (1),  
 11 or an entity with which a care management organization contracts for care  
 12 management services under s. 46.284 (4) (d).

13 **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?

(END)

*for the purpose of providing the contracted services*

*D-Note*

1

**Ins 4-1:**

\*\*\*\*NOTE: 1. Should proposed s. 46.27 (13) apply to counties that have implemented PACE or Partnership as well as those that have Family Care care management organizations?

*close  
up  
space*

2. Is the exemption in the last sentence of proposed 46.27 (13) too broad? Perhaps the exemption could be narrowed by providing that DHFS may waive any requirements under sub. (2) to (12) for the provision of services under proposed 46.27 (13). If you do not like this suggestion, please review all the provision in s. 46.27 (2) to (12) to determine whether any of them should apply to administration of COP in counties that have implemented managed care. Here are just a couple of examples of provisions that DHFS may want to apply to administration of COP even in counties that have implemented managed care: s. 46.27 (2m), providing that DHFS may disallow reimbursement for services to persons who do not meet eligibility requirements; s. 46.27 (3) (b), requiring that a county identify a county department to administer COP; 46.27 (3m), granting nonprofit agencies the powers and duties of a county; s. 46.27 (5) (d), cost-sharing; and 46.27 (6u) (fm), carry-forward of COP funds.

*department*

*s.*

*7*

2

3

4

**Ins 10-9:**

**SECTION 1.** 46.283 (2) (a) of the statutes is repealed.

5

6

7

8

**Ins 11-22:**

**SECTION 2.** 46.284 (2) (b) (intro.) of the statutes is repealed.

9

10

**SECTION 3.** 46.284 (2) (b) 1. of the statutes is repealed.

11

**SECTION 4.** 46.284 (b) <sup>(2)</sup> 2. of the statutes is repealed.

12

**SECTION 5.** 46.284 (2) (b) <sup>3</sup> 3. of the statutes is renumbered 46.284 (2) (bm) and

13

amended to read:

14

46.284 (2) (bm) After December 31, 2003, the The department may contract

15

with counties, family care districts, the governing body of a tribe or band or the Great

16

Lakes inter-tribal council, inc., or under a joint application of any of these, or with

1 a private organization that has no significant connection to an entity that operates  
2 a resource center. Proposals for contracts under this subdivision shall be solicited  
3 under a competitive sealed proposal process under s. 16.75 (2m) and, after consulting  
4 with the local long-term care council for the county or counties, the department shall  
5 evaluate the proposals primarily as to the quality of care that is proposed to be  
6 provided, certify those applicants that meet the requirements specified in sub. (3) (a),  
7 select certified applicants for contract and contract with the selected applicants.

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

\*\*\*\*NOTE: This draft repeals all of s. 46.284 <sup>(2)</sup>(b) except <sup>subd.</sup> 3. Should I retain the provision from current s. 46.284 (2) (b) (intro.) that requires that DHFS "initially" give preference to counties for CMO contracts, and if so what does "initially" mean?

2007-2008 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-0330/P2inB  
RLR:.....

1

44

2

**SECTION 1.** 50.49 (6m) (am) of the statutes is created to read:

3

50.49 **(6m)** (am) An entity with which a care management organization, as

4

defined in s. 46.2805 (1) **(b)**, contracts for care management services under s. 46.284

5

(4) (d), for purposes of providing the contracted services.

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

LRB-0330/P2dn

RLR:j:...

cjs

Steve Milioto and Andy Forsaith:

This redraft makes changes requested by DHFS. I will wait until DHFS provides the additional Family Care drafting instructions to consolidate or streamline the contracting provisions for resource centers (ss. 46.281 and 46.283 (2)) and care management organizations (ss. 46.281 and 46.284 (2)).

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/P2dn  
RLR:cjs:pg

December 7, 2006

Steve Milioto and Andy Forsaith:

This redraft makes changes requested by DHFS. I will wait until DHFS provides the additional Family Care drafting instructions to consolidate or streamline the contracting provisions for resource centers (ss. 46.281 and 46.283 (2)) and care management organizations (ss. 46.281 and 46.284 (2)).

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

### FACSIMILE COVER MESSAGE

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<b>TO</b>		<b>Facsimile Telephone Number</b>	
Name	Robin Ryan	4-6948	
Location	Reference Bureau	Room Number	Telephone Number
<b>FROM (Sender)</b>		<b>Facsimile Telephone Number</b>	
Name	Steve Milioto	Number of Pages Including This Cover Sheet	(608) 267-0372
Location	STATE BUDGET OFFICE 101 EAST WILSON STREET, 10TH FLOOR	5	Telephone Number 266-8593

COMMENTS / INSTRUCTIONS

Hi Robin —

Please see the attached memo. The only items that should be drafted are items I and IV — ignore items II and III.

These changes should be incorporated into draft 330 — Version 3.0. I am still waiting for comment ~~on~~ from the department on Version 2.0 so I will press the department for those comments so they can be incorporated into Version 3.0.

Best,  
Steve

**Family Care Expansion  
Statutory Language Changes: Package II**

**I. Entities That Can Operate CMOs**

There are conflicting provisions in the statutes regarding what types of entities the Department can contract with to operate a CMO. S. 46.281(1)(d) and (e) allow DHFS to contract with *a county, family care district, tribe or band, the Great Lakes Intertribal Council or two or more of these entities*. In addition, these paragraphs also require the local long term care council to develop an initial plan for the structure of the CMO or CMOs in the council's area before DHFS issues a contract for a CMO. The plan must include recommendations as to whether the county should apply to operate the CMO and/or form a Family Care district or whether non-county entities should operate CMOs in addition to or in place of a county operated CMO.

A separate provision, s. 46.284(2)(b)(3), authorizes the Department, after December 31, 2003, to contract with the above listed *public entities* or with *private entities* to operate a CMO. The paragraph requires only that the Department *consult* with the local long term care council before issuing a contract.

*Proposed change:* Revise s. 46.281(1)(d) and (e) to conform with s. 46.284(2)(b)(3), to allow the Department to contract with either public or private entities, without providing the county a "right of first refusal." The proposed change would require the Department to consult with the local long term care council, but not require that the council to have developed an initial plan.



