


State of Wisconsin


LEGISLATIVE REFERENCE BUREAU


RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**


Date Transfer Requested: 01/28/2015 (Per: CMH & TJD)

Compile Draft – Appendix D ... Part I

Appendix A  The 2015 drafting file for LRB–0972

Appendix B  The 2015 drafting file for LRB–1035

Appendix C  The 2015 drafting file for LRB–1130

Appendix D  The 2015 drafting file for LRB–1255

has been copied/added to the drafting file for

2015 LRB–1461

2015 DRAFTING REQUEST

Bill

Received: 1/13/2015 Received By: tdodge
Wanted: As time permits Same as LRB:
For: Administration-Budget 7-7980 By/Representing: Dombrowski
May Contact: Drafter: tdodge
Subject: Health - long-term care Addl. Drafters:
Extra Copies:

Submit via email: YES
Requester's email:
Carbon copy (CC) to: sbostatlanguage@webapps.wi.gov
sarah.walkenhorstbarber@legis.wisconsin.gov
tamara.dodge@legis.wisconsin.gov

Pre Topic:

DOA:.....Dombrowski, BB0447 -

Topic:

Changes to community options program; create children's COP

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 1/24/2015	kfollett 1/24/2015	jmurphy 1/25/2015	_____			
/P1	tdodge 1/27/2015			_____	sbasford 1/25/2015		State S&L
/P2	tdodge	csicilia	rschluet	_____	srose		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	1/28/2015	1/28/2015	1/28/2015	_____	1/27/2015		S&L
/P3				_____	lparisi		State
				_____	1/28/2015		S&L

FE Sent For:

<END>

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/P1	tdodge 1/27/2015			_____	sbasford 1/25/2015		State S&L
/P2		kfollett		_____	srose		State

Handwritten notes:
1 P3 yes 1/28/15
[Signature]

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1/27/2015

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Proofed

Submitted
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S&L

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/P1		1/27 1/27	1/27 1/27	TSF WJ	sbasford 1/25/2015		State S&L

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/? tdodge

1/16/15
1/24/15
SR
24
1/22/15
ARS

FE Sent For:

<END>

Dodge, Tamara

From: Hanaman, Cathlene
Sent: Tuesday, January 13, 2015 5:19 PM
To: Dodge, Tamara; Walkenhorst Barber, Sarah
Subject: FW: Statutory Language Drafting Request - BB0447

From: Cynthia.Dombrowski@Wisconsin.gov [mailto:Cynthia.Dombrowski@Wisconsin.gov]
Sent: Tuesday, January 13, 2015 5:16 PM
To: Hanaman, Cathlene
Cc: Steinmetz, Jana D - DOA; Dombrowski, Cynthia A - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0447

Biennial Budget: 2015-17

DOA Tracking Code: BB0447

Topic: Changes to the COP Program

SBO Team: HSI

SBO Analyst: Dombrowski, Cynthia A - DOA
Phone: (608) 266-2214
E-mail: Cynthia.Dombrowski@Wisconsin.gov

Agency Acronym: DHS

Agency Number: 435

Priority: High

Intent:

Make the following changes to COP, effective January 1, 2016:

- Sunset the Family Support Program under s. 46.985
- Modify the current COP language to create a "Children's COP" and authorize its expenditure from 20.435 (7)(b)

Children's COP will be implemented in counties that have implemented Family Care. Functional eligibility will be the same as current COP. Allowed services are the same as COP, except room and board is not allowed. Financial eligibility is the same as Family Support Program, with a graduated parental cost share and no income limit. Counties would need to develop assessment and care plans according to uniform criteria developed by DHS for children in all long-term care programs.

Funding can be used as match for Medicaid services.

Counties would receive a single Children's COP allocation. Carryover, risk reserve and state high cost provisions would be the same as COP. Please remove the provisions related to "significant proportions".

Eliminate the COP transfer mandate under s. 49.45 (6v).

