



State of Wisconsin
2007 - 2008 LEGISLATURE

In 1/25/07

LRB-0330/P3

RLR:cjs:cs

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D-note

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D. NOT for act

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

Analysis by the Legislative Reference Bureau

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 irreversible dementia that restricts 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 third 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 six 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

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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 Options 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.

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

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

2 20.435 (7) (bd) ~~Community options program; pilot projects; family care benefit~~

3 other services. The amounts in the schedule for assessments, case planning, services,

4 administration and risk reserve escrow accounts under s. 46.27, for pilot projects

5 under s. 46.271 (1), to fund services provided by resource centers under s. 46.283 (5),

6 for services under the family care benefit under s. 46.284 (5), for services under s.

7 46.2803, and for the payment of premiums under s. 49.472 (5). If the department

8 transfers funds to this appropriation from the appropriation account under sub. (4)

9 (b), the amounts in the schedule for the fiscal year for which the transfer is made are

10 increased by the amount of the transfer for the purposes specified in s. 49.45 (6v).

11 Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may under this

Long-term care programs
and supports

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1 paragraph transfer moneys between fiscal years. Except for moneys authorized for
2 transfer under this appropriation or under s. 46.27 (7) (fm) or (g), all moneys under
3 this appropriation that are allocated under s. 46.27 and are not spent or encumbered
4 by counties or by the department by December 31 of each year shall lapse to the
5 general fund on the succeeding January 1 unless transferred to the next calendar
6 year by the joint committee on finance.

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

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

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

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

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

15 46.27 (4) (c) 8. If a contract with an entity under s. ~~46.281(1)(e)1.~~ 46.284 (2)
16 is established in the county, a description of how the activities of the entity relate to
17 and are coordinated with the county's proposed program.

18 **SECTION 4.** 46.27 (5) (am) of the statutes is amended to read:

19 46.27 (5) (am) Organize assessment activities specified in sub. (6). The county
20 department or aging unit shall utilize persons for each assessment who can
21 determine the needs of the person being assessed and who know the availability
22 within the county of services alternative to placement in a nursing home. If any

1 hospital patient is referred to a nursing home for admission, these persons shall work
2 with the hospital discharge planner in performing the activities specified in sub. (6).
3 The county department or aging unit shall coordinate the involvement of
4 representatives from the county departments under ss. 46.215, 46.22, 51.42 and
5 51.437, health service providers and the county commission on aging in the
6 assessment activities specified in sub. (6), as well as the person being assessed and
7 members of the person's family or the person's guardian. This paragraph does not
8 apply to a county department or aging unit in a county in which the department has
9 contracted with an entity under s. ~~46.281 (1) (e) 1~~ 46.284 (2).

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

11 46.27 (6) (a) 3. In each participating county, except in counties in which the
12 department has contracted with an entity under s. ~~46.281 (1) (e) 1~~. 46.284 (2),
13 assessments shall be conducted for those persons and in accordance with the
14 procedures described in the county's community options plan. The county may elect
15 to establish assessment priorities for persons in target groups identified by the
16 county in its plan regarding gradual implementation. If a person who is already
17 admitted to a nursing home requests an assessment and if funds allocated for
18 assessments under sub. (7) (am) are available, the county shall conduct the
19 assessment.

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

21 46.27 (6g) FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and
22 within the limitations under sub. (7) (b), the fiscal responsibility of a county for an
23 assessment, unless the assessment is performed by an entity under a contract as
24 specified under s. ~~46.281 (1) (e) 1~~. 46.284 (2), case plan, or services provided to a
25 person under this section is as follows:

SECTION 7. 46.27 (9) (c) of the statutes is amended to read:

46.27 (9) (c) All long-term community support services provided under this pilot project in lieu of nursing home care shall be consistent with those services described in the participating county's community options plan under sub. (4) (c) 1. and provided under sub. (5) (b). Unless the department has contracted under s. 46.281 (1) (e) 1. 46.284 (2) with an entity other than the county department, each county participating in the pilot project shall assess persons under sub. (6).

SECTION 8. 46.2803 of the statutes is created to read:

46.2803. Community Options Program funds in counties providing long-term care services under managed care programs. Notwithstanding s. 46.27 (7), a county in which a care management organization is operating pursuant to a contract under s. 46.284 (2) or a county in which a program described under s. 46.2805 (1) (a) or (b) is administered may use funds appropriated under 20.435 (7) (bd) and allocated to the county under s. 46.27 (7) to provide community mental health or substance abuse services and supports for persons with mental illness or persons in need of services or supports for substance abuse and to provide services under the Family Support Program under s. 46.985.

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SECTION 9. 46.2804 (title) of the statutes is amended to read:

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

SECTION 10. 46.2804 (1) of the statutes is repealed.

SECTION 11. 46.2804 (2) of the statutes is renumbered 46.2804.

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

1 46.2805 (6m) "Family member" means a spouse or an individual related by
2 blood, marriage, or adoption within the 3rd degree of kinship as computed under s.
3 990.001 (16).

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

5 46.2805 (6r) "Financial and cost-sharing screening" means a screening to
6 determine financial eligibility under s. 46.286 (1) (b) and cost-sharing under s.
7 46.286 (2) using a uniform tool prescribed by the department.

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

9 46.2805 (6v) "Frail elder" means an individual who is 65 years of age or older
10 and has a physical disability or irreversible dementia that restricts the individual's
11 ability to perform normal daily tasks or that threatens the capacity of the individual
12 to live independently.

13 **SECTION 15.** 46.2805 (7) of the statutes is amended to read:

14 46.2805 (7) "~~Functional and financial screen~~ screening" means a ~~screen~~
15 ~~prescribed by the department that is used~~ screening to determine functional
16 eligibility under s. 46.286 (1) (a) and ~~financial eligibility under s. 46.286 (1) (b)~~ using
17 a uniform tool prescribed by the department.

18 **SECTION 16.** 46.281 (1) (intro.) of the statutes is renumbered 46.281 (1n)
19 (intro.), and 46.281 (1n) (title), as renumbered, is amended to read:

20 46.281 (1n) (title) ~~DUTIES~~ OTHER DUTIES OF THE DEPARTMENT.