#### IV. Levels of Care Categories

URB 0330

Family Care's original program design included two levels of care, comprehensive and intermediate. The comprehensive level of care includes primarily persons at a nursing home level of care, but it also includes a small number of persons below the nursing home level of care. This design allowed more consumers who transferred from COP-Regular and MA Waiver programs to meet the comprehensive level of care at program inception. The benefit package for the comprehensive level of care includes both nursing home and ICF-MR services, but the benefit package for persons at the intermediate level of care does not include institutional services.

This design feature has implications for three major program functions: eligibility, rate setting, and federal reporting:

- The long-term care functional screen has been programmed to determine eligibility for each of the three levels of care: comprehensive-nursing home, comprehensive non-nursing home, and intermediate.

- The capitation rate for the comprehensive level of care is significantly higher than that for the intermediate level of care, roughly \$2,100 and \$700 per month, respectively.
- In its fiscal oversight role, the federal government has always been very concerned that the comprehensive level of care includes both nursing home and non-nursing home eligibles. These two eligibility categories are able to access different sets of services from the federal perspective and their preference is that program be designed around those categories.

*Proposed change:* Amend the Family Care statutes to replace "comprehensive" and "intermediate" levels of care with "nursing home" and "non-nursing home" level of care determination. This is largely an administrative simplification proposal. It will allow the state's negotiations with CMS over federal Medicaid claiming to proceed much more smoothly, as CMS will be able to consider program costs by their standard aid categories.

This change would mean that 345 people at the comprehensive non-nursing home level of care would be reclassified to the "non-nursing home" level of care, which is equivalent to the current intermediate level. The Department would manage the change so that there would be no impact on program enrollees. There is flexibility within the managed care environment to provide additional services to program enrollees (e.g., nursing home care to persons who are intermediate) as needed.

If this change were made for CY 2008, then the rate setting approach for that year would need to be slightly modified. Both the comprehensive level of care rate and the intermediate level of care rate should increase, as persons remaining in the comprehensive cell would be more complex and the pool of intermediates would also grow more complex. The change will be budget neutral, however, as transitioned persons who were formerly paid at the higher comprehensive level of care would now be paid at the still-lower intermediate level of care rate. The proposed change would also be revenue neutral to each CMO.

## Ryan, Robin

---

**From:** Milioto, Steve - DOA  
**Sent:** Wednesday, December 20, 2006 8:25 AM  
**To:** Ryan, Robin  
**Subject:** FW: FW: LRB Draft: 07-0330/P2 Family care expansion

Hi Robin --

Please see Andy's comments below. For version 3.0 (reflecting the changes I faxed over yesterday), please send it to me only. Best, Steve

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

**From:** Andrew Forsaith [mailto:forsaac@dhfs.state.wi.us]  
**Sent:** Tuesday, December 19, 2006 4:47 PM  
**To:** Milioto, Steve - DOA  
**Cc:** Jones, Charles M - DHFS  
**Subject:** Re: FW: LRB Draft: 07-0330/P2 Family care expansion

Steve -- The draft looks fine. The answer to Robin's question in section 38 is no.

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 12/07/06 11:47 AM >>>

Hi Andy --

Attached is version 2.0 of the Family Care expansion draft. Please review -- I will send any proposed revisions to Robin. Best, Steve

P.S. This version does not contain the latest requests you sent over.

---

**From:** Greenslet, Patty [mailto:Patty.Greenslet@legis.wisconsin.gov]  
**Sent:** Thursday, December 07, 2006 10:11 AM  
**To:** Milioto, Steve - DOA  
**Cc:** Johnston, James - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA  
**Subject:** LRB Draft: 07-0330/P2 Family care expansion

Following is the PDF version of draft 07-0330/P2.

## Ryan, Robin

---

**From:** Milioto, Steve - DOA  
**Sent:** Friday, December 22, 2006 1:50 PM  
**To:** Ryan, Robin  
**Subject:** FW: FW: redraft of 0330

Hi Robin --

Here are more responses from the department regarding the Family Care draft. Best, Steve

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

**From:** Andrew Forsaith [mailto:forsaith@dhfs.state.wi.us]  
**Sent:** Friday, December 22, 2006 10:32 AM  
**To:** Milioto, Steve - DOA  
**Subject:** Re: FW: redraft of 0330

Steve -- Sorry for missing the other drafter's note. Also I'd like to add one additional comment about another part of the draft. Could you pass along the following to Robin:

- ✓ 1. Regarding the COP portion of the draft, I think Robin is referring to the new s. 46.27(13). The provision is intended to apply to COP GPR funding. Under Family Care expansion, GPR funding for COP Waiver, which is in the same appropriation, will be transferred to Family Care.
- ✓ 2. Drafter's notes after section 7:
  - a. Yes, the proposed (13) should be written to apply to counties who implement either PACE/Partnership or Family Care.
  - ✓ b. We want to outright exempt requirements under (2) through (12) rather than giving us authority to waive them. We appreciate the suggestion, but are comfortable with the exemption.
- ✓ 3. Robin drafted the new s. 46.281(1g), which governs our authority to contract with CMOs, just as we asked her to. However, I think it reads very awkwardly, and it is direct conflict with the new s.46.284(2) (bm). The latter provision allows DHFS to contract with both public and private entities while the 46.281(1g) allows us only to contract with public entities. We addressed this conflict in our "Package II" proposal -- requesting that 46.281(1g) be revised to conform to s.46.284(2) (bm), to make it clear that we can contract with all entities. It's really important that (1g) be revised in that way to avoid confusion about what our authority really is, and I would recommend asking Robin to make that change now.

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 12/22/06 8:26

AM >>>

Hi Andy --

Robin also asked me if the COP portion of the Family Care draft was meant to refer to GPR-COP only. Please advise. Best, Steve

>  
> From: Ryan, Robin [mailto:Robin.Ryan@legis.wisconsin.gov]  
> Sent: Wednesday, December 20, 2006 4:36 PM  
> To: Milioto, Steve - DOA  
> Subject: redraft of 0330  
>  
> Steve, did you get any comment from Andy regarding my note on p. 4  
> of  
> the /2, specifically whether DHFS would be ok with just saying that  
> DHFS has authority to waive any requirement under sub. (2) to (12)  
> instead of providing such a broad exception?  
>  
> Thanks,



State of Wisconsin  
2007 - 2008 LEGISLATURE

LRB-0330/P2

RLR:cjs:pg

stays

In 1/2/07

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

SA ✓  
max ✓

Do Not Gen Cat

B-N

1 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.~~

INS analysis →

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

INS 1-1 ✓  
2

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

3 20.435 (7) (g) *Long-term care; county contributions.* All moneys received from  
4 counties as contributions to the family care program under s. 46.2805 to 46.2895, the  
5 Pace program described under s. 46.2805 (1) (a), and the Wisconsin Partnership  
6 Program described under s. 46.2805 (1) (b), to fund services under the family care  
7 benefit under s. 46.284 (5) and services under the Pace and Wisconsin Partnership  
8 programs.

