



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1198/P1

RLR:wlj:nwn

lmk

In 1/25/07

DOA:.....Milioto, BB0244 - Long-term care facilities; Family Care; information, referral, and assessment requirements

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

PMNR
D-N

Do NOT En

1

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

INS A

Under current law, 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.

Also under current law, community-based residential facilities (CBRFs), residential care apartment complexes (RCACs), nursing homes, and adult family homes in counties that have resource centers must provide prospective residents information about resource centers and the family care benefit and must refer certain prospective residents who are aged or who have a physical or developmental disability to the resource center. Hospitals in counties with resource centers also

must refer certain patients who are aged or who have a physical or developmental disability to the resource center before discharging them.

This bill repeals the requirements that adult family homes provide information to prospective residents regarding resource centers and the family care benefit and refer prospective residents to the resource centers. The bill also repeals the requirement that hospitals refer patients to resource centers before discharging them. The bill provides that CBRFs and RCACs must provide information regarding resource centers and the family care benefit to prospective residents and, if a referral is required, refer prospective residents to resource centers when the CBRFs or RCACs first provide the prospective residents written material regarding their facilities. Further, DHFS must specify the information that CBRFs and RCACs provide regarding resource centers and the family care benefit. Also, in counties that do not have resource centers, CBRFs must refer certain prospective residents who are aged or have a physical or developmental disability to the county department responsible for administering long-term care programs.

Under current law, DHFS administers several programs to provide community-based long-term care services to persons who are aged or have a physical or developmental disability, including the Community Options Program (COP), Community Options Waiver Program (COP Waiver) and the Community Integration Program for people who are relocated or diverted from nursing homes (CIP II). Counties generally may not use COP, COP Waiver, or CIP II funds to pay for care in a CBRF unless the program recipient underwent an assessment of his or her functional abilities, disabilities, and service needs and a review of alternatives to institutional care before he or she entered the CBRF, regardless of whether the recipient entered the CBRF as a privately paying client.

The bill repeals the restriction on using COP, COP Waiver, or CIP II funds to pay for care in a CBRF for a program recipient who did not undergo an assessment of his or her abilities, disabilities, and services needs and a review of alternatives to institutional care before entering the CBRF.

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:

INS 2-1

1 SECTION 1. 46.27 (7) (cj) 3. a. of the statutes is repealed.

2 SECTION 2. 46.27 (11) (c) 5n. a. of the statutes is repealed.

INS 2-2

3 SECTION 3. 46.277 (5) (d) 1n. a. of the statutes is repealed.

4 SECTION 4. 50.02 (2) (d) of the statutes is renumbered 50.02 (2) (d) (intro.) and

5 amended to read:

1 50.02 (2) (d) (intro.) The department shall promulgate rules that prescribe the
2 time periods and the methods of providing information specified in ss. 50.033 (2r) and
3 (2s), 50.034 (5m) and (5n), 50.035 (4m) and (4n) and 50.04 (2g) (a) and (2h) (a). all of
4 the following:

5 **SECTION 5.** 50.02 (2) (d) 1. of the statutes is created to read:

6 50.02 (2) (d) 1. The information that community-based residential facilities
7 shall provide to prospective residents under s. 50.035 (4m) concerning resource
8 centers, the family care benefit, and screens for the family care benefit, and the
9 method by which community-based residential facilities shall make referrals to
10 resource centers or county departments under s. 50.035 (4n). *see NO #*

11 **SECTION 6.** 50.02 (2) (d) 2. of the statutes is created to read:

12 50.02 (2) (d) 2. The information that residential care apartment complexes
13 shall provide to prospective residents under s. 50.034 (5m) regarding resource
14 centers, the family care benefit, and screens for the family care benefit, and the
15 method by which residential care apartment complexes shall make referrals to
16 resource centers under s. 50.034 (5n).

17 **SECTION 7.** 50.02 (2) (d) ^{2.}3. of the statutes is created to read:

18 50.02 (2) (d) ^{2.}3. The time period for nursing homes to provide information to
19 prospective residents under s. 50.04 (2g) (a) and the time period and method by which
20 nursing homes shall make referrals to resource centers under s. 50.04 (2h) (a).

21 **SECTION 8.** 50.033 (2r) of the statutes is repealed.

