



2013 ASSEMBLY BILL 468

November 1, 2013 – Introduced by Representatives STRACHOTA, BERNIER, TITTL, HINTZ, RIPP and CZAJA, cosponsored by Senators LASSA and GROTHMAN. Referred to Committee on Aging and Long-Term Care.

1 **AN ACT** *to amend* 20.435 (2) (bj) and 20.435 (2) (bj); and *to create* 46.281 (1n)
2 (g) and (h) and 46.284 (8) of the statutes; **relating to:** admission of Family Care
3 enrollees to mental health institutes and making an appropriation.

Analysis by the Legislative Reference Bureau

Under current law, in certain counties, Family Care provides community-based long-term care services to individuals who meet certain functional and financial criteria and who are either frail elders or adults with physical or developmental disabilities. In each geographic area in which the Family Care benefit is available, the Department of Health Services (DHS) contracts with an aging and disability resource center to provide information and determine eligibility for Family Care and a care management organization (CMO) to administer the Family Care benefit.

This bill requires DHS to notify a county that has financial responsibility for an individual who is receiving Family Care benefits (enrollee) of an enrollee's admission to a mental health institute (MHI) within 48 hours of the admission. An MHI is, as defined in current law, any institution operated by DHS for specialized psychiatric services, research, education, and which is responsible for consultation with community programs for education and quality of care. DHS also must establish criteria to determine, and then must determine, whether an enrollee is at substantial risk for being admitted to an MHI.

The bill requires every CMO to maintain for each enrollee a record of individuals who can be contacted in case of an emergency with the enrollee. For

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every enrollee whom DHS determines is at substantial risk of being admitted to an MHI, a CMO and the county in which it operates must create an emergency plan including an emergency contact and a potential placement for when the enrollee is discharged from the MHI. If an enrollee is admitted to an MHI, the financially responsible county; the county that approved the admission, if different; and the CMO must create a team comprised of certain individuals to coordinate a new placement for the enrollee.

The bill requires DHS to submit to the Joint Committee on Finance (JCF) a report identifying issues relating to cost liability for counties with enrollees who are admitted to an MHI. DHS is required under the bill during the 2013–15 fiscal biennium to submit one or more requests to JCF for moneys to pay a portion of the additional costs incurred by a county to support services provided to enrollees by the MHI. If JCF releases the moneys, DHS may reimburse the county based on the length of the enrollee's stay at the MHI as described in the bill. The bill allows for these reimbursements for services provided at an MHI before July 1, 2015.

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 (2) (bj) of the statutes is amended to read:

2 20.435 (2) (bj) *Competency examinations and treatment, and conditional*
3 *release, supervised release, and community supervision services.* Biennially, the
4 amounts in the schedule for outpatient competency examinations and treatment
5 services; for reimbursements to counties for costs under 2013 Wisconsin Act ... (this
6 act), section 5; and for payment by the department of costs for treatment and services
7 for persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or
8 s. 971.17 (3) (d) or (4) (e) or 980.08 (4) (g) or for persons who are inmates of the
9 department of corrections who are released on community supervision, for which the
10 department has contracted with county departments under s. 51.42 (3) (aw) 1. d.,
11 with other public agencies, or with private agencies to provide the treatment and
12 services.

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1 **SECTION 2.** 20.435 (2) (bj) of the statutes, as affected by 2013 Wisconsin Act ...
2 (this act), is amended to read:

3 20.435 **(2)** (bj) *Competency examinations and treatment, and conditional*
4 *release, supervised release, and community supervision services.* Biennially, the
5 amounts in the schedule for outpatient competency examinations and treatment
6 services; ~~for reimbursements to counties for costs under 2013 Wisconsin Act ... (this~~
7 ~~act), section 5;~~ and for payment by the department of costs for treatment and services
8 for persons released under s. 980.06 (2) (c), 1997 stats., s. 980.08 (5), 2003 stats., or
9 s. 971.17 (3) (d) or (4) (e) or 980.08 (4) (g) or for persons who are inmates of the
10 department of corrections who are released on community supervision, for which the
11 department has contracted with county departments under s. 51.42 (3) (aw) 1. d.,
12 with other public agencies, or with private agencies to provide the treatment and
13 services.

14 **SECTION 3.** 46.281 (1n) (g) and (h) of the statutes are created to read:

15 46.281 **(1n)** (g) Notify, within 48 hours of the admission of an enrollee, a county
16 that has financial responsibility for an enrollee who has been admitted to a mental
17 health institute, as defined in s. 51.01 (12).

18 (h) Establish criteria to determine, and determine, whether an enrollee is at
19 substantial risk for being admitted to a mental health institute, as defined in s. 51.01
20 (12).

21 **SECTION 4.** 46.284 (8) of the statutes is created to read:

22 46.284 **(8)** ADMISSIONS TO MENTAL HEALTH INSTITUTES. (a) In this subsection,
23 “mental health institute” has the meaning given in s. 51.01 (12).