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

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

2 46.27 (4) (c) 8. If a contract with an entity under s. ~~46.281~~<sup>strike</sup> (1) (e) 1. ~~(1g)~~<sup>is</sup> is  
3 established in the county, a description of how the activities of the entity relate to and  
4 are coordinated with the county's proposed program.

46.281(2)

5 SECTION 3. 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  
14 51.437, health service providers and the county commission on aging in the  
15 assessment activities specified in sub. (6), as well as the person being assessed and  
16 members of the person's family or the person's guardian. This paragraph does not  
17 apply to a county department or aging unit in a county in which the department has  
18 contracted with an entity under s. ~~46.281~~<sup>strike</sup> (1) (e) 1. ~~(1g)~~<sup>plan</sup>.

46.281(2)

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

20 46.27 (6) (a) 3. In each participating county, except in counties in which the  
21 department has contracted with an entity under s. ~~46.281~~<sup>strike</sup> (1) (e) 1. ~~(1g)~~<sup>is</sup>, assessments  
22 shall be conducted for those persons and in accordance with the procedures described  
23 in the county's community options plan. The county may elect to establish  
24 assessment priorities for persons in target groups identified by the county in its plan  
25 regarding gradual implementation. If a person who is already admitted to a nursing

46.281(2)

1 home requests an assessment and if funds allocated for assessments under sub. (7)  
2 (am) are available, the county shall conduct the assessment.

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

4 46.27 (6g) FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and  
5 within the limitations under sub. (7) (b), the fiscal responsibility of a county for an  
6 assessment, unless the assessment is performed by an entity under a contract as  
7 specified under s. <sup>strike</sup> 46.281 (1) (e) 1. ~~(1g)~~ case plan, or services provided to a person  
8 under this section is as follows:

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

10 46.27 (9) (c) All long-term community support services provided under this  
11 pilot project in lieu of nursing home care shall be consistent with those services  
12 described in the participating county's community options plan under sub. (4) (c) 1.  
13 and provided under sub. (5) (b). Unless the department has contracted under s.  
14 <sup>strike</sup> 46.281 (1) (e) 1. ~~(1g)~~ with an entity other than the county department, each county  
15 participating in the pilot project shall assess persons under sub. (6).

16 SECTION 7. <sup>46.2803</sup> 46.27 (13) of the statutes is created to read:

17 46.27 (13) PROVISIONS FOR COUNTIES IMPLEMENTING FAMILY CARE.  
18 Notwithstanding <sup>s. 46.27</sup> sub (7), a county in which a care management organization is  
19 operating pursuant to a contract under s. 46.281 (1g) may use funds appropriated  
20 under 20.435 (7) (bd) and allocated to the county under <sup>s. 46.27</sup> sub (7) to provide community  
21 mental health or substance abuse services and supports for persons with mental  
22 illness or persons in need of services or supports for substance abuse and to provide  
23 services under the Family Support Program under s. 46.985. Subsections (2) to (12)  
24 do not apply to the provision of services under this subsection.

46.284(a)  
(e)

INS  
3-19

46.2803  
Rold ↑ Community Options Program funds in counties providing long-term care services under managed care programs.

\*\*\*\*NOTE: 1. Should proposed s. 46.27 (13) apply to counties that have implemented PACE or Partnership as well as those that have Family Care care management organizations?

2. Is the exemption in the last sentence of proposed 46.27 (13) too broad? Perhaps the exemption could be narrowed by providing that DHFS may waive any requirements under sub. (2) to (12) for the provision of services under proposed 46.27 (13). If you do not like this suggestion, please review all the provision in s. 46.27 (2) to (12) to determine whether any of them should apply to administration of COP in counties that have implemented managed care. Here are just a couple of examples of provisions that DHFS may want to apply to administration of COP even in counties that have implemented managed care: s. 46.27 (2m), providing that DHFS may disallow reimbursement for services to persons who do not meet eligibility requirements; s. 46.27 (3) (b), requiring that a county identify a county department to administer COP; s. 46.27 (3m), granting nonprofit agencies the powers and duties of a county department; s. 46.27 (5) (d), cost-sharing; and s. 46.27 (7) (fm), carry-forward of COP funds.

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

2           **46.2804** (title) ~~Managed care programs for~~ Client management of  
3 managed care long-term care services benefit.

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

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

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

7           **46.2805 (6m)** "Family member" means a spouse or an individual related by  
8 blood, marriage, or adoption within the 3rd degree of kinship as computed under s.  
9 990.001 (16).

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

11          **46.2805 (6r)** "Financial and cost-sharing screening" means a screening to  
12 determine financial eligibility under s. 46.286 (1) (b) and cost-sharing under s.  
13 46.286 (2) using a uniform tool prescribed by the department.

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

15          **46.2805 (6v)** "Frail elder" means an individual who is 65 years of age or older  
16 and has a physical disability or irreversible dementia that restricts the individual's  
17 ability to perform normal daily tasks or that threatens the capacity of the individual  
18 to live independently.



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

2 46.2805 (7) "~~Functional and financial screen~~ screening" means a screen  
3 ~~prescribed by the department that is used~~ screening to determine functional  
4 eligibility under s. 46.286 (1) (a) and ~~financial eligibility under s. 46.286 (1) (b)~~ using  
5 a uniform tool prescribed by the department.

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

8 46.281 (1n) (title) DUTIES OTHER DUTIES OF THE DEPARTMENT.