Delete other COP provisions specific to the elderly or people with disabilities.

Attachments: False

Please send completed drafts to SBOSatlanguage@webapps.wi.gov



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-12550

TJD: [handwritten initials]

In: 1/24/15

Due before
monday
please

DOA:.....Dombrowski, BB0447 - Changes to community options program;
create children's COP

FOR 2015-2017 BUDGET — NOT READY FOR INTRODUCTION

Prof
JM

1/24 or
1/25

Don't Gen

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

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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:

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

3 20.435 (7) (b) *Community aids and Medical Assistance payments.* The
4 amounts in the schedule for human services under s. 46.40, to fund services provided
5 by resource centers under s. 46.283 (5), for services under the family care benefit
6 under s. 46.284 (5), for services provided under the children's community options
7 program under s. 46.271, for Medical Assistance payment adjustments under s.

46.272

1 49.45 (52) (a) for services described in s. 49.45 (52) (a) 1., for Medical Assistance
 2 payments under s. 49.45 (6tw), and for Medical Assistance payments under s. 49.45
 3 (53) for services described in s. 49.45 (53) that are provided before January 1, 2012.
 4 Social services disbursements under s. 46.03 (20) (b) may be made from this
 5 appropriation. Refunds received relating to payments made under s. 46.03 (20) (b)
 6 for the provision of services for which moneys are appropriated under this paragraph
 7 shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and
 8 20.002 (1), the department of health services may transfer funds between fiscal years
 9 under this paragraph. The department shall deposit into this appropriation funds
 10 it recovers under ss. 46.495 (2) (b) and 51.423 (15), from prior year audit adjustments
 11 including those resulting from audits of services under s. 46.26, 1993 stats., or s.
 12 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds
 13 recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds allocated under s.
 14 46.40 and not spent or encumbered by December 31 of each year shall lapse to the
 15 general fund on the succeeding January 1 unless carried forward to the next calendar
 16 year by the joint committee on finance.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 a. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 318, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434; 2007 a. 20 ss. 331 to 422, 9121 (6) (a); 2007 a. 39, 88, 107, 111, 130; 2009 a. 2, 15; 2009 a. 28 ss. 325 to 470, 485, 488, 490; 2009 a. 76, 180, 190, 219, 274, 276, 279, 318, 334; 2011 a. 32, 70, 257; 2013 a. 20, 92; 2013 a. 116 s. 31; 2013 a. 126, 127, 129, 131, 132, 137; 2013 a. 166 s. 27; 2013 a. 168 s. 21; 2013 a. 195, 203, 246; s. 13.92 (2) (i).

17 **SECTION 2.** 46.27 (13) of the statutes is created to read:

18 46.27 (13) PROGRAM TERMINATION. Notwithstanding subs. (5), (6), (6g), (6u), (7),
 19 (7m), (8), and (11), after the date the family care benefit, as defined in s. 46.2805 (4),
 20 is available to eligible residents of a county, the department may discontinue the
 21 program under this section in that county.

1
2

SECTION 3. 46.271 of the statutes is created to read:

46.271 Children's community options program. (1) DEFINITIONS. In this section:

(a) "Child" means a person under 24 years of age.

(b) "Disability" means a severe physical, emotional, or mental impairment which is diagnosed medically, behaviorally, or psychologically, which is characterized by the need for individually planned and coordinated care, treatment, vocational rehabilitation, or other services and which has resulted ^{or} (of) is likely to result in substantial limitation on the ability to function in at least 3 of the following areas:

1. Self-care.
2. Receptive and expressive language.
3. Learning.
4. Mobility.
5. Self-direction.
6. Capacity for independent living.
7. Economic self-sufficiency.

(c) "Hospital" has the meaning provided in s. 50.33 (2).

(d) "Institutional setting" means a nursing home, as defined in s. 50.01 (3), a state-operated long-term care facility, or any other residential facility that provides long-term care to children outside of a home.