21 **SECTION 17.** 46.281 (1) (c) of the statutes is renumbered 46.281 (1d) and
22 amended to read:

23 46.281 (1d) WAIVER REQUEST. ~~Request~~ The department shall request from the
24 secretary of the federal department of health and human services any waivers of
25 federal medicaid laws necessary to permit the use of federal moneys to provide the

1 family care benefit to recipients of medical assistance. The department shall
2 implement any waiver that is approved and that is consistent with ss. 46.2805 to
3 46.2895. Regardless of whether a waiver is approved, the department may
4 implement operation of resource centers, care management organizations, and the
5 family care benefit.

6 **SECTION 18.** 46.281 (1) (d) of the statutes is repealed.

7 **SECTION 19.** 46.281 (1) (e) of the statutes is repealed.

8 **SECTION 20.** 46.281 (1) (f) of the statutes is renumbered 46.281 (1n) (a).

9 **SECTION 21.** 46.281 (1) (g) of the statutes is renumbered 46.281 (1n) (b).

10 **SECTION 22.** 46.281 (1) (h) of the statutes is renumbered 46.281 (1n) (c).

11 **SECTION 23.** 46.281 (1) (i) of the statutes is renumbered 46.281 (1n) (d).

12 **SECTION 24.** 46.281 (1g) of the statutes is created to read:

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

19 **SECTION 25.** 46.281 (2) (title) of the statutes is amended to read:

20 46.281 (2) (title) ~~POWERS~~ OTHER POWERS OF THE DEPARTMENT.

21 **SECTION 26.** 46.281 (3) of the statutes is amended to read:

22 46.281 (3) **DUTY OF THE SECRETARY.** The secretary shall certify to each county,
23 hospital, nursing home, community-based residential facility, adult family home
24 and residential care apartment complex the date on which a resource center that
25 serves the area of the county, hospital, nursing home, community-based residential

1 facility, adult family home or residential care apartment complex is first available
2 to ~~provide a~~ perform functional screenings and financial ~~screen~~ and cost-sharing
3 screenings. To facilitate phase-in of services of resource centers, the secretary may
4 certify that the resource center is available for specified groups of eligible individuals
5 or for specified facilities in the county.

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

7 46.282 (2) (a) *Appointment by a county.* (intro.) ~~In a county in which the~~
8 ~~department has a contract under s. 46.281 (1) (e) and before~~ Before a county
9 participates in the program under ss. 46.2805 to 46.2895, the following shall be done:

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

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

21 **SECTION 29.** 46.282 (2) (b) 1. of the statutes is amended to read:

22 46.282 (2) (b) 1. A local long-term care council that serves a single-county area
23 shall consist of 17 members, at least 9 of whom are older persons or persons with
24 physical or developmental disabilities or their ~~immediate~~ family members or other
25 representatives. The age or disability represented by these 9 members shall

1 correspond to the proportion of numbers of persons, as determined by the
2 department, receiving long-term care in this state who are aged 65 or older or have
3 a physical or developmental disability. The total remaining 8 members shall consist
4 of providers of long-term care services, persons residing in the county with
5 recognized ability and demonstrated interest in long-term care and up to 3 members
6 of the county board of supervisors or other elected officials.

7 **SECTION 30.** 46.282 (2) (b) 2. (intro.) of the statutes is amended to read:

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

16 **SECTION 31.** 46.283 (2) (a) of the statutes is repealed.

17 **SECTION 32.** 46.283 (2) (b) of the statutes is renumbered 46.283 (2), and 46.283
18 (2) (intro.), as renumbered, is amended to read:

19 46.283 (2) (intro.) ~~After June 30, 2001, the~~ The department may, ~~if the~~
20 ~~applicable review conditions under s. 46.281 (1) (e) 2. are satisfied,~~ contract to
21 operate a resource center with counties, family care districts, or the governing body
22 of a tribe or band or the Great Lakes Inter-Tribal Council, Inc., under a joint
23 application of any of these, or with a private nonprofit organization if the department
24 determines that the organization has no significant connection to an entity that
25 operates a care management organization and if any of the following applies:

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

2 46.283 (4) (e) ~~Within 6 months after the family care benefit is available to all~~
3 ~~eligible persons in the area of the resource center, provide~~ Provide information about
4 the services of the resource center, including the services specified in sub. (3) (d),
5 about assessments under s. 46.284 (4) (b) and care plans under s. 46.284 (4) (c) and
6 about the family care benefit to all older persons and persons with a physical
7 disability who are residents of nursing homes, community-based residential
8 facilities, adult family homes and residential care apartment complexes in the area
9 of the resource center.

10 **SECTION 34.** 46.283 (4) (f) of the statutes is amended to read:

11 46.283 (4) (f) ~~Provide~~ Perform a functional screening and a financial screen to
12 and cost-sharing screening for any resident, as specified in par. (e), who requests a
13 ~~screen~~ screening and assist any resident who is eligible and chooses to enroll in a care
14 management organization to do so.

15 **SECTION 35.** 46.283 (4) (g) of the statutes is amended to read:

16 46.283 (4) (g) ~~Provide~~ Perform a functional screening and a financial screen to
17 and cost-sharing screening for any person seeking admission to a nursing home,
18 community-based residential facility, residential care apartment complex, or adult
19 family home if the secretary has certified that the resource center is available to the
20 person and the facility and the person is determined by the resource center to have
21 a condition that is expected to last at least 90 days that would require care,
22 assistance, or supervision. A resource center may not require a financial screen and
23 cost-sharing screening for a person seeking admission or about to be admitted on a
24 private pay basis who waives the requirement for a financial screen and cost-sharing
25 screening under this paragraph, unless the person is expected to become eligible for

1 medical assistance within 6 months. A resource center need not provide perform a
 2 functional screen ~~for~~ screening for a person seeking admission or about to be
 3 admitted who ~~has received a screen for~~ whom a functional eligibility under s. 46.286
 4 (1) (a) screening was performed within the previous 6 months.

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

6 **SECTION 37.** 46.284 (2) (b) 1. of the statutes is repealed.

7 **SECTION 38.** 46.284 (2) (b) 2. of the statutes is repealed.