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1 (b) Every care management organization shall maintain for each enrollee a
2 record of individuals who can be contacted in case of an emergency involving that
3 enrollee.

4 (c) Subject to par. (d), every care management organization and each county in
5 which the care management organization operates shall create an emergency plan
6 for every enrollee who the department determines is at substantial risk of being
7 admitted to a mental health institute. The care management organization and
8 county shall include in the emergency plan an emergency contact in case the enrollee
9 is admitted and a potential placement for when the enrollee is discharged from the
10 mental health institute.

11 (d) If an enrollee is admitted to a mental health institute, the financially
12 responsible county; the county that approved the admission to the mental health
13 institute, if different; and the care management organization in which the enrollee
14 was enrolled shall create a team that includes all of the following to coordinate a new
15 placement for the enrollee:

- 16 1. The enrollee's guardian or emergency contact.
- 17 2. A social worker from each county involved.
- 18 3. A social worker from the care management organization.
- 19 4. A psychiatrist or psychologist.
- 20 5. An individual representing a law enforcement agency.

21 **SECTION 5. Nonstatutory provisions.**

22 (1) FUNDING OF FAMILY CARE ENROLLEES ADMITTED TO MENTAL HEALTH INSTITUTES.

23 (a) In this subsection:

- 24 1. "Department" means the department of health services.

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1 2. “Family Care program” means the benefit program under section 46.286 of
2 the statutes.

3 3. “Mental health institute” has the meaning given in section 51.01 (12) of the
4 statutes.

5 (b) Before the first day of the third month beginning after the effective date of
6 this paragraph, the department shall submit to the joint committee on finance a
7 report that identifies issues relating to cost liability for counties with residents who
8 were formerly enrolled in the Family Care program and who are admitted to a mental
9 health institute.

10 (c) After submitting the report under paragraph (b) and during the 2013–15
11 fiscal biennium, the department shall submit one or more requests to the joint
12 committee on finance under section 13.10 of the statutes to supplement
13 appropriations under section 20.435 (2) (bj) of the statutes from the appropriation
14 under section 20.865 (4) (a) of the statutes for the purpose of paying a portion of the
15 additional costs counties incur to support services provided by the mental health
16 institutes to certain enrollees in the Family Care program. If the joint committee on
17 finance releases the moneys, the department may reimburse the county for all of the
18 following for a stay of an enrollee of the Family Care program at a mental health
19 institute subject to paragraph (d):

20 1. For any portion of a stay longer than 30 days but not longer than 60 days at
21 a mental health institute, 50 percent of the state share of the cost of care incurred
22 by the county for that portion of the stay.

23 2. For any portion of a stay longer than 60 days but not longer than 90 days,
24 75 percent of the state share of the cost of care incurred by the county for that portion
25 of the stay.

ASSEMBLY BILL 468**SECTION 5**

1 3. For any portion of a stay longer than 90 days, all of the state share of the cost
2 of care incurred by the county for that portion of the stay.

3 (d) The department may provide reimbursement to counties for Family Care
4 program enrollees admitted to mental health institutes on or after the effective date
5 of this paragraph and, if the Family Care program enrollee is still at the mental
6 health institute on the effective date of this paragraph, before the effective date of
7 this paragraph. For a Family Care program enrollee admitted to a mental health
8 institute before the effective date of this paragraph, the department shall base the
9 reimbursement on the Family Care program enrollee's total length of stay since
10 admission to the mental health institute using the calculations under paragraph (c)
11 1. to 3.

12 (e) The financial liability of the state to pay reimbursements for services at a
13 mental health institute for Family Care program enrollees under this subsection is
14 limited to services provided at a mental health institute before July 1, 2015.

SECTION 6. Fiscal changes.

15
16 (1) COSTS IN MENTAL HEALTH INSTITUTES FOR FAMILY CARE ENROLLEES. In the
17 schedule under section 20.005 (3) of the statutes for the appropriation to the joint
18 committee on finance under section 20.865 (4) (a) of the statutes, as affected by the
19 acts of 2013, the dollar amount is increased by \$375,000 for the first fiscal year of the
20 fiscal biennium in which this subsection takes effect to pay for reimbursements to
21 counties for costs of services provided to Family Care enrollees who are admitted
22 mental health institutes. In the schedule under section 20.005 (3) of the statutes for
23 the appropriation to the joint committee on finance under section 20.865 (4) (a) of the
24 statutes, as affected by the acts of 2013, the dollar amount is increased by \$375,000
25 for the second fiscal year of the fiscal biennium in which this subsection takes effect

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1 to pay for reimbursements to counties for costs of services provided to Family Care
2 enrollees who are admitted mental health institutes.

3 **SECTION 7. Effective dates.** This act takes effect on the day after publication,
4 except as follows:

5 (1) COSTS IN MENTAL HEALTH INSTITUTES FOR FAMILY CARE ENROLLEES. The
6 treatment of section 20.435 (2) (bj) (by SECTION 2) of the statutes takes effect on July
7 1, 2015.

8 (END)