9 SECTION 16. 46.281 (1) (c) of the statutes is renumbered 46.281 (1d) and  
10 amended to read:

11 46.281 (1d) WAIVER REQUEST. Request The department shall request from the  
12 secretary of the federal department of health and human services any waivers of  
13 federal medicaid laws necessary to permit the use of federal moneys to provide the  
14 family care benefit to recipients of medical assistance. The department shall  
15 implement any waiver that is approved and that is consistent with ss. 46.2805 to  
16 46.2895. Regardless of whether a waiver is approved, the department may  
17 implement operation of resource centers, care management organizations, and the  
18 family care benefit.

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

21 46.281 (1g) CONTRACTING FOR CARE MANAGEMENT ORGANIZATIONS. ~~In geographic~~  
22 ~~areas in which, in the aggregate, resides no more than 29 percent of the state~~  
23 ~~population that is eligible for the family care benefit,~~ The department may contract  
24 with a county, a family care district, a tribe or band, the Great Lakes Inter-Tribal  
25 Council, Inc., or with 2 or more of these entities to manage all long-term care

JWS  
5-18

1 ~~programs in an area and administer the family care benefit as a care management~~  
2 ~~organizations. If the department proposes to contract with these entities to~~  
3 ~~administer care management organizations in geographic areas in which, in the~~  
4 ~~aggregate, resides more than 29 percent but less than 50 percent of the state~~  
5 ~~population that is eligible for the family care benefit, the department shall first~~  
6 ~~notify the joint committee on finance in writing of the proposed contract. The~~  
7 ~~notification shall include the contract proposal; and an estimate of the fiscal impact~~  
8 ~~of the proposed addition that demonstrates that the addition will be cost neutral,~~  
9 ~~including startup, transitional, and ongoing operational costs and any proposed~~  
10 ~~county contribution. If the cochairpersons of the committee do not notify the~~  
11 ~~department within 14 working days after the date of the department's notification~~  
12 ~~that the committee has scheduled a meeting for the purpose of reviewing the~~  
13 ~~proposed contract, the department may enter into the proposed contract. If within~~  
14 ~~14 days after the date of the department's notification the cochairpersons of the~~  
15 ~~committee notify the department that the committee has scheduled a meeting for the~~  
16 ~~purpose of reviewing the proposed contract, the department may enter into the~~  
17 ~~proposed contract only upon approval of the committee. The department may~~  
18 ~~contract with these entities to administer care management organizations in~~  
19 ~~geographic areas in which, in the aggregate, resides 50 percent or more of the state~~  
20 ~~population that is eligible for the family care benefit only if specifically authorized~~  
21 ~~by the legislature and if the legislature appropriates necessary funding. (e) 1.~~  
22 ~~Subject to the requirements of par. (d), organization. After July 1, 2006, the~~  
23 ~~department may contract with an entity to serve as a care management organization~~  
24 ~~for an area only if the local long-term care council for the applicable area has~~  
25 ~~developed the initial plan under s. 46.282 (3) (a) 1., ~~contract with entities specified~~~~

1 ~~under par. (d) and may, only if~~ If specifically authorized by the legislature and if the  
2 legislature appropriates necessary funding, ~~the department may contract as so~~  
3 ~~authorized with one or more entities in addition to those specified in par. (d)~~ an entity  
4 other than a county, a family care district, a tribe or band, or the Great Lakes  
5 Inter-Tribal Council, Inc., that is certified as meeting requirements under s. 46.284  
6 (3) for services of the entity as a care management organization.

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

9 46.281 (1k) CONTRACTING FOR RESOURCE CENTERS. ~~Contract with entities~~  
10 ~~specified under par. (d) and~~ Subject to the conditions under s. 46.283 (2), the  
11 department may contract ~~with other entities~~ for the provision of services under s.  
12 46.283 (3) and (4), ~~except that after July 27, 2005, the department shall notify the~~  
13 ~~joint committee on finance in writing of any proposed contract with an entity that did~~  
14 ~~not have a contract to provide services under s. 46.283 (3) and (4) before July 27,~~  
15 ~~2005. If the cochairpersons of the committee do not notify the department within 14~~  
16 ~~working days after the date of the department's notification that the committee has~~  
17 ~~scheduled a meeting for the purpose of reviewing the proposed contract, the~~  
18 ~~department may enter into the proposed contract. If within 14 working days after~~  
19 ~~the date of the department's notification the cochairpersons of the committee notify~~  
20 ~~the department that the committee has scheduled a meeting for the purpose of~~  
21 ~~reviewing the proposed contract, the department may enter into the proposed~~  
22 ~~contract only upon approval of the committee.~~

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

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

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

INS 8-1

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

SECTION 23. 46.281 (2) (title) of the statutes is amended to read:

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

SECTION 24. 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.

SECTION 25. 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:

SECTION 26. 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

strike

strike

before

1 disabilities or their immediate family members or other representatives and by local  
2 organizations that represent older persons or persons with physical or  
3 developmental disabilities.

4 **SECTION 27.** 46.282 (2) (b) 1. of the statutes is amended to read:

5 46.282 (2) (b) 1. A local long-term care council that serves a single-county area  
6 shall consist of 17 members, at least 9 of whom are older persons or persons with  
7 physical or developmental disabilities or their immediate family members or other  
8 representatives. The age or disability represented by these 9 members shall  
9 correspond to the proportion of numbers of persons, as determined by the  
10 department, receiving long-term care in this state who are aged 65 or older or have  
11 a physical or developmental disability. The total remaining 8 members shall consist  
12 of providers of long-term care services, persons residing in the county with  
13 recognized ability and demonstrated interest in long-term care and up to 3 members  
14 of the county board of supervisors or other elected officials.

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

16 46.282 (2) (b) 2. (intro.) A local long-term care council that serves an area of  
17 2 or more contiguous counties shall consist of 23 members, at least 12 of whom are  
18 older persons or persons with physical or developmental disabilities or their  
19 immediate family members or other representatives. The age or disability  
20 represented by these 12 members shall correspond to the proportion of numbers of  
21 persons, as determined by the department, receiving long-term care in this state  
22 who are aged 65 or older or have a physical or developmental disability. The total  
23 remaining 11 members shall consist of all of the following:

24 **SECTION 29.** 46.283 (2) (a) of the statutes is repealed.