8 **SECTION 39.** 46.284 (2) (b) 3. of the statutes is renumbered 46.284 (2) (bm) and
 9 amended to read:

10 46.284 (2) (bm) ~~After December 31, 2003, the~~ The department may contract
 11 with counties, family care districts, the governing body of a tribe or band or the Great
 12 Lakes inter-tribal council, inc., or under a joint application of any of these, or with
 13 a private organization that has no significant connection to an entity that operates
 14 a resource center. Proposals for contracts under this subdivision shall be solicited
 15 under a competitive sealed proposal process under s. 16.75 (2m) and, after consulting
 16 with the local long-term care council for the county or counties, the department shall
 17 evaluate the proposals primarily as to the quality of care that is proposed to be
 18 provided, certify those applicants that meet the requirements specified in sub. (3) (a),
 19 select certified applicants for contract and contract with the selected applicants.

20 **SECTION 40.** 46.285 (1) (a) of the statutes is amended to read:

21 46.285 (1) (a) For an entity with which the department has contracted under
 22 s. 46.281 (1) (e) 1. 2005 stats., provision of the services specified under s. 46.283 (3)
 23 (b), (e), (f) and (g) shall be structurally separate from the provision of services of the
 24 care management organization by January 1, 2001.

****NOTE: Do you want to repeal s. 46.285 (1) (a) since it is outdated?

1 **SECTION 41.** 46.286 (1) (intro.) of the statutes is amended to read:

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

7 **SECTION 42.** 46.286 (1) (a) 1. of the statutes is amended to read:

8 46.286 (1) (a) 1. The person's ~~functional capacity~~ level of care need is at either
9 of the following levels:

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

13 b. The intermediate non-nursing home level, if the person has a condition that
14 is expected to last at least 90 days or result in death within 12 months after the date
15 of application, and is at risk of losing his or her independence or functional capacity
16 unless he or she receives assistance from others.

17 **SECTION 43.** 46.286 (3) (a) (intro.) of the statutes is amended to read:

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

25 **SECTION 44.** 46.286 (3) (a) 1. of the statutes is amended to read:

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

3 SECTION 45. 46.286 (3) (a) 2. of the statutes is amended to read:

4 46.286 (3) (a) 2. Is functionally eligible at the intermediate non-nursing home
5 level and is eligible under sub. (1) (b) 1. b.

6 SECTION 46. 46.286 (3) (a) 3. of the statutes is repealed and recreated to read:

7 46.286 (3) (a) 3. Is functionally eligible at the non-nursing home level and is
8 determined by an elder-adult-at-risk agency under s. 46.90 (2) or an adult-at-risk
9 agency designated under s. 55.043 (1d) to be in need of protective services or
10 protective placement under ch. 55.

11 SECTION 47. 46.286 (3) (a) 6. (intro.) of the statutes is amended to read:

12 46.286 (3) (a) 6. (intro.) Is functionally eligible at the intermediate non-nursing
13 home level and meets all of the following criteria:

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14 SECTION 48. 49.45 (3) (ag) of the statutes is amended to read:

15 49.45 (3) (ag) Reimbursement shall be made to each entity contracted with
16 under s. 46.281(1)-(e) 46.283 (2) for functional screens screenings performed by the
17 entity.

18 SECTION 49. 49.46 (1) (a) 14m. of the statutes is amended to read:

19 49.46 (1) (a) 14m. Any person who would meet the financial and other eligibility
20 requirements for home or community-based services under the family care benefit
21 but for the fact that the person engages in substantial gainful activity under 42 USC
22 1382c (a) (3), if a waiver under s. 46.281 (1)-(e) (1d) is in effect or federal law permits
23 federal financial participation for medical assistance coverage of the person and if
24 funding is available for the person under the family care benefit.

25 SECTION 50. 49.46 (2) (b) 8. of the statutes is amended to read:

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

5 **SECTION 51.** 49.47 (4) (as) 1. of the statutes is amended to read:

6 49.47 (4) (as) 1. The person would meet the financial and other eligibility
7 requirements for home or community-based services under s. 46.27 (11), 46.277, or
8 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1)-(e)
9 (1d) but for the fact that the person engages in substantial gainful activity under 42
10 USC 1382c (a) (3).

11 **SECTION 52.** 49.47 (4) (as) 3. of the statutes is amended to read:

12 49.47 (4) (as) 3. Funding is available for the person under s. 46.27 (11), 46.277,
13 or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1)
14 ~~(e)~~ (1d).

15 **SECTION 53.** 50.033 (2r) of the statutes is amended to read:

16 50.033 (2r) PROVISION OF INFORMATION REQUIRED. Subject to sub. (2t), an adult
17 family home shall, within the time period after inquiry by a prospective resident that
18 is prescribed by the department by rule, inform the prospective resident of the
19 services of a resource center under s. 46.283, the family care benefit under s. 46.286,
20 and the availability of a functional screening and a financial screen and cost-sharing
21 screening to determine the prospective resident's eligibility for the family care
22 benefit under s. 46.286 (1).

23 **SECTION 54.** 50.033 (2s) (a) of the statutes is amended to read:

24 50.033 (2s) (a) For a person ~~who has received a screen~~ for whom a screening
25 for functional eligibility under s. 46.286 (1) (a) has been performed within the

1 previous 6 months, the referral under this subsection need not include performance
2 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

3 **SECTION 55.** 50.033 (2s) (d) of the statutes is amended to read:

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

10 **SECTION 56.** 50.034 (5m) of the statutes is amended to read:

11 50.034 (5m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), a
12 residential care apartment complex shall, within the time period after inquiry by a
13 prospective resident that is prescribed by the department by rule, inform the
14 prospective resident of the services of a resource center under s. 46.283, the family
15 care benefit under s. 46.286, and the availability of a functional screening and a
16 financial ~~screen~~ and cost-sharing screening to determine the prospective resident's
17 eligibility for the family care benefit under s. 46.286 (1).

18 **SECTION 57.** 50.034 (5n) (a) of the statutes is amended to read:

19 50.034 (5n) (a) For a person who ~~has received a screen~~ for whom a screening
20 for functional eligibility under s. 46.286 (1) (a) has been performed within the
21 previous 6 months, the referral under this subsection need not include performance
22 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

23 **SECTION 58.** 50.034 (5n) (d) of the statutes is amended to read:

24 50.034 (5n) (d) For a person who seeks admission or is about to be admitted on
25 a private pay basis and who waives the requirement for a financial ~~screen~~ and

1 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may
2 not include performance of a financial screen and cost-sharing screening under s.
3 46.283 (4) (g), unless the person is expected to become eligible for medical assistance
4 within 6 months.