22 **SECTION 9.** 50.033 (2s) of the statutes is repealed.

23 **SECTION 10.** 50.033 (2t) of the statutes is repealed.

24 **SECTION 11.** 50.034 (5m) of the statutes is amended to read:

1 50.034 (5m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), when a
2 residential care apartment complex shall, ~~within the time period after inquiry by~~
3 first provides written material regarding the residential care apartment complex to
4 a prospective resident that ~~is prescribed by the department by rule, inform, the~~
5 residential care apartment complex shall also provide the prospective resident of
6 information specified by the department concerning the services of a resource center
7 under s. 46.283, the family care benefit under s. 46.286, and the availability of a
8 functional and financial screen to determine the prospective resident's eligibility for
9 the family care benefit under s. 46.286 (1).

10 **SECTION 12.** 50.034 (5n) (intro.) of the statutes is amended to read:

11 50.034 (5n) REQUIRED REFERRAL. (intro.) Subject to sub. (5p), when a residential
12 care apartment complex shall, ~~within the time period prescribed by the department~~
13 ~~by rule, refer to a resource center under s. 46.283 a person who is seeking admission,~~
14 first provides written material regarding the residential care apartment complex to
15 a prospective resident who is at least 65 years of age or has developmental disability
16 or a physical disability and whose disability or condition is expected to last at least
17 90 days, the residential care apartment complex shall refer the prospective resident
18 to a resource center under s. 46.283, unless any of the following applies:

19 **SECTION 13.** 50.035 (4m) of the statutes is amended to read:

20 50.035 (4m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), when a
21 community-based residential facility shall, ~~within the time period after inquiry by~~
22 first provides written material regarding the community-based residential facility
23 to a prospective resident that is prescribed by the department by rule, inform, the
24 community-based residential facility shall also provide the prospective resident of
25 information specified by the department concerning the services of a resource center

1 under s. 46.283, the family care benefit under s. 46.286, and the availability of a
2 functional and financial screen to determine the prospective resident's eligibility for
3 the family care benefit under s. 46.286 (1).

4 **SECTION 14.** 50.035 (4n) (intro.) of the statutes is amended to read:

5 50.035 (4n) REQUIRED REFERRAL. (intro.) ~~Subject to sub. (4p),~~ When a
6 community-based residential facility shall, within the time period prescribed by the
7 department by rule, refer to a resource center under s. 46.283 a person who is seeking
8 admission, first provides written information regarding the community-based
9 residential facility to a prospective resident who is at least 65 years of age or has
10 developmental disability or a physical disability and whose disability or condition is
11 expected to last at least 90 days, the community-based residential facility shall refer
12 the individual to a resource center under s. 46.283 or, if the secretary has not certified
13 under s. 46.281 (3) that a resource center is available in the area of the
14 community-based residential facility to serve individuals in an eligibility group to
15 which the prospective resident belongs, to the county program that administers the
16 programs under ss. 46.27 and 46.277, unless any of the following applies:

17 **SECTION 15.** 50.035 (4p) of the statutes is amended to read:

18 50.035 (4p) APPLICABILITY. ~~Subsections Subsection (4m) and (4n) apply~~ applies
19 only if the secretary has certified under s. 46.281 (3) that a resource center is
20 available for the community-based residential facility and for specified groups of
21 eligible individuals that include those persons seeking admission to or the residents
22 of the community-based residential facility.

23 **SECTION 16.** 50.035 (9) of the statutes is repealed.

24 **SECTION 17.** 50.36 (2) (c) of the statutes is repealed.

INS 5-22 →

department

Ins A:

Under current law, DHFS administers a variety of long-term care programs for people who are aged or have a disability. Under the Community Options Program (COP), Community Options Waiver Program (COP Waiver), and the Community Integration Program for people who are relocated or diverted from nursing homes (CIP II), counties provide community-based long-term care services to persons who are aged or have a physical or developmental disability and qualify for Medical Assistance. DHFS administers the Family Care Program to provide comprehensive long-term care services to people who are at least 18 years of age, have a physical or developmental disability or a degenerative brain disorder, and satisfy 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. ✓