1           **SECTION 30.** 46.283 (2) (b) of the statutes is renumbered 46.283 (2), and 46.283  
2 (2) (intro.), as renumbered, is amended to read:

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

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

11           46.283 (4) (e) ~~Within 6 months after the family care benefit is available to all~~  
12 ~~eligible persons in the area of the resource center, provide~~ Provide information about  
13 the services of the resource center, including the services specified in sub. (3) (d),  
14 about assessments under s. 46.284 (4) (b) and care plans under s. 46.284 (4) (c) and  
15 about the family care benefit to all older persons and persons with a physical  
16 disability who are residents of nursing homes, community-based residential  
17 facilities, adult family homes and residential care apartment complexes in the area  
18 of the resource center.

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

20           46.283 (4) (f) ~~Provide~~ Perform a functional screening and a financial screen to  
21 and cost-sharing screening for any resident, as specified in par. (e), who requests a  
22 ~~screen~~ screening and assist any resident who is eligible and chooses to enroll in a care  
23 management organization to do so.

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

1           46.283 (4) (g) ~~Provide~~ Perform a functional screening and a financial ~~screen~~ ~~to~~  
2           and cost-sharing screening for any person seeking admission to a nursing home,  
3           community-based residential facility, residential care apartment complex, or adult  
4           family home if the secretary has certified that the resource center is available to the  
5           person and the facility and the person is determined by the resource center to have  
6           a condition that is expected to last at least 90 days that would require care,  
7           assistance, or supervision. A resource center may not require a financial ~~screen~~ and  
8           cost-sharing screening for a person seeking admission or about to be admitted on a  
9           private pay basis who waives the requirement for a financial ~~screen~~ and cost-sharing  
10          screening under this paragraph, unless the person is expected to become eligible for  
11          medical assistance within 6 months. A resource center need not ~~provide~~ perform a  
12          functional ~~screen~~ ~~for~~ screening for a person seeking admission or about to be  
13          admitted who has received a screen for whom a functional eligibility under s. 46.286  
14          (1)(a) screening was performed within the previous 6 months.

15           **SECTION 34.** 46.284 (2) (b) (intro.) of the statutes is repealed.

16           **SECTION 35.** 46.284 (2) (b) 1. of the statutes is repealed.

17           **SECTION 36.** 46.284 (2) (b) 2. of the statutes is repealed.

18           **SECTION 37.** 46.284 (2) (b) 3. of the statutes is renumbered 46.284 (2) (bm) and  
19          amended to read:

20           46.284 (2) (bm) ~~After December 31, 2003, the~~ The department may contract  
21          with counties, family care districts, the governing body of a tribe or band or the Great  
22          Lakes inter-tribal council, inc., or under a joint application of any of these, or with  
23          a private organization that has no significant connection to an entity that operates  
24          a resource center. Proposals for contracts under this subdivision shall be solicited  
25          under a competitive sealed proposal process under s. 16.75 (2m) and, after consulting

1 with the local long-term care council for the county or counties, the department shall  
 2 evaluate the proposals primarily as to the quality of care that is proposed to be  
 3 provided, certify those applicants that meet the requirements specified in sub. (3) (a),  
 4 select certified applicants for contract and contract with the selected applicants.

\*\*\*\*NOTE: This draft repeals all of s. 46.284 (2) (b) except subd. 3. Should I retain the provision from current s. 46.284 (2) (b) (intro.) that requires that DHFS "initially" give preference to counties for CMO contracts, and if so what does "initially" mean?

5 SECTION 38. 46.285 (1) (a) of the statutes is amended to read:

6 46.285 (1) (a) For an entity with which the department has contracted under  
 7 <sup>plain</sup> s. 46.281 (1) (e) 1, (1g), provision of the services specified under s. 46.283 (3) (b), (e),  
 8 (f) and (g) shall be structurally separate from the provision of services of the care  
 9 management organization by January 1, 2001.

2005 Stats. 1  
 5 employees?

10 XXXX NOTE: Do you want to repeal s. 46.285 (1) (a) since it is employees?  
 SECTION 39. 46.286 (1) (intro.) of the statutes is amended to read:

11 46.286 (1) ELIGIBILITY. (intro.) A person is eligible for, but not necessarily  
 12 entitled to, the family care benefit if the person is at least 18 years of age; has a  
 13 physical disability, as defined in s. 15.197 (4) (a) 2., or a developmental disability, as  
 14 defined in s. 51.01 (5) (a), or ~~degenerative brain disorder, as defined in s. 55.01 (1v)~~  
 15 ~~is a frail elder~~; and meets all of the following criteria:

INS 12-15

16 SECTION 40. 46.286 (3) (a) (intro.) of the statutes is amended to read:

17 46.286 (3) (a) (intro.) Subject to pars. (c) and (d), a person is entitled to and may  
 18 receive the family care benefit through enrollment in a care management  
 19 organization if he or she is at least 18 years of age, has a physical disability, as defined  
 20 in s. 15.197 (4) (a) 2., or a developmental disability, as defined in s. 51.01 (5) (a), or  
 21 ~~degenerative brain disorder, as defined in s. 55.01 (1v)~~ is a frail elder, is financially  
 22 eligible, fulfills any applicable cost-sharing requirements, and meets any of the  
 23 following criteria:

INS 12-23



46.283(2)

1 SECTION 41. 49.45 (3) (ag) of the statutes is amended to read:

2 49.45 (3) (ag) Reimbursement shall be made to each entity contracted with  
3 under s. ~~46.281 (1) (e) (1k)~~ <sup>strike</sup> for functional screens screenings performed by the entity.

4 SECTION 42. 49.46 (1) (a) 14m. of the statutes is amended to read:

5 49.46 (1) (a) 14m. Any person who would meet the financial and other eligibility  
6 requirements for home or community-based services under the family care benefit  
7 but for the fact that the person engages in substantial gainful activity under 42 USC  
8 1382c (a) (3), if a waiver under s. 46.281 (1) (e) (1d) is in effect or federal law permits  
9 federal financial participation for medical assistance coverage of the person and if  
10 funding is available for the person under the family care benefit.

11 SECTION 43. 49.46 (2) (b) 8. of the statutes is amended to read:

12 49.46 (2) (b) 8. Home or community-based services, if provided under s. 46.27  
13 (11), 46.275, 46.277, 46.278, or 46.2785, under the family care benefit if a waiver is  
14 in effect under s. 46.281 (1) (e) (1d), or under a waiver requested under 2001  
15 Wisconsin Act 16, section 9123 (16rs), or 2003 Wisconsin Act 33, section 9124 (8c).