5 **SECTION 59.** 50.035 (4m) of the statutes is amended to read:

6 50.035 (4m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), a
7 community-based residential facility shall, within the time period after inquiry by
8 a prospective resident that is prescribed by the department by rule, inform the
9 prospective resident of the services of a resource center under s. 46.283, the family
10 care benefit under s. 46.286, and the availability of a functional screening and a
11 financial screen and cost-sharing screening to determine the prospective resident's
12 eligibility for the family care benefit under s. 46.286 (1).

13 **SECTION 60.** 50.035 (4n) (a) of the statutes is amended to read:

14 50.035 (4n) (a) For a person who has received a screen for whom a screening
15 for functional eligibility under s. 46.286 (1) (a) has been performed within the
16 previous 6 months, the referral under this subsection need not include performance
17 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

18 **SECTION 61.** 50.035 (4n) (d) of the statutes is amended to read:

19 50.035 (4n) (d) For a person who seeks admission or is about to be admitted on
20 a private pay basis and who waives the requirement for a financial screen and
21 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may
22 not include performance of a financial screen and cost-sharing screening under s.
23 46.283 (4) (g), unless the person is expected to become eligible for medical assistance
24 within 6 months.

25 **SECTION 62.** 50.04 (2g) (a) of the statutes is amended to read:

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

7 **SECTION 63.** 50.04 (2h) (a) 1. of the statutes is amended to read:

8 50.04 (2h) (a) 1. For a person who ~~has received a screen~~ for whom a screening
9 for functional eligibility under s. 46.286 (1) (a) has been performed within the
10 previous 6 months, the referral under this paragraph need not include performance
11 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

12 **SECTION 64.** 50.04 (2h) (a) 4. of the statutes is amended to read:

13 50.04 (2h) (a) 4. For a person who seeks admission or is about to be admitted
14 on a private pay basis and who waives the requirement for a financial ~~screen~~ and
15 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may
16 not include performance of a financial ~~screen~~ and cost-sharing screening under s.
17 46.283 (4) (g), unless the person is expected to become eligible for medical assistance
18 within 6 months.

19 **SECTION 65.** 50.06 (7) of the statutes is amended to read:

20 50.06 (7) An individual who consents to an admission under this section may
21 request that an assessment be conducted for the incapacitated individual under the
22 long-term support community options program under s. 46.27 (6) or, if the secretary
23 has certified under s. 46.281 (3) that a resource center is available for the individual,
24 a functional screening and a financial screen and cost-sharing screening to
25 determine eligibility for the family care benefit under s. 46.286 (1). If admission is

1 sought on behalf of the incapacitated individual or if the incapacitated individual is
2 about to be admitted on a private pay basis, the individual who consents to the
3 admission may waive the requirement for a financial screen and cost-sharing
4 screening under s. 46.283 (4) (g), unless the incapacitated individual is expected to
5 become eligible for medical assistance within 6 months.

6 **SECTION 66.** 50.49 (6m) (am) of the statutes is created to read:

7 50.49 **(6m)** (am) An entity with which a care management organization, as
8 defined in s. 46.2805 (1), contracts for care management services under s. 46.284 (4)
9 (d), for purposes of providing the contracted services.

10 (END)

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0330/P4ins
RLR:.....

Ins A:

10. Currently, for those counties that have care management organizations, DHFS may allocate up to 21.3 percent of a county's basic community aids allocation to fund the services of the county's resource center and care management organization. The bill changes the percentage of the county's basic community aids allocation that DHFS may allocate for this purpose to an amount agreed to by DHFS and the county.

1

2

Ins 14-13:

→ ④ SEC. #. RN; 46.289(title); 46.2803(title)

3

SECTION 1. 46.289 of the statutes is renumbered 46.2803 (1). ✕

4

SECTION 2. 46.40 (9) (a) (intro.) of the statutes is amended to read: ✓

5

46.40 (9) (a) *Transfer to family care program and adult protective services*

6

allocation. (intro.) If a care management organization under s. 46.284 is available

7

in a county, the department may dispose of ~~not more than 21.3%~~ a portion of the

8

amount allocated under sub. (2) that is specified in an agreement with the county to

9

that county as follows; and, of the amount allocated under sub. (8), may dispose of

10

the lesser of up to 60% or the amount remaining after subtracting an amount

11

necessary to maintain funding for recipients under sub. (8) who, on September 1,

12

2001, are ineligible for the family care benefit under s. 46.286, to that county, as

13

follows:

History: 1987 a. 27, 399, 405; 1989 a. 31, 122, 336; 1991 a. 6, 39, 189, 269, 275, 315; 1993 a. 16, 437, 446; 1995 a. 27, 275, 303, 404; 1997 a. 27, 35, 237, 292; 1999 a. 9, 185; 2001 a. 16; 2003 a. 33, 318; 2005 a. 25 ss. 879, 2501, 2510.

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

LRB-330/P4dn

RLR:.....

gs

Steve: ✓

I did not make the change to s. 46.285 (1) (a) that DHFS suggested. I want to wait to hear their response to my question before I make the change.

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/P4dn
RLR:cjs:nwn

January 26, 2007

Steve:

I did not make the change to s. 46.285 (1) (a) that DHFS suggested. I want to wait to hear their response to my question before I make the change.

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



State of Wisconsin
2007 - 2008 LEGISLATURE

PS
LRB-0330/P4

RLR:cjs:mwn

1/30/07

stays RMNR
D-N

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

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

Do NOT Gen Cat

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

Analysis by the Legislative Reference Bureau

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 irreversible dementia that restricts 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 third 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 six 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

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assessment of a person's ability to pay for part of the family care benefit as part of the financial screening.

10. Currently, for those counties that have care management organizations, DHFS may allocate up to 21.3 percent of a county's basic community aids allocation to fund the services of the county's resource center and care management organization. The bill changes the percentage of the county's basic community aids allocation that DHFS may allocate for this purpose to an amount agreed to by DHFS and the county.

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 Options 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.