Under current law, community-based residential facilities (CBRFs) must assess the financial condition of privately paying clients prior to admission and provide them a statement that includes the estimated date on which the client would deplete his or her financial resources by paying for care in the facility. If that date is less than two years from the date of the statement, the CBRF must refer the client to the county department responsible for administering long-term care programs so that the county may assess the person's functional abilities, disabilities, and service needs and review alternatives to institutional care. Counties generally may not use COP, COP Waiver, or CIP II funds to pay for care in a CBRF unless the program recipient underwent such an assessment before he or she entered the CBRF, regardless of whether the recipient entered the CBRF as a privately paying client. ✓

Ins B:

NSA, and the county department must provide the prospective resident counseling concerning public and private long-term care benefit programs. The bill repeals the requirement that CBRFs assess the financial condition of privately paying clients prior to admission. ✓

1

Ins 2-1:

2

SECTION 1. 46.27 (5) (j) of the statutes is created to read:

3

1 46.27 (5) (j) Within the time period specified by the department, provide
2 counseling, that is specified by the department, concerning public and private
3 benefit programs to prospective residents of community-based residential facilities
4 who are referred to the county department or aging unit under s. 50.035 (4n).
5

6 **Ins 2-2:**

7 ~~SECTION 2.~~ 46.277 (3) (d) of the statutes is created to read:

8 46.277 (3) (d) The county department or aging unit that administers the
9 program under this section shall, within the time period specified by the department,
10 provide counseling, that is specified by the department, concerning public and
11 private benefit programs to prospective residents of community-based residential
12 facilities who are referred to the county department or aging unit under s. 50.035
13 (4n).
14

15 **Ins 5-22:**

16 ~~SECTION 3.~~ 50.035 (7) of the statutes is repealed.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1198/P12dn

RLR:.....

lmc

(date)

Steve:

This draft makes the changes requested by DHFS. ✓ Do you want to delay the effective date for the provisions requiring rule changes or provide DHFS emergency rule making authority absent a finding of emergency? ✓

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

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1198/P12dn
RLR:lmk:jf

January 25, 2007

Steve:

This draft makes the changes requested by DHFS. Do you want to delay the effective date for the provisions requiring rule changes or provide DHFS emergency rule making authority absent a finding of emergency?

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

Ryan, Robin

From: Milioto, Steve - DOA
Sent: Monday, January 29, 2007 9:10 AM
To: Ryan, Robin
Subject: FW: FW: LRB Draft: 07-1198/P2 Long-term care facilities; Family Care; information, referral, and assess

Please revise draft 1198.

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

From: Andrew Forsaith [mailto:FORSAAC@dhfs.state.wi.us]
Sent: Monday, January 29, 2007 9:04 AM
To: Milioto, Steve - DOA
Subject: Re: FW: LRB Draft: 07-1198/P2 Long-term care facilities; Family Care; information, referral, and assess

Steve -- If the deadline for revisions has not yet past, I had one suggested change to this draft: Change s. 46.27(5)(j) and s. 46.277(3)(d) (created in sections 1 and 4 of the draft) to require counties to "offer" rather than "provide" options counseling to individuals referred by CBRFs. The county shouldn't be required to provide the counseling if the client refuses.

Thanks,

Andy

>>> "Milioto, Steve - DOA" <steve.milioto@wisconsin.gov> 1/25/2007 3:21 PM >>>
Please review.

From: Frantzen, Jean [mailto:Jean.Frantzen@legis.wisconsin.gov]
Sent: Thursday, January 25, 2007 3:20 PM
To: Milioto, Steve - DOA
Cc: Johnston, James - DOA; Hanaman, Cathlene - LEGIS; Palchik, Laurie A - DOA
Subject: LRB Draft: 07-1198/P2 Long-term care facilities; Family Care; information, referral, and assessment requirements

Following is the PDF version of draft 07-1198/P2.



State of Wisconsin
2007 - 2008 LEGISLATURE

P3

LRB-1198/P2

RLR:wj&lmk:jf

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STAYS

In 1/29/07

DOA:.....Milioto, BB0244 - Long-term care facilities; Family Care; information, referral, and assessment requirements

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

RMNR

DO NOT GO

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, DHFS administers a variety of long-term care programs for people who are aged or have a disability. Under the Community Options Program (COP), Community Options Waiver Program (COP Waiver), and the Community Integration Program for people who are relocated or diverted from nursing homes (CIP II), counties provide community-based long-term care services to persons who are aged or have a physical or developmental disability and qualify for Medical Assistance. DHFS administers the Family Care program to provide comprehensive long-term care services to people who are at least 18 years of age, have a physical or developmental disability or a degenerative brain disorder, and satisfy 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.