16 SECTION 44. 49.47 (4) (as) 1. of the statutes is amended to read:

17 49.47 (4) (as) 1. The person would meet the financial and other eligibility  
18 requirements for home or community-based services under s. 46.27 (11), 46.277, or  
19 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1) (e)  
20 (1d) but for the fact that the person engages in substantial gainful activity under 42  
21 USC 1382c (a) (3).

22 SECTION 45. 49.47 (4) (as) 3. of the statutes is amended to read:

23 49.47 (4) (as) 3. Funding is available for the person under s. 46.27 (11), 46.277,  
24 or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1)  
25 (e) (1d).

1           **SECTION 46.** 50.033 (2r) of the statutes is amended to read:

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

9           **SECTION 47.** 50.033 (2s) (a) of the statutes is amended to read:

10          50.033 (2s) (a) For a person ~~who has received a screen~~ for whom a screening  
11 for functional eligibility under s. 46.286 (1) (a) has been performed within the  
12 previous 6 months, the referral under this subsection need not include performance  
13 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

14          **SECTION 48.** 50.033 (2s) (d) of the statutes is amended to read:

15          50.033 (2s) (d) For a person who seeks admission or is about to be admitted on  
16 a private pay basis and who waives the requirement for a financial ~~screen~~ and  
17 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may  
18 not include performance of a financial ~~screen~~ and cost-sharing screening under s.  
19 46.283 (4) (g), unless the person is expected to become eligible for medical assistance  
20 within 6 months.

21          **SECTION 49.** 50.034 (5m) of the statutes is amended to read:

22          50.034 (5m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), a  
23 residential care apartment complex shall, within the time period after inquiry by a  
24 prospective resident that is prescribed by the department by rule, inform the  
25 prospective resident of the services of a resource center under s. 46.283, the family

1 care benefit under s. 46.286, and the availability of a functional screening and a  
2 financial ~~screen~~ and cost-sharing screening to determine the prospective resident's  
3 eligibility for the family care benefit under s. 46.286 (1).

4 **SECTION 50.** 50.034 (5n) (a) of the statutes is amended to read:

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

9 **SECTION 51.** 50.034 (5n) (d) of the statutes is amended to read:

10 50.034 (5n) (d) For a person who seeks admission or is about to be admitted on  
11 a private pay basis and who waives the requirement for a financial ~~screen~~ and  
12 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may  
13 not include performance of a financial ~~screen~~ and cost-sharing screening under s.  
14 46.283 (4) (g), unless the person is expected to become eligible for medical assistance  
15 within 6 months.

16 **SECTION 52.** 50.035 (4m) of the statutes is amended to read:

17 50.035 (4m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), a  
18 community-based residential facility shall, within the time period after inquiry by  
19 a prospective resident that is prescribed by the department by rule, inform the  
20 prospective resident of the services of a resource center under s. 46.283, the family  
21 care benefit under s. 46.286, and the availability of a functional screening and a  
22 financial ~~screen~~ and cost-sharing screening to determine the prospective resident's  
23 eligibility for the family care benefit under s. 46.286 (1).

24 **SECTION 53.** 50.035 (4n) (a) of the statutes is amended to read:

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

5           **SECTION 54.** 50.035 (4n) (d) of the statutes is amended to read:

6           50.035 (4n) (d) For a person who seeks admission or is about to be admitted on  
7 a private pay basis and who waives the requirement for a financial screen and  
8 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may  
9 not include performance of a financial screen and cost-sharing screening under s.  
10 46.283 (4) (g), unless the person is expected to become eligible for medical assistance  
11 within 6 months.

12           **SECTION 55.** 50.04 (2g) (a) of the statutes is amended to read:

13           50.04 (2g) (a) Subject to sub. (2i), a nursing home shall, within the time period  
14 after inquiry by a prospective resident that is prescribed by the department by rule,  
15 inform the prospective resident of the services of a resource center under s. 46.283,  
16 the family care benefit under s. 46.286, and the availability of a functional screening  
17 and a financial screen and cost-sharing screening to determine the prospective  
18 resident's eligibility for the family care benefit under s. 46.286 (1).

19           **SECTION 56.** 50.04 (2h) (a) 1. of the statutes is amended to read:

20           50.04 (2h) (a) 1. For a person who has received a screen for whom a screening  
21 for functional eligibility under s. 46.286 (1) (a) has been performed within the  
22 previous 6 months, the referral under this paragraph need not include performance  
23 of an additional functional screen screening under s. 46.283 (4) (g).

24           **SECTION 57.** 50.04 (2h) (a) 4. of the statutes is amended to read:



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**Ins analysis:**

**HEALTH AND HUMAN SERVICES**

**OTHER HEALTH AND HUMAN SERVICES**

Currently, DHFS administers Family Care, a long-term care program for people who are at least 18 years of age, have a physical or developmental disability or a degenerative brain disorder, and satisfy financial eligibility criteria. Under Family Care, DHFS contracts with care management organizations to provide a flexible long-term care benefit called the family care benefit for a capitated payment rate. Also under Family Care, DHFS contracts with resource centers to provide information and referral services pertaining to long-term care and to assess financial and functional eligibility for the family care benefit, among other services. Five counties currently have both care management organizations and resource centers. An additional four counties have only resource centers.

This bill makes the following changes to Family Care:

1. DHFS currently has authority to make the family care benefit available in areas of the state in which, in the aggregate, not more than 29 percent of the population that is eligible for the family care benefit resides. Subject to the approval of the Joint Committee on Finance, DHFS may expand availability of the family care benefit to additional areas of the state, (areas in which up to 50 percent of the population eligible for the family care benefit resides). To apply for the Committee's approval for expansion, DHFS must provide the Committee a copy of any proposed new contract with a care management organization and information demonstrating that the expansion is cost-neutral. The bill authorizes DHFS to make the family care benefit available anywhere in the state and eliminates the requirement that DHFS obtain the approval of the Joint Committee on Finance to expand availability of the family care benefit

2. Currently, DHFS must obtain legislative approval to enter into a contract for a care management organization with an entity other than a county, family care district, Indian tribe or band, or the Great Lakes Inter-tribal Council, Inc. Further, DHFS may not contract for a care management organization to serve an area unless the Local Long-Term Care Council for the area has developed an initial plan for Family Care. The bill eliminates these two limitations on contracting for care management organizations.