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

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

2 20.435 (7) (bd) *Community options program; pilot projects; family care benefit*
3 Long-term care programs. The amounts in the schedule for assessments, case
4 planning, services, administration and risk reserve escrow accounts under s. 46.27,
5 for pilot projects under s. 46.271 (1), to fund services provided by resource centers
6 under s. 46.283 (5), for services under the family care benefit under s. 46.284 (5), for
7 services and supports under s. 46.2803 (2), and for the payment of premiums under

1 s. 49.472 (5). If the department transfers funds to this appropriation from the
2 appropriation account under sub. (4) (b), the amounts in the schedule for the fiscal
3 year for which the transfer is made are increased by the amount of the transfer for
4 the purposes specified in s. 49.45 (6v). Notwithstanding ss. 20.001 (3) (a) and 20.002
5 (1), the department may under this paragraph transfer moneys between fiscal years.
6 Except for moneys authorized for transfer under this appropriation or under s. 46.27
7 (7) (fm) or (g), all moneys under this appropriation that are allocated under s. 46.27
8 and are not spent or encumbered by counties or by the department by December 31
9 of each year shall lapse to the general fund on the succeeding January 1 unless
10 transferred to the next calendar year by the joint committee on finance.

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

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

12 20.435 (7) (g) *Long-term care; county contributions.* All moneys received from
13 counties as contributions to the family care program under s. 46.2805 to 46.2895, the
14 Pace program described under s. 46.2805 (1) (a), and the Wisconsin Partnership
15 Program described under s. 46.2805 (1) (b), to fund services under the family care
16 benefit under s. 46.284 (5) and services under the Pace and Wisconsin Partnership
17 programs.

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

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

19 46.27 (4) (c) 8. If a contract with an entity under s. ~~46.281 (1) (e) 1.~~ 46.284 (2)
20 is established in the county, a description of how the activities of the entity relate to
21 and are coordinated with the county's proposed program.

22 **SECTION 4.** 46.27 (5) (am) of the statutes is amended to read:

1 46.27 (5) (am) Organize assessment activities specified in sub. (6). The county
2 department or aging unit shall utilize persons for each assessment who can
3 determine the needs of the person being assessed and who know the availability
4 within the county of services alternative to placement in a nursing home. If any
5 hospital patient is referred to a nursing home for admission, these persons shall work
6 with the hospital discharge planner in performing the activities specified in sub. (6).
7 The county department or aging unit shall coordinate the involvement of
8 representatives from the county departments under ss. 46.215, 46.22, 51.42 and
9 51.437, health service providers and the county commission on aging in the
10 assessment activities specified in sub. (6), as well as the person being assessed and
11 members of the person's family or the person's guardian. This paragraph does not
12 apply to a county department or aging unit in a county in which the department has
13 contracted with an entity under s. 46.281 (1) (e) 1 46.284 (2).

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

15 46.27 (6) (a) 3. In each participating county, except in counties in which the
16 department has contracted with an entity under s. ~~46.281 (1) (e) 1.~~ 46.284 (2),
17 assessments shall be conducted for those persons and in accordance with the
18 procedures described in the county's community options plan. The county may elect
19 to establish assessment priorities for persons in target groups identified by the
20 county in its plan regarding gradual implementation. If a person who is already
21 admitted to a nursing home requests an assessment and if funds allocated for
22 assessments under sub. (7) (am) are available, the county shall conduct the
23 assessment.

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

1 46.27 **(6g)** FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and
2 within the limitations under sub. (7) (b), the fiscal responsibility of a county for an
3 assessment, unless the assessment is performed by an entity under a contract as
4 specified under s. ~~46.281 (1) (e) 1.~~ 46.284 (2), case plan, or services provided to a
5 person under this section is as follows:

6 **SECTION 7.** 46.27 (9) (c) of the statutes is amended to read:

7 46.27 **(9)** (c) All long-term community support services provided under this
8 pilot project in lieu of nursing home care shall be consistent with those services
9 described in the participating county's community options plan under sub. (4) (c) 1.
10 and provided under sub. (5) (b). Unless the department has contracted under s.
11 ~~46.281 (1) (e) 1.~~ 46.284 (2) with an entity other than the county department, each
12 county participating in the pilot project shall assess persons under sub. (6).

13 **SECTION 8.** 46.2803 (2) of the statutes is created to read:

14 46.2803 **(2)** Notwithstanding s. 46.27 (7), a county in which a care management
15 organization is operating pursuant to a contract under s. 46.284 (2) or a county in
16 which a program described under s. 46.2805 (1) (a) or (b) is administered may use
17 funds appropriated under 20.435 (7) (bd) and allocated to the county under s. 46.27
18 (7) to provide community mental health or substance abuse services and supports for
19 persons with mental illness or persons in need of services or supports for substance
20 abuse and to provide services under the Family Support Program under s. 46.985.

21 **SECTION 9.** 46.2804 (title) of the statutes is amended to read:

22 **46.2804** (title) ~~Managed care programs for~~ Client management of
23 managed care long-term care services benefit.

24 **SECTION 10.** 46.2804 (1) of the statutes is repealed.

25 **SECTION 11.** 46.2804 (2) of the statutes is renumbered 46.2804.

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

2 46.2805 (6m) “Family member” means a spouse or an individual related by
3 blood, marriage, or adoption within the 3rd degree of kinship as computed under s.
4 990.001 (16).

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

6 46.2805 (6r) “Financial and cost-sharing screening” means a screening to
7 determine financial eligibility under s. 46.286 (1) (b) and cost-sharing under s.
8 46.286 (2) using a uniform tool prescribed by the department.

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

10 46.2805 (6v) “Frail elder” means an individual who is 65 years of age or older
11 and has a physical disability or irreversible dementia that restricts the individual’s
12 ability to perform normal daily tasks or that threatens the capacity of the individual
13 to live independently.

14 **SECTION 15.** 46.2805 (7) of the statutes is amended to read:

15 46.2805 (7) “~~Functional and financial screen~~ screening” means a screen
16 ~~prescribed by the department that is used~~ screening to determine functional
17 eligibility under s. 46.286 (1) (a) and ~~financial eligibility under s. 46.286 (1) (b)~~ using
18 a uniform tool prescribed by the department.

19 **SECTION 16.** 46.281 (1) (intro.) of the statutes is renumbered 46.281 (1n)
20 (intro.), and 46.281 (1n) (title), as renumbered, is amended to read:

21 46.281 (1n) (title) ~~DUTIES~~ OTHER DUTIES OF THE DEPARTMENT.