(e) "Residence" means the voluntary concurrence of physical presence with intent to remain in a place of fixed habitation. Physical presence shall be prima facie evidence of intent to remain.

1 (f) “State-operated long-term care facility” means a state center for the
2 developmentally disabled and a Wisconsin veterans home operated by the
3 department of veterans affairs under s. 45.50.

4 (g) “Voluntary” means according to an individual’s free choice, if competent, or
5 by choice of his or her parent or guardian, if the individual is adjudicated
6 incompetent or is a minor.

7 (2) DEPARTMENTAL DUTIES. The department shall do all of the following to
8 establish a children’s community options program:

9 (a) Review and approve or disapprove the selection of a county department
10 under sub. (4) (a) to administer the children’s community options program.

11 (b) In consultation with representatives of counties, hospitals, and other
12 institutional settings and with recipients of children’s community support services,
13 develop guidelines for implementing the program and criteria for reviewing
14 community options plans from counties participating in the program under this
15 section. The guidelines and criteria shall address cost-effectiveness, scope,
16 feasibility and impact on the quality and appropriateness of health services and
17 social services and shall provide counties with maximum flexibility to develop
18 programs that address local needs.

19 (c) Review and approve or disapprove the community options plan of each
20 county participating in the children’s community options program.

21 (d) Require that a county, by use of a form provided by the department or other
22 appropriate procedure, ensure that persons receiving services under this section
23 meet the eligibility requirements for the children’s community options program.

24 (e) Periodically monitor the implementation of the children’s community
25 options program.

1 (f) Review and approve or disapprove the terms of risk reserve escrow accounts
2 created under sub. (13) (f) and approve or disapprove disbursements for
3 administrative or staff costs from the risk reserve escrow accounts.

4 (3) COUNTY PARTICIPATION. A county may not participate in or implement the
5 children's community options program under this section unless the family care
6 benefit, as defined in s. 46.2805 (4), is available to eligible residents of that county.

7 (4) DUTIES OF PARTICIPATING COUNTIES. The county board of supervisors of any
8 county participating in the children's community options program shall do all of the
9 following:

10 (a) Designate one of the following, subject to departmental review and
11 approval, to administer the program:

12 1. A county department under s. 46.215 or 46.22.

13 2. A county department under s. 51.42 to which the powers and duties of a
14 county department under s. 51.437 have been transferred under s. 51.437 (4g) (b).

15 3. A county department under s. 46.23.

16 4. The director of the county department of human services who is appointed
17 under s. 46.21 (1m).

18 (b) Develop procedures and phases for gradual implementation of this section
19 in accordance with guidelines and criteria the department develops under sub. (2)

20 (b).

21 (c) Review and approve, disapprove, or amend a community options plan to
22 participate in the program, prior to submitting the plan to the department.

23 (d) Ensure that the program uses existing county resources and personnel to
24 the greatest extent practicable.

1 **(5) POWERS AND DUTIES OF A PRIVATE NONPROFIT AGENCY.** A private nonprofit
2 agency with which the department contracts for service under sub. (14) (b) 3. shall
3 have the powers and duties under this section of a county department designated
4 under sub. (4) (a) to administer the program.

5 **(6) DUTIES OF ADMINISTERING AGENCY.** A county department or other entity
6 selected by the department shall recommend a community options plan for
7 participation in the children's community options program that includes all of the
8 following:

9 (a) A description of the county's proposed program, including the estimated
10 numbers of persons to be assessed and the procedures to be used in performing
11 assessments.

12 (b) A description of the services available and the services to be developed or
13 expanded as alternatives to institutional care under this program.

14 (c) A description of the procedures to be used to coordinate the program with
15 other county agencies, hospitals, nursing homes, and providers of community
16 support services.

17 (d) A description of the method to be used to monitor the implementation of the
18 program.