Under current law, community-based residential facilities (CBRFs) must assess the financial condition of privately paying clients prior to admission and provide them a statement that includes the estimated date on which the client would deplete his or her financial resources by paying for care in the facility. If that date is less than two years from the date of the statement, the CBRF must refer the client to the county department responsible for administering long-term care programs so that the county may assess the person's functional abilities, disabilities, and service needs and review alternatives to institutional care. Counties generally may not use COP, COP Waiver, or CIP II funds to pay for care in a CBRF unless the program recipient underwent such an assessment before he or she entered the CBRF, regardless of whether the recipient entered the CBRF as a privately paying client.

Also under current law, CBRFs, residential care apartment complexes (RCACs), nursing homes, and adult family homes in counties that have resource centers must provide prospective residents information about resource centers and the family care benefit and must refer certain prospective residents who are aged or who have a physical or developmental disability to the resource center. Hospitals in counties with resource centers also must refer certain patients who are aged or who have a physical or developmental disability to the resource center before discharging them.

This bill repeals the requirements that adult family homes provide information to prospective residents regarding resource centers and the family care benefit and refer prospective residents to the resource centers. The bill also repeals the requirement that hospitals refer patients to resource centers before discharging them. The bill provides that CBRFs and RCACs must provide information regarding resource centers and the family care benefit to prospective residents and, if a referral is required, refer prospective residents to resource centers when the CBRFs or RCACs first provide the prospective residents written material regarding their facilities. Also, in counties that do not have resource centers, CBRFs must refer certain prospective residents who are aged or have a physical or developmental disability to the county department responsible for administering long-term care programs, and the county department must provide the prospective resident counseling concerning public and private long-term care benefit programs. The bill repeals the requirement that CBRFs assess the financial condition of privately paying clients prior to admission.

The bill also repeals the restriction on using COP, COP Waiver, or CIP II funds to pay for care in a CBRF for a program recipient who did not undergo an assessment of his or her abilities, disabilities, and services needs and a review of alternatives to institutional care before entering the CBRF.

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. 46.27 (5) (j) of the statutes is created to read:

2 46.27 (5) (j) Within the time period specified by the department, provide
3 counseling, that is specified by the department, concerning public and private
4 benefit programs to prospective residents of community-based residential facilities
5 who are referred to the county department or aging unit under s. 50.035 (4n).

6 SECTION 2. 46.27 (7) (cj) 3. a. of the statutes is repealed.

7 SECTION 3. 46.27 (11) (c) 5n. a. of the statutes is repealed.

8 SECTION 4. 46.277 (3) (d) of the statutes is created to read:

9 46.277 (3) (d) The county department or aging unit that administers the
10 program under this section shall, within the time period specified by the department,
11 provide counseling, that is specified by the department, concerning public and
12 private benefit programs to prospective residents of community-based residential
13 facilities who are referred to the county department or aging unit under s. 50.035
14 (4n).

15 SECTION 5. 46.277 (5) (d) 1n. a. of the statutes is repealed.

16 SECTION 6. 50.02 (2) (d) of the statutes is renumbered 50.02 (2) (d) (intro.) and
17 amended to read:

18 50.02 (2) (d) (intro.) The department shall promulgate rules that prescribe the
19 ~~time periods and the methods of providing information specified in ss. 50.033 (2r) and~~
20 ~~(2s), 50.034 (5m) and (5n), 50.035 (4m) and (4n) and 50.04 (2g) (a) and (2h) (a).~~ all of
21 the following:

22 SECTION 7. 50.02 (2) (d) 1. of the statutes is created to read:

23 50.02 (2) (d) 1. The method by which community-based residential facilities
24 shall make referrals to resource centers or county departments under s. 50.035 (4n)

offer

1 and the method by which residential care apartment complexes shall make referrals
2 to resource centers under s. 50.034 (5n).