22 **SECTION 17.** 46.281 (1) (c) of the statutes is renumbered 46.281 (1d) and
23 amended to read:

24 46.281 (1d) WAIVER REQUEST. Request ~~The department shall request~~ from the
25 secretary of the federal department of health and human services any waivers of

1 federal medicaid laws necessary to permit the use of federal moneys to provide the
2 family care benefit to recipients of medical assistance. The department shall
3 implement any waiver that is approved and that is consistent with ss. 46.2805 to
4 46.2895. Regardless of whether a waiver is approved, the department may
5 implement operation of resource centers, care management organizations, and the
6 family care benefit.

7 **SECTION 18.** 46.281 (1) (d) of the statutes is repealed. ✓

8 **SECTION 19.** 46.281 (1) (e) of the statutes is repealed. ✓

9 **SECTION 20.** 46.281 (1) (f) of the statutes is renumbered 46.281 (1n) (a).

10 **SECTION 21.** 46.281 (1) (g) of the statutes is renumbered 46.281 (1n) (b).

11 **SECTION 22.** 46.281 (1) (h) of the statutes is renumbered 46.281 (1n) (c).

12 **SECTION 23.** 46.281 (1) (i) of the statutes is renumbered 46.281 (1n) (d). ✓

13 **SECTION 24.** 46.281 (1g) of the statutes is created to read:

14 46.281 (1g) CONTRACTING FOR RESOURCE CENTERS AND CARE MANAGEMENT
15 ORGANIZATIONS. The department may contract with entities as provided under s.
16 46.283 (2) to provide the services under s. 46.283 (3) and (4) as resource centers in
17 any geographic area in the state, and may contract with entities as provided under
18 s. 46.284 (2) to administer the family care benefit as care management organizations
19 in any geographic area in the state.

20 **SECTION 25.** 46.281 (2) (title) of the statutes is amended to read:

21 46.281 (2) (title) ~~POWERS~~ OTHER POWERS OF THE DEPARTMENT.

22 **SECTION 26.** 46.281 (3) of the statutes is amended to read:

23 46.281 (3) DUTY OF THE SECRETARY. The secretary shall certify to each county,
24 hospital, nursing home, community-based residential facility, adult family home
25 and residential care apartment complex the date on which a resource center that

1 serves the area of the county, hospital, nursing home, community-based residential
2 facility, adult family home or residential care apartment complex is first available
3 to provide a perform functional screenings and financial screen and cost-sharing
4 screenings. To facilitate phase-in of services of resource centers, the secretary may
5 certify that the resource center is available for specified groups of eligible individuals
6 or for specified facilities in the county.

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

8 46.282 (2) (a) *Appointment by a county.* (intro.) ~~In a county in which the~~
9 ~~department has a contract under s. 46.281 (1) (e) and before~~ Before a county
10 participates in the program under ss. 46.2805 to 46.2895, the following shall be done:

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

12 46.282 (2) (a) 2. A county board of supervisors or, in a county with a county
13 executive or a county administrator, the county executive or county administrator
14 shall appoint members of the local long-term care council who are required to be
15 older persons or persons with physical or developmental disabilities or their
16 ~~immediate~~ family members or other representatives from nominations that are
17 submitted to the county board of supervisors or the county executive or county
18 administrator by older persons or persons with physical or developmental
19 disabilities or their ~~immediate~~ family members or other representatives and by local
20 organizations that represent older persons or persons with physical or
21 developmental disabilities.

22 **SECTION 29.** 46.282 (2) (b) 1. of the statutes is amended to read:

23 46.282 (2) (b) 1. A local long-term care council that serves a single-county area
24 shall consist of 17 members, at least 9 of whom are older persons or persons with
25 physical or developmental disabilities or their ~~immediate~~ family members or other

1 representatives. The age or disability represented by these 9 members shall
 2 correspond to the proportion of numbers of persons, as determined by the
 3 department, receiving long-term care in this state who are aged 65 or older or have
 4 a physical or developmental disability. The total remaining 8 members shall consist
 5 of providers of long-term care services, persons residing in the county with
 6 recognized ability and demonstrated interest in long-term care and up to 3 members
 7 of the county board of supervisors or other elected officials.

8 **SECTION 30.** 46.282 (2) (b) 2. (intro.) of the statutes is amended to read:

9 46.282 (2) (b) 2. (intro.) A local long-term care council that serves an area of
 10 2 or more contiguous counties shall consist of 23 members, at least 12 of whom are
 11 older persons or persons with physical or developmental disabilities or their
 12 immediate family members or other representatives. The age or disability
 13 represented by these 12 members shall correspond to the proportion of numbers of
 14 persons, as determined by the department, receiving long-term care in this state
 15 who are aged 65 or older or have a physical or developmental disability. The total
 16 remaining 11 members shall consist of all of the following:

17 **SECTION 31.** 46.283 (2) (a) of the statutes is repealed.

18 **SECTION 32.** 46.283 (2) (b) of the statutes is renumbered 46.283 (2), and 46.283

19 (2) (intro.) ^{and (b)} as renumbered, ^{are} is amended to read:

20 46.283 (2) (intro.) After ~~June 30, 2001,~~ the The department may, if the
 21 applicable review conditions under s. 46.281 (1) (e) 2. are satisfied, contract to
 22 operate a resource center with counties, [↓] family care districts, or the governing body
 23 of a tribe or band or the Great Lakes Inter-Tribal Council, Inc., under a joint
 24 application of any of these, or with a private nonprofit organization if the department

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long-term

1 determines that the organization has no significant connection to an entity that
2 operates a care management organization and if any of the following applies:

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

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

12 **SECTION 34.** 46.283 (4) (f) of the statutes is amended to read:

13 46.283 (4) (f) ~~Provide~~ Perform a functional screening and a financial screen to
14 and cost-sharing screening for any resident, as specified in par. (e), who requests a
15 ~~screen~~ screening and assist any resident who is eligible and chooses to enroll in a care
16 management organization to do so.

17 **SECTION 35.** 46.283 (4) (g) of the statutes is amended to read:

18 46.283 (4) (g) ~~Provide~~ Perform a functional screening and a financial screen to
19 and cost-sharing screening for any person seeking admission to a nursing home,
20 community-based residential facility, residential care apartment complex, or adult
21 family home if the secretary has certified that the resource center is available to the
22 person and the facility and the person is determined by the resource center to have
23 a condition that is expected to last at least 90 days that would require care,
24 assistance, or supervision. A resource center may not require a financial screen and
25 cost-sharing screening for a person seeking admission or about to be admitted on a

1 private pay basis who waives the requirement for a financial screen and cost-sharing
 2 screening under this paragraph, unless the person is expected to become eligible for
 3 medical assistance within 6 months. A resource center need not provide perform a
 4 functional screen ~~for~~ screening for a person seeking admission or about to be
 5 admitted who ~~has received a screen for~~ whom a functional eligibility under s. 46.286
 6 (1) (a) screening was performed within the previous 6 months.