19 **(7) COUNTY DEPARTMENT DUTIES.** The county department selected to administer
20 the children's community options program shall:

21 (a) Organize assessment activities specified in par. (f) and sub. (8). The county
22 department shall utilize persons for each assessment who can determine the needs
23 of the child being assessed and who know the availability within the county of
24 services. The county department shall coordinate the involvement of
25 representatives from the county departments under ss. 46.215, 46.22, 51.42 and

1 51.437, and health service providers in the assessment activities specified in sub. (8),
2 as well as the child being assessed and members of the child's family or the child's
3 guardian.

4 (b) Within the limits of state and federal funds allocated under sub. (13),
5 arrange service contracts under s. 46.036 and ensure the provision of necessary
6 long-term community support services for each person who meets the criteria specified in sub.
7 (8) (b). *child*

8 (c) Within the limits of state and federal funds allocated under sub. (13),
9 provide for ongoing care management services in accordance with the requirements
10 established under sub. (10) (b) 1., periodic case plan review and follow-up services
11 for any person receiving community support services under sub. (8) (b). *child*

12 (d) Determine, under sub. (9), the cost-sharing obligations, if any, for all
13 families or guardians of children who meet the criteria specified in sub. (8) (b) and
14 are applying for or receiving children's community support services that are funded
15 under sub. (13) or (14).

16 (e) In the instances in which a child who is provided community support
17 services under this section for which the child or his or her parent or guardian
18 receives direct funding, serve directly as a fiscal agent or contract with a fiscal
19 intermediary to serve as a fiscal agent for that individual for the purposes of
20 performing the responsibilities and protecting the interests of the individual under
21 the unemployment insurance law. The county department may elect to act as a fiscal
22 agent or contract with a fiscal intermediary to serve as a fiscal agent for an individual
23 who is provided long-term community support services under s. 46.275, 46.277, 46.278, 46.2785,
24 46.495, 51.42, or 51.437. The fiscal agent under this paragraph is responsible for
25 remitting any federal unemployment compensation taxes or state unemployment

1 insurance contributions owed by the (individual), including any interest and penalties
 2 which are owed by the (individual); for serving as the representative of the (individual)
 3 in any investigation, meeting, hearing or appeal involving ch. 108 or the federal
 4 unemployment tax act (26 USC 3301 to 3311) in which the (individual) is a party; and
 5 for receiving, reviewing, completing and returning all forms, reports and other
 6 documents required under ch. 108 or the federal unemployment tax act on behalf of
 7 the (individual). A (individual) may make an informed, knowing and voluntary
 8 election to waive the right to a fiscal agent. The waiver may be as to all or any portion
 9 of the fiscal agent's responsibilities. The waiver may be rescinded in whole or in part
 10 at any time.

****NOTE: This paragraph appears to apply if the recipient of children's COP services may self-direct their services and pay providers directly for those services, such as home health nurses. If it is anticipated that recipients of children's COP benefit would not be able to pay providers directly, then this paragraph should be deleted.

11 (f) Develop assessments and care plans according to uniform criteria
 12 established by the department for children in all long-term care programs.

13 (8) FUNCTIONAL ELIGIBILITY; ASSESSMENTS. (a) 1. Subject to sub. (3) and within
 14 the limits of state and federal funds allocated under sub. (13) and within the limits
 15 of fees collected, an assessment shall be conducted for any child with a disability who
 16 may be placed in an institutional setting and for those children and in accordance
 17 with the procedures described in the county's community options plan under sub. (7)

18 (f). The county may elect to establish assessment priorities for children in target
 19 groups identified by the county in its plan regarding gradual implementation. A fee
 20 may be charged, unless prohibited, for the assessment.

****NOTE: Do you want the assessments to be mandatory for certain children or at the request of the child's parents or guardian?

1 2. Each assessment shall determine the child's functional abilities, disabilities,
2 and need for medical and social long-term community support services. Each
3 assessment shall include an investigation of long-term community support services
4 that could serve as alternatives to institutional care. The assessment shall include
5 an explanation of the potential community alternatives to the child being assessed
6 and the child's family or guardian.