3. Currently, DHFS may not enter into new contracts for resource centers without the approval of the Joint Committee on Finance. The bill eliminates the requirement that DHFS obtain the Committee's approval for new contracts for resource centers.

4. Under current law, one of the qualifying conditions for the family care benefit is that a person has a degenerative brain disorder. The bill provides instead that a person may be eligible for the family care benefit if he or she is a "frail elder," which is defined as a person who is 65 years of age or older and has a physical disability or

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irreversible dementia that restrict the individual's ability to perform normal daily tasks or that threatens the capacity of the individual to live independently.

5. Currently, a person may be functionally eligible for the family care benefit at one of two levels, comprehensive or intermediate. The bill changes the two levels to nursing home level of care and non-nursing home level of care.

6. Currently, ~~Local Long-Term Care Councils~~, which are responsible for advising counties or tribes on whether to apply to participate in Family Care and, if so, how Family Care should be administered in the county or for the tribe, must include members who are older people, people with physical or developmental disabilities, or their family members. The bill defines a family member as spouse or individual related by blood, marriage, or adoption within the 3rd degree of kinship.

7. Currently, a resource center must notify residents of certain long-term care residential facilities in the area served by the resource center who are potentially eligible for the family care benefit of the services that the resource center provides. A resource center must provide this information within 6 months after the family care benefit is available in the area. The bill eliminates the six-month deadline for providing the information.

8. Currently, a care management organization need not be licensed as a home health agency. The bill provides that an entity with which a care management organization contracts to provide home health services under Family Care need not be licensed as a home health agency for purposes of providing the contracted services.

9. Resource centers currently perform a functional and financial screening to determine a person's eligibility for the family care benefit. The bill specifies that the functional and financial screenings are separate screenings, and includes an assessment of a person's ability to pay for part of the family care benefit as part of the financial screening.

The bill also makes changes that affect programs other than Family Care. Currently DHFS administers the GPR-funded Community Options Program to provide community-based services to supplement services available under long-term care MA waiver programs or to serve certain persons not eligible for the waiver programs. DHFS also administers the Family Support Program to provide services to families of children who are disabled to assist the families in caring for the children at home. Additionally, several counties administer the Wisconsin Partnership Program or the Program for All-Inclusive Care for the Elderly (PACE), capitated payment rate programs to provide both acute health and long-term care services to elderly people or people with physical disabilities who are eligible for nursing home care. The bill provides that counties in which the family care benefit is available or in which the Wisconsin Partnership Program or PACE is operated may use their Community Opportunities Program funding to provide mental health or substance abuse services or to provide services under the Family Support Program.

Current law also requires that DHFS obtain approval from the Joint Committee on Finance before expanding use of capitated rate payment programs to provide long-term care services. The bill eliminates this requirement.

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

Options

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**Ins 1-1:** ✓

**SECTION 1.** 20.435 (7) (bd) of the statutes is amended to read:

20.435 (7) (bd) *Community options program; pilot projects; family care benefit; other services.* The amounts in the schedule for assessments, case planning, services, administration and risk reserve escrow accounts under s. 46.27, for pilot projects under s. 46.271 (1), to fund services provided by resource centers under s. 46.283 (5), for services under the family care benefit under s. 46.284 (5), for services under s. 46.2803, and for the payment of premiums under s. 49.472 (5). If the department transfers funds to this appropriation from the appropriation account under sub. (4) (b), the amounts in the schedule for the fiscal year for which the transfer is made are increased by the amount of the transfer for the purposes specified in s. 49.45 (6v). Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may under this paragraph transfer moneys between fiscal years. Except for moneys authorized for transfer under this appropriation or under s. 46.27 (7) (fm) or (g), all moneys under this appropriation that are allocated under s. 46.27 and are not spent or encumbered by counties or by the department by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless transferred to the next calendar year by the joint committee on finance.

**History:** 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434.

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

20  
21

**Ins 3-19:**



WFF

1 46.284 (2) or a county in which a program described under s. 46.2805 (1) (a) or  
2 (b) is administered

3  
4 **Ins 5-18:**

5 **SECTION 2.** 46.281 (1) (d) of the statutes is repealed.

6 **SECTION 3.** 46.281 (1) (e) of the statutes is repealed.

7  
8 **Ins 8-1:**

9 **SECTION 4.** 46.281 (1g) of the statutes is created to read:

10 46.281 (1g) CONTRACTING FOR RESOURCE CENTERS AND CARE MANAGEMENT  
11 ORGANIZATIONS. The department may contract with entities as provided under s.  
12 46.283 (2) to provide the services under s. 46.283 (3) and (4) as resource centers in  
13 any geographic area in the state, and may contract with entities as provided under  
14 s. 46.284 (2) to administer the family care benefit as care management organizations  
15 in any geographic area in the state.

16  
17 **Ins 12-15:**

18 **SECTION 5.** 46.286 (1) (a) 1. of the statutes is amended to read:

19 46.286 (1) (a) 1. The person's functional capacity level of care need is at either  
20 of the following levels:

21 a. The comprehensive nursing home level, if the person has a long-term or  
22 irreversible condition, expected to last at least 90 days or result in death within one  
23 year of the date of application, and requires ongoing care, assistance or supervision.

24 b. The intermediate non-nursing home level, if the person has a condition that  
25 is expected to last at least 90 days or result in death within 12 months after the date

score → ( ) ← use en dash

1 of application, and is at risk of losing his or her independence or functional capacity  
2 unless he or she receives assistance from others.

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

4 **Ins 12-23:**

5 **SECTION 6.** 46.286 (3) (a) 1. of the statutes is amended to read:

6 46.286 (3) (a) 1. Is functionally eligible at the comprehensive nursing home  
7 level.

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

8 **SECTION 7.** 46.286 (3) (a) 2. of the statutes is amended to read:

9 46.286 (3) (a) 2. Is functionally eligible at the intermediate nonnursing home  
10 level and is eligible under sub. (1) (b) 1. b.