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 8
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 9

7 SECTION 36. 46.284 (2) (b) (intro.) of the statutes is repealed.

8 SECTION 37. 46.284 (2) (b) 1. of the statutes is repealed.

9 SECTION 38. 46.284 (2) (b) 2. of the statutes is repealed.

10 SECTION 39. 46.284 (2) (b) 3. of the statutes is renumbered 46.284 (2) (bm) and
 11 amended to read:

long-term

12 46.284 (2) (bm) After ~~December 31, 2003, the~~ The department may contract
 13 with counties, ~~family~~ care districts, the governing body of a tribe or band or the Great
 14 Lakes inter-tribal council, inc., or under a joint application of any of these, or with
 15 a private organization that has no significant connection to an entity that operates
 16 a resource center. Proposals for contracts under this subdivision shall be solicited

17 under a competitive sealed proposal process under s. 16.75 (2m) and, ~~after consulting~~ ^{strike}
 18 ~~with the local long-term care council for the county or counties,~~ ^{strike} the department shall
 19 evaluate the proposals primarily as to the quality of care that is proposed to be
 20 provided, certify those applicants that meet the requirements specified in sub. (3) (a),

21 select certified applicants for contract and contract with the selected applicants.

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 22

22 SECTION 40. 46.285 (1) (a) of the statutes is amended to read:

23 46.285 (1) (a) For an entity with which the department has contracted under
 24 s. 46.281 (1) (e) 1., 2005 stats., provision of the services specified under s. 46.283 (3)

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

3 **SECTION 41.** 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 42.** 46.286 (1) (a) 1. of the statutes is amended to read:

10 46.286 (1) (a) 1. The person's ~~functional capacity~~ level of care need is at either
11 of the following levels:

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

15 b. The ~~intermediate~~ non-nursing home level, if the person has a condition that
16 is expected to last at least 90 days or result in death within 12 months after the date
17 of application, and is at risk of losing his or her independence or functional capacity
18 unless he or she receives assistance from others.

19 **SECTION 43.** 46.286 (3) (a) (intro.) of the statutes is amended to read:

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

1 eligible, fulfills any applicable cost-sharing requirements, and meets any of the
2 following criteria:

3 SECTION 44. 46.286 (3) (a) 1. of the statutes is amended to read:

4 46.286 (3) (a) 1. Is functionally eligible at the comprehensive nursing home
5 level.

6 SECTION 45. 46.286 (3) (a) 2. of the statutes is amended to read:

7 46.286 (3) (a) 2. Is functionally eligible at the intermediate non-nursing home
8 level and is eligible under sub. (1) (b) 1. b.

9 SECTION 46. 46.286 (3) (a) 3. of the statutes is repealed and recreated to read:

10 46.286 (3) (a) 3. Is functionally eligible at the non-nursing home level and is
11 determined by an elder-adult-at-risk agency under s. 46.90 (2) or an adult-at-risk
12 agency designated under s. 55.043 (1d) to be in need of protective services or
13 protective placement under ch. 55.

14 SECTION 47. 46.286 (3) (a) 6. (intro.) of the statutes is amended to read:

15 46.286 (3) (a) 6. (intro.) Is functionally eligible at the intermediate non-nursing
16 home level and meets all of the following criteria:

17 SECTION 48. 46.289 (title) of the statutes is renumbered 46.2803 (title).

18 SECTION 49. 46.289 of the statutes is renumbered 46.2803 (1).

19 SECTION 50. 46.40 (9) (a) (intro.) of the statutes is amended to read:

20 46.40 (9) (a) *Transfer to family care program and adult protective services*
21 *allocation.* (intro.) If a care management organization under s. 46.284 is available
22 in a county, the department may dispose of ~~not more than 21.3%~~ a portion of the
23 amount allocated under sub. (2) that is specified in an agreement with the county to
24 that county as follows; and, of the amount allocated under sub. (8), may dispose of
25 the lesser of up to 60% or the amount remaining after subtracting an amount

1 necessary to maintain funding for recipients under sub. (8) who, on September 1,
2 2001, are ineligible for the family care benefit under s. 46.286, to that county, as
3 follows:

4 **SECTION 51.** 49.45 (3) (ag) of the statutes is amended to read:

5 49.45 (3) (ag) Reimbursement shall be made to each entity contracted with
6 under s. ~~46.281 (1) (e)~~ 46.283 (2) for functional ~~screens~~ screenings performed by the
7 entity.

8 **SECTION 52.** 49.46 (1) (a) 14m. of the statutes is amended to read:

9 49.46 (1) (a) 14m. Any person who would meet the financial and other eligibility
10 requirements for home or community-based services under the family care benefit
11 but for the fact that the person engages in substantial gainful activity under 42 USC
12 1382c (a) (3), if a waiver under s. 46.281 ~~(1) (e)~~ (1d) is in effect or federal law permits
13 federal financial participation for medical assistance coverage of the person and if
14 funding is available for the person under the family care benefit.

15 **SECTION 53.** 49.46 (2) (b) 8. of the statutes is amended to read:

16 49.46 (2) (b) 8. Home or community-based services, if provided under s. 46.27
17 (11), 46.275, 46.277, 46.278, or 46.2785, under the family care benefit if a waiver is
18 in effect under s. 46.281 ~~(1) (e)~~ (1d), or under a waiver requested under 2001
19 Wisconsin Act 16, section 9123 (16rs), or 2003 Wisconsin Act 33, section 9124 (8c).

20 **SECTION 54.** 49.47 (4) (as) 1. of the statutes is amended to read:

21 49.47 (4) (as) 1. The person would meet the financial and other eligibility
22 requirements for home or community-based services under s. 46.27 (11), 46.277, or
23 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 ~~(1) (e)~~
24 (1d) but for the fact that the person engages in substantial gainful activity under 42
25 USC 1382c (a) (3).