3 **SECTION 8.** 50.02 (2) (d) 2. of the statutes is created to read:

4 50.02 (2) (d) 2. The time period for nursing homes to provide information to
5 prospective residents under s. 50.04 (2g) (a) and the time period and method by which
6 nursing homes shall make referrals to resource centers under s. 50.04 (2h) (a).

7 **SECTION 9.** 50.033 (2r) of the statutes is repealed.

8 **SECTION 10.** 50.033 (2s) of the statutes is repealed.

9 **SECTION 11.** 50.033 (2t) of the statutes is repealed.

10 **SECTION 12.** 50.034 (5m) of the statutes is amended to read:

11 50.034 (5m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), when a
12 residential care apartment complex shall, within the time period after inquiry by
13 first provides written material regarding the residential care apartment complex to
14 a prospective resident that is prescribed by the department by rule, inform, the
15 residential care apartment complex shall also provide the prospective resident of
16 information specified by the department concerning the services of a resource center
17 under s. 46.283, the family care benefit under s. 46.286, and the availability of a
18 functional and financial screen to determine the prospective resident's eligibility for
19 the family care benefit under s. 46.286 (1).

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

21 50.034 (5n) REQUIRED REFERRAL. (intro.) Subject to sub. (5p), when a residential
22 care apartment complex shall, within the time period prescribed by the department
23 by rule, refer to a resource center under s. 46.283 a person who is seeking admission,
24 first provides written material regarding the residential care apartment complex to
25 a prospective resident who is at least 65 years of age or has developmental disability

1 or a physical disability and whose disability or condition is expected to last at least
2 90 days, the residential care apartment complex shall refer the prospective resident
3 to a resource center under s. 46.283, unless any of the following applies:

4 **SECTION 14.** 50.035 (4m) of the statutes is amended to read:

5 50.035 (4m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (4p), when a
6 community-based residential facility shall, within the time period after inquiry by
7 first provides written material regarding the community-based residential facility
8 to a prospective resident that is prescribed by the department by rule, inform, the
9 community-based residential facility shall also provide the prospective resident of
10 information specified by the department concerning the services of a resource center
11 under s. 46.283, the family care benefit under s. 46.286, and the availability of a
12 functional and financial screen to determine the prospective resident's eligibility for
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14 **SECTION 15.** 50.035 (4n) (intro.) of the statutes is amended to read:

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16 community-based residential facility shall, within the time period prescribed by the
17 department by rule, refer to a resource center under s. 46.283 a person who is seeking
18 admission, first provides written information regarding the community-based
19 residential facility to a prospective resident who is at least 65 years of age or has
20 developmental disability or a physical disability and whose disability or condition is
21 expected to last at least 90 days, the community-based residential facility shall refer
22 the individual to a resource center under s. 46.283 or, if the secretary has not certified
23 under s. 46.281 (3) that a resource center is available in the area of the
24 community-based residential facility to serve individuals in an eligibility group to

1 which the prospective resident belongs, to the county department that administers
2 a program under ss. 46.27 or 46.277, unless any of the following applies:

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

4 50.035 (4p) APPLICABILITY. Subsections Subsection (4m) and ~~(4n)~~ apply applies
5 only if the secretary has certified under s. 46.281 (3) that a resource center is
6 available for the community-based residential facility and for specified groups of
7 eligible individuals that include those persons seeking admission to or the residents
8 of the community-based residential facility.

9 **SECTION 17.** 50.035 (7) of the statutes is repealed.

10 **SECTION 18.** 50.035 (9) of the statutes is repealed.

11 **SECTION 19.** 50.36 (2) (c) of the statutes is repealed.

12 **SECTION 20.** 50.38 of the statutes is repealed.

13 (END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1198/P3

RLR:wlj&lmk:jf

stays

rmnr
DN

1/30/07

P4

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The bill also repeals the restriction on using COP, COP Waiver, or CIP II funds to pay for care in a CBRF for a program recipient who did not undergo an assessment of his or her abilities, disabilities, and services needs and a review of alternatives to institutional care before entering the CBRF.