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

11 **SECTION 8.** 46.286 (3) (a) 3. of the statutes is repealed and recreated to read:

12 46.286 (3) (a) 3. Is functionally eligible at the nonnursing home level and is  
13 determined by an elder-adult-at-risk agency under s. 46.90 (2) or an adult-at-risk  
14 agency designated under s. 55.043 to be in need of protective services under s. 55.05  
15 or protective placement under s. 55.06. *ch. 55.*

16 **SECTION 9.** 46.286 (3) (a) 6. (intro.) of the statutes is amended to read:

17 46.286 (3) (a) 6. (intro.) Is functionally eligible at the intermediate nonnursing  
18 home level and meets all of the following criteria:

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

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score

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score  
replace w/en dash

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

LRB -0330/P3d  
RLR:.....  
cjs

Steve:

I deleted proposed s. 46.27 (13) from the /P2 draft and instead created a new section 46.2803 and amended the appropriation under s. 20.435 (7) (bd) to provide that counties that have implemented Family Care, the Wisconsin Partnership Program, or PACE may use their COP funds for Family Support and substance abuse services. The effect is the same.

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

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

LRB-0330/P3dn  
RLR:cjs:rs

January 10, 2007

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## Ryan, Robin

---

**From:** Milioto, Steve - DOA  
**Sent:** Wednesday, January 24, 2007 9:03 AM  
**To:** Ryan, Robin  
**Subject:** FW: FW: LRB Draft: 07-0330/P3 Family care expansion

**Attachments:** Family Care BCA reduction stat language.doc



Family Care BCA  
reduction stat...

Hi Robin --

Please see Andy's e-mail message/attachment. These changes should be made to the main Family Care draft. Best, Steve

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

**From:** Andrew Forsaith [mailto:forsaac@dhfs.state.wi.us]  
**Sent:** Monday, January 22, 2007 7:54 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/P3 Family care expansion

Steve -- Here are our comments:

✓ 1. As I mentioned earlier today, we do need to modify s. 46.40(9) to allow us to reduce county's BCAs by amounts assumed either in the Department's September request or under the county buyout proposal. Under either proposal, in 07-09, we would be reducing the BCA for some counties by more than 22% on a prorated basis. Attached is a proposed language change for that paragraph to implement the change.

2. Regarding Robin's note to Section 40, we recommend retaining the language but removing the phrase "by January 1, 2001." In addition we recommend updating the cross references in the draft to be consistent with other changes in the draft.

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 01/15/07 2:40 PM >>>  
Version 3.0

---

**From:** Schlueter, Ron [mailto:Ron.Schlueter@legis.wisconsin.gov]  
**Sent:** Wednesday, January 10, 2007 3:01 PM  
**To:** Milioto, Steve - DOA  
**Cc:** Johnston, James - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA  
**Subject:** LRB Draft: 07-0330/P3 Family care expansion

Following is the PDF version of draft 07-0330/P3.

**(9) TRANSFER OR ADJUSTMENT OF COMMUNITY AIDS ALLOCATIONS.**

(a) *Transfer to family care program and adult protective services allocation.* If a care management organization under s. 46.284 is available in a county, the department may dispose of ~~not more than 21.3% of~~ a portion of the amount allocated under sub. (2) to that county, per an agreement with the county, as follows; and, of the amount allocated under sub. (8), may dispose of the lesser of up to 60% or the amount remaining after subtracting an amount necessary to maintain funding for recipients under sub. (8) who, on September 1, 2001, are ineligible for the family care benefit under s. 46.286, to that county, as follows:

1. By transferring a portion of those amounts, as determined by the department, to the family care program to fund the services of resource centers under s. 46.283 (5) and the services of care management organizations under s. 46.284 (4).
2. By transferring a portion of those amounts, as determined by the department, to the county's adult protective services allocation under par. (b).

46.495  
51.423(2)

## Ryan, Robin

---

**From:** Milioto, Steve - DOA  
**Sent:** Thursday, January 25, 2007 7:41 AM  
**To:** Ryan, Robin  
**Cc:** Forsaith, Andrew C - DHFS  
**Subject:** RE: LRB-0330

I have no objections.

Andy -- is this a problem for the department?

On 330, I want to delete the word "other" from the appropriation title in Section 1. This will help me out as our computer system limits the number of characters I can use for an appropriation title.

Thanks for all your hard work on the Family Care drafts!

*Steve ok w/  
"Long-term care programs"*

---

**From:** Ryan, Robin [<mailto:Robin.Ryan@legis.wisconsin.gov>]  
**Sent:** Wednesday, January 24, 2007 4:33 PM  
**To:** Milioto, Steve - DOA  
**Subject:** LRB-0330

Hi Steve,

While working on other family care drafts, I noticed we have a provision in current law under s. 46.289 titled "Transition" that allows DHFS to waive various COP and CIP II requirements. I think the provision under section 8 of LRB-0330/P3 (creating s. 46.2803) belongs with the material under 46.289. Since the new 46.2803 deals with PACE and Partnership in addition to family care, I like using 46.2803 better than 46.289, which is within the family care statutes. What do you think about renumbering 46.289 to be 46.2803 (1) and making the new provision 46.2803 (2)?

I'll finish up changes to LRB-330/P3 tomorrow morning, so I don't need an immediate response.

robin

## Ryan, Robin

---

**From:** Forsaith, Andrew C - DHFS  
**Sent:** Thursday, January 25, 2007 4:54 PM  
**To:** Ryan, Robin; Milioto, Steve - DOA  
**Subject:** RE: FW: LRB Draft: 07-0330/P3 Family care expansion

Robin -- I agree, let's leave it as you drafted it. Thanks for pointing that out.

>>> "Ryan, Robin" <Robin.Ryan@legis.wisconsin.gov> 1/25/2007 12:23 PM  
>>>

Andy and Steve,  
I don't think it makes sense to keep s. 46.285 (1) (a) and update it.  
As I read it, the point of 46.285 is to say that the same organization cannot operate both a resource center and a CMO, except for those organizations that were doing so before the division requirement was imposed and even those organizations must impose structural separations by January 2001. So if you update the language, you are saying that in new family care counties a single organization may be both a CMO and a resource center as long as it adopts structural separations between the functions. Is that what you want?

I would either repeal the provision as obsolete or amend it as I did in the draft. Are there any organizations that operate both a resource center and a CMO?

Robin

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