1 **SECTION 55.** 49.47 (4) (as) 3. of the statutes is amended to read:

2 49.47 (4) (as) 3. Funding is available for the person under s. 46.27 (11), 46.277,
3 or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1)
4 (e) (1d).

5 **SECTION 56.** 50.033 (2r) of the statutes is amended to read:

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

13 **SECTION 57.** 50.033 (2s) (a) of the statutes is amended to read:

14 50.033 (2s) (a) For a person who ~~has received a screen~~ for whom a screening
15 for functional eligibility under s. 46.286 (1) (a) has been performed within the
16 previous 6 months, the referral under this subsection need not include performance
17 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

18 **SECTION 58.** 50.033 (2s) (d) of the statutes is amended to read:

19 50.033 (2s) (d) For a person who seeks admission or is about to be admitted on
20 a private pay basis and who waives the requirement for a financial ~~screen and~~
21 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may
22 not include performance of a financial ~~screen and cost-sharing screening~~ under s.
23 46.283 (4) (g), unless the person is expected to become eligible for medical assistance
24 within 6 months.

25 **SECTION 59.** 50.034 (5m) of the statutes is amended to read:

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

8 **SECTION 60.** 50.034 (5n) (a) of the statutes is amended to read:

9 50.034 (5n) (a) For a person who has received a screen for whom a screening
10 for functional eligibility under s. 46.286 (1) (a) has been performed within the
11 previous 6 months, the referral under this subsection need not include performance
12 of an additional functional screen screening under s. 46.283 (4) (g).

13 **SECTION 61.** 50.034 (5n) (d) of the statutes is amended to read:

14 50.034 (5n) (d) For a person who seeks admission or is about to be admitted on
15 a private pay basis and who waives the requirement for a financial screen and
16 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may
17 not include performance of a financial screen and cost-sharing screening under s.
18 46.283 (4) (g), unless the person is expected to become eligible for medical assistance
19 within 6 months.

20 **SECTION 62.** 50.035 (4m) of the statutes is amended to read:

21 50.035 (4m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), a
22 community-based residential facility shall, within the time period after inquiry by
23 a prospective resident that is prescribed by the department by rule, inform the
24 prospective resident of the services of a resource center under s. 46.283, the family
25 care benefit under s. 46.286, and the availability of a functional screening and a

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

3 **SECTION 63.** 50.035 (4n) (a) of the statutes is amended to read:

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

8 **SECTION 64.** 50.035 (4n) (d) of the statutes is amended to read:

9 50.035 (4n) (d) For a person who seeks admission or is about to be admitted on
10 a private pay basis and who waives the requirement for a financial screen and
11 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may
12 not include performance of a financial screen and cost-sharing screening under s.
13 46.283 (4) (g), unless the person is expected to become eligible for medical assistance
14 within 6 months.

15 **SECTION 65.** 50.04 (2g) (a) of the statutes is amended to read:

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

22 **SECTION 66.** 50.04 (2h) (a) 1. of the statutes is amended to read:

23 50.04 (2h) (a) 1. For a person who has received a screen for whom a screening
24 for functional eligibility under s. 46.286 (1) (a) has been performed within the

1 previous 6 months, the referral under this paragraph need not include performance
2 of an additional functional ~~screen~~ screening under s. 46.283 (4) (g).

3 **SECTION 67.** 50.04 (2h) (a) 4. of the statutes is amended to read:

4 50.04 (2h) (a) 4. For a person who seeks admission or is about to be admitted
5 on a private pay basis and who waives the requirement for a financial ~~screen~~ and
6 cost-sharing screening under s. 46.283 (4) (g), the referral under this subsection may
7 not include performance of a financial ~~screen~~ and cost-sharing screening under s.
8 46.283 (4) (g), unless the person is expected to become eligible for medical assistance
9 within 6 months.

10 **SECTION 68.** 50.06 (7) of the statutes is amended to read:

11 50.06 (7) An individual who consents to an admission under this section may
12 request that an assessment be conducted for the incapacitated individual under the
13 long-term support community options program under s. 46.27 (6) or, if the secretary
14 has certified under s. 46.281 (3) that a resource center is available for the individual,
15 a functional screening and a financial screen and cost-sharing screening to
16 determine eligibility for the family care benefit under s. 46.286 (1). If admission is
17 sought on behalf of the incapacitated individual or if the incapacitated individual is
18 about to be admitted on a private pay basis, the individual who consents to the
19 admission may waive the requirement for a financial ~~screen~~ and cost-sharing
20 screening under s. 46.283 (4) (g), unless the incapacitated individual is expected to
21 become eligible for medical assistance within 6 months.

22 **SECTION 69.** 50.49 (6m) (am) of the statutes is created to read:

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0330/P5ins
RLR:.....

1 **Ins 8-7:**

 ****NOTE: This is reconciled s. 46.281 (1) (d). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1524. ✓

2

3 **Ins 8-8:**

 ****NOTE: This is reconciled s. 46.281 (1) (e). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1562. ✓

4

5 **Ins 10-17:**

 ****NOTE: This is reconciled s. 46.283 (2) (a). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1524.

6

7 **Ins 11-2:**

8 (b) A county agency or a family long-term care district applies for a contract
9 but fails to meet the standards specified in sub. (3). ✓

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

 ****NOTE: This is reconciled s. 46.283 (2) (b) (intro.) and 2. This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1524.

10

11 **Ins 12-7:**

 ****NOTE: This is reconciled s. 46.284. (2) (b) (intro.). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1524. ✓

12

13 **Ins 12-8:**

 ****NOTE: This is reconciled s. 46.284 (2) (b) 1. This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1562. ✓

14

15 **Ins 12-21:**

 ****NOTE: This is reconciled s. 46.284. (2) (b) 3. This SECTION has been affected by drafts with the following LRB numbers: 0330, 1524, and 1562. ✓

✓ ✓ ✓

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

LRB-0330/P5dn

RLR:.....

95

LRB-0336/2)

/P4

/P4

/P3

/P2

/P2

This draft reconciles LRB-0330, LRB-0333, LRB-1198, LRB-1524, and LRB-1562.
All of these drafts should continue to appear in the compiled bill.

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/P5dn
RLR:cjs:jf

January 31, 2007

This draft reconciles LRB-0330/P4, LRB-0333/P4, LRB-0336/2, LRB-1198/P3, LRB-1524/P2 and LRB-1562/P2. All of these drafts should continue to appear in the compiled bill.

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