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19 ~~(2s), 50.034 (5m) and (5n), 50.035 (4m) and (4n) and 50.04 (2g) (a) and (2h) (a).~~ all of
20 the following:

21 **SECTION 7.** 50.02 (2) (d) 1. of the statutes is created to read:

22 50.02 (2) (d) 1. The method by which community-based residential facilities
23 shall make referrals to resource centers or county departments under s. 50.035 (4n)
24 and the method by which residential care apartment complexes shall make referrals
25 to resource centers under s. 50.034 (5n).

1 SECTION 8. 50.02 (2) (d) 2. of the statutes is created to read:

2 50.02 (2) (d) 2. The time period for nursing homes to provide information to
3 prospective residents under s. 50.04 (2g) (a) and the time period and method by which
4 nursing homes shall make referrals to resource centers under s. 50.04 (2h) (a).

5 SECTION 9. 50.033 (2r) of the statutes is repealed.

6 SECTION 10. 50.033 (2s) of the statutes is repealed.

7 SECTION 11. 50.033 (2t) of the statutes is repealed.

8 SECTION 12. 50.034 (5m) of the statutes is amended to read:

9 50.034 (5m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), when a
10 residential care apartment complex shall, ~~within the time period after inquiry by~~
11 first provides written material regarding the residential care apartment complex to
12 a prospective resident ~~that is prescribed by the department by rule, inform, the~~
13 residential care apartment complex shall also provide the prospective resident of
14 information specified by the department concerning the services of a resource center
15 under s. 46.283, the family care benefit under s. 46.286, and the availability of a
16 functional and financial ~~screen~~ to determine the prospective resident's eligibility for
17 the family care benefit under s. 46.286 (1).

18 SECTION 13. 50.034 (5n) (intro.) of the statutes is amended to read:

19 50.034 (5n) REQUIRED REFERRAL. (intro.) Subject to sub. (5p), when a residential
20 care apartment complex shall, ~~within the time period prescribed by the department~~
21 by rule, refer to a resource center under s. 46.283 a person who is seeking admission,
22 first provides written material regarding the residential care apartment complex to
23 a prospective resident who is at least 65 years of age or has developmental disability
24 or a physical disability and whose disability or condition is expected to last at least

INS 4-5 ✓
INS 4-6 ✓

screening

INS 4-17

and cost-sharing screening

1 90 days, the residential care apartment complex shall refer the prospective resident
2 to a resource center under s. 46.283, unless any of the following applies:

3 SECTION 14. 50.035 (4m) of the statutes is amended to read:

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

Screening

INS
5-10

and cost-sharing screening

13 SECTION 15. 50.035 (4n) (intro.) of the statutes is amended to read:

14 50.035 (4n) REQUIRED REFERRAL. (intro.) ~~Subject to sub. (4p),~~ When a
15 community-based residential facility shall, within the time period prescribed by the
16 department by rule, refer to a resource center under s. 46.283 a person who is seeking
17 admission, first provides written information regarding the community-based
18 residential facility to a prospective resident who is at least 65 years of age or has
19 developmental disability or a physical disability and whose disability or condition is
20 expected to last at least 90 days, the community-based residential facility shall refer
21 the individual to a resource center under s. 46.283 or, if the secretary has not certified
22 under s. 46.281 (3) that a resource center is available in the area of the
23 community-based residential facility to serve individuals in an eligibility group to
24 which the prospective resident belongs, to the county department that administers
25 a program under ss. 46.27 or 46.277, unless any of the following applies:

2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1198/P4ins
RLR:.....

1 **Ins 4-5:**

 ***NOTE: This is reconciled s. 50.033 (2r). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1198.

2

3 **Ins 4-6:**

 ***NOTE: This is reconciled s. 50.033 (2s). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1198.

4

5 **Ins 4-17:**

 ***NOTE: This is reconciled s. 50.034 (5m). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1198.

6

7 **Ins 5-12:**

 ***NOTE: This is reconciled s. 50.035 (4m). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1198.

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1198/P4dn

RLR:./:...

Wlj

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

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1198/P4dn

RLR:wlj:sh

January 30, 2007

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

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1198/P4
RLR:wlj&lmk:sh

DOA:.....Milioto, BB0244 - Long-term care facilities; Family Care; information, referral, and assessment requirements

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

OTHER HEALTH AND HUMAN SERVICES

Under current law, DHFS administers a variety of long-term care programs for people who are aged or have a disability. Under the Community Options Program (COP), Community Options Waiver Program (COP Waiver), and the Community Integration Program for people who are relocated or diverted from nursing homes (CIP II), counties provide community-based long-term care services to persons who are aged or have a physical or developmental disability and qualify for Medical Assistance. DHFS administers the Family Care program to provide comprehensive long-term care services to people who are at least 18 years of age, have a physical or developmental disability or a degenerative brain disorder, and satisfy 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.

Under current law, community-based residential facilities (CBRFs) must assess the financial condition of privately paying clients prior to admission and provide them a statement that includes the estimated date on which the client would deplete his or her financial resources by paying for care in the facility. If that date is less than two years from the date of the statement, the CBRF must refer the client to the county department responsible for administering long-term care programs so that the county may assess the person's functional abilities, disabilities, and service needs and review alternatives to institutional care. Counties generally may not use COP, COP Waiver, or CIP II funds to pay for care in a CBRF unless the program recipient underwent such an assessment before he or she entered the CBRF, regardless of whether the recipient entered the CBRF as a privately paying client.

Also under current law, CBRFs, residential care apartment complexes (RCACs), nursing homes, and adult family homes in counties that have resource centers must provide prospective residents information about resource centers and the family care benefit and must refer certain prospective residents who are aged or who have a physical or developmental disability to the resource center. Hospitals in counties with resource centers also must refer certain patients who are aged or who have a physical or developmental disability to the resource center before discharging them.

This bill repeals the requirements that adult family homes provide information to prospective residents regarding resource centers and the family care benefit and refer prospective residents to the resource centers. The bill also repeals the requirement that hospitals refer patients to resource centers before discharging them. The bill provides that CBRFs and RCACs must provide information regarding resource centers and the family care benefit to prospective residents and, if a referral is required, refer prospective residents to resource centers when the CBRFs or RCACs first provide the prospective residents written material regarding their facilities. Also, in counties that do not have resource centers, CBRFs must refer certain prospective residents who are aged or have a physical or developmental disability to the county department responsible for administering long-term care programs, and the county department must offer the prospective resident counseling concerning public and private long-term care benefit programs. The bill repeals the requirement that CBRFs assess the financial condition of privately paying clients prior to admission.

The bill also repeals the restriction on using COP, COP Waiver, or CIP II funds to pay for care in a CBRF for a program recipient who did not undergo an assessment of his or her abilities, disabilities, and services needs and a review of alternatives to institutional care before entering the CBRF.

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.** 46.27 (5) (j) of the statutes is created to read:

2 46.27 (5) (j) Within the time period specified by the department, offer
3 counseling, that is specified by the department, concerning public and private
4 benefit programs to prospective residents of community-based residential facilities
5 who are referred to the county department or aging unit under s. 50.035 (4n).

6 **SECTION 2.** 46.27 (7) (cj) 3. a. of the statutes is repealed.

7 **SECTION 3.** 46.27 (11) (c) 5n. a. of the statutes is repealed.

8 **SECTION 4.** 46.277 (3) (d) of the statutes is created to read:

9 46.277 (3) (d) The county department or aging unit that administers the
10 program under this section shall, within the time period specified by the department,
11 offer counseling, that is specified by the department, concerning public and private
12 benefit programs to prospective residents of community-based residential facilities
13 who are referred to the county department or aging unit under s. 50.035 (4n).

14 **SECTION 5.** 46.277 (5) (d) 1n. a. of the statutes is repealed.

15 **SECTION 6.** 50.02 (2) (d) of the statutes is renumbered 50.02 (2) (d) (intro.) and
16 amended to read:

17 50.02 (2) (d) (intro.) The department shall promulgate rules that prescribe the
18 time periods and the methods of providing information specified in ss. 50.033 (2r) and
19 (2s), 50.034 (5m) and (5n), 50.035 (4m) and (4n) and 50.04 (2g) (a) and (2h) (a). all of
20 the following:

21 **SECTION 7.** 50.02 (2) (d) 1. of the statutes is created to read:

22 50.02 (2) (d) 1. The method by which community-based residential facilities
23 shall make referrals to resource centers or county departments under s. 50.035 (4n)
24 and the method by which residential care apartment complexes shall make referrals
25 to resource centers under s. 50.034 (5n).

1 **SECTION 8.** 50.02 (2) (d) 2. of the statutes is created to read:

2 50.02 (2) (d) 2. The time period for nursing homes to provide information to
3 prospective residents under s. 50.04 (2g) (a) and the time period and method by which
4 nursing homes shall make referrals to resource centers under s. 50.04 (2h) (a).

5 **SECTION 9.** 50.033 (2r) of the statutes is repealed.

 ****NOTE: This is reconciled s. 50.033 (2r). This SECTION has been affected by drafts
with the following LRB numbers: 0330 and 1198.

6 **SECTION 10.** 50.033 (2s) of the statutes is repealed.

 ****NOTE: This is reconciled s. 50.033 (2s). This SECTION has been affected by drafts
with the following LRB numbers: 0330 and 1198.

7 **SECTION 11.** 50.033 (2t) of the statutes is repealed.

8 **SECTION 12.** 50.034 (5m) of the statutes is amended to read:

9 50.034 (5m) PROVISION OF INFORMATION REQUIRED. Subject to sub. (5p), when a
10 residential care apartment complex shall, ~~within the time period after inquiry by~~
11 first provides written material regarding the residential care apartment complex to
12 a prospective resident that is prescribed by the department by rule, inform, the
13 residential care apartment complex shall also provide the prospective resident of
14 information specified by the department concerning the services of a resource center
15 under s. 46.283, the family care benefit under s. 46.286, and the availability of a
16 functional screening and a financial screen and cost-sharing screening to determine
17 the prospective resident's eligibility for the family care benefit under s. 46.286 (1).

 ****NOTE: This is reconciled s. 50.034 (5m). This SECTION has been affected by
drafts with the following LRB numbers: 0330 and 1198.

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

19 50.034 (5n) REQUIRED REFERRAL. (intro.) Subject to sub. (5p), when a residential
20 care apartment complex shall, within the time period prescribed by the department
21 by rule, refer to a resource center under s. 46.283 a person who is seeking admission,

1 first provides written material regarding the residential care apartment complex to
2 a prospective resident who is at least 65 years of age or has developmental disability
3 or a physical disability and whose disability or condition is expected to last at least
4 90 days, the residential care apartment complex shall refer the prospective resident
5 to a resource center under s. 46.283, unless any of the following applies:

6 **SECTION 14.** 50.035 (4m) of the statutes is amended to read:

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

****NOTE: This is reconciled s. 50.035 (4m). This SECTION has been affected by drafts with the following LRB numbers: 0330 and 1198.

16 **SECTION 15.** 50.035 (4n) (intro.) of the statutes is amended to read:

17 50.035 (4n) REQUIRED REFERRAL. (intro.) ~~Subject to sub. (4p),~~ When a
18 community-based residential facility shall, within the time period prescribed by the
19 department by rule, refer to a resource center under s. 46.283 a person who is seeking
20 admission, first provides written information regarding the community-based
21 residential facility to a prospective resident who is at least 65 years of age or has
22 developmental disability or a physical disability and whose disability or condition is
23 expected to last at least 90 days, the community-based residential facility shall refer

SECTION 15

1 the individual to a resource center under s. 46.283 or, if the secretary has not certified
2 under s. 46.281 (3) that a resource center is available in the area of the
3 community-based residential facility to serve individuals in an eligibility group to
4 which the prospective resident belongs, to the county department that administers
5 a program under ss. 46.27 or 46.277, unless any of the following applies:

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

7 50.035 (4p) APPLICABILITY. ~~Subsections~~ Subsection (4m) and ~~(4n)~~ apply applies
8 only if the secretary has certified under s. 46.281 (3) that a resource center is
9 available for the community-based residential facility and for specified groups of
10 eligible individuals that include those persons seeking admission to or the residents
11 of the community-based residential facility.

12 **SECTION 17.** 50.035 (7) of the statutes is repealed.

13 **SECTION 18.** 50.035 (9) of the statutes is repealed.

14 **SECTION 19.** 50.36 (2) (c) of the statutes is repealed.

15 **SECTION 20.** 50.38 of the statutes is repealed.

16 (END)