7 3. An assessment under subd 1. is not required in any of the following
8 circumstances:

9 a. A child or community options plan is excluded because of gradual
10 implementation of the program under sub. (4) (5). *b*

11 b. A child is placed in an institutional setting in an emergency. An assessment
12 shall be completed within 10 days of admission to the institution if the admission was
13 an emergency.

14 c. The child would be admitted under a private pay agreement but the child will
15 be eligible for Medical Assistance within 6 months of admission to an inpatient
16 setting.

17 d. A child is readmitted to an institutional setting from a hospital within 6
18 months of an assessment under subd. 1.

19 e. A child or the parents or guardian of the child waive the assessment.

20 (b) Within the limits of state and federal funds allocated under sub. (13) and
21 within the limits of fees collected unless prohibited, a community services case plan
22 shall be developed for any child who has a disability and who meets all of the
23 following criteria:

24 1. Who is assessed under par. (a).

1 2. For whom noninstitutional community services are feasible, financially
2 viable and preferred by the child or the child's parent or guardian. In this
3 subdivision, noninstitutional community services are financially viable if they can
4 be financed by state or federal funds allocated under sub. (13).

5 (c) If the county, through an assessment, determines that a community
6 arrangement is not feasible, the county department administering the program shall
7 explain the reasons to the ^{child} person and his or her family or guardian. The county
8 department administering the program shall maintain records sufficient to provide
9 the department with a periodic review of the reasons community arrangements were
10 not feasible in order to assist future program planning.

11 (d) The amount of any fee or cost-sharing amount charged for conduct of an
12 assessment under par. (a) or for development of a case plan under par. (b) shall be
13 in accordance with a sliding scale formula established by the department under sub.
14 (9). A fee may not be charged if prohibited under ^{the} federal Medicaid law.

15 (e) The department shall encourage counties to use public health nurses who
16 meet the requirements of s. 250.06 (1) to conduct assessments under this subsection.

17 (f) No county may use funds received under sub. (13) (a) 2. to pay for long-term
18 community support services provided a ^{child} person who has not resided in this state for
19 at least 180 consecutive days before applying for or receiving long-term community
20 support services that are funded under sub. (13) (a) 2.

21 **(9) FINANCIAL ELIGIBILITY AND COST-SHARING REQUIREMENTS.** (a) The department
22 shall create a sliding scale formula for a cost-sharing amount chargeable for conduct
23 of an assessment under sub. (7) (a) ⁽⁸⁾ or for development of a case plan under sub. (7) ⁽⁸⁾
24 (b) that is based on the ^{child's} person's ability to pay, unless prohibited from payment ^{under the} federal
25 Medicaid law.

1 (b) The county department selected to administer the program shall require all
 2 persons *children or their parents or guardians* applying for children's long-term community support services at the time
 3 of application and all persons *children* receiving the services that are funded under sub. (13)
 4 or (14) annually to provide the following information:

- 5 1. A declaration of income, on a form prescribed by the department.
- 6 2. A declaration of costs paid annually for care and services related to the
- 7 special needs or disability of the child for whom the application is made or services
- 8 are provided.

9 (c) From the information obtained under par. (b), the county department shall
 10 determine the amount of cost sharing required for receipt of children's long-term
 11 community support services under this section. The county department shall
 12 require payment by the person *child or parent or guardian of the child* of 100% *percent* of the amount calculated under this
 13 paragraph, unless the person *child* is a recipient of medical assistance under s. 49.472. If
 14 the person is a recipient of medical assistance under s. 49.472, the county
 15 department may not require any payment from the person under this subdivision *paragraph*.

16 (d) The county department shall use funds received under par (c) to pay for
 17 long-term community support services for children who are eligible under sub. (8).

18 **(10) SERVICES; CARE MANAGEMENT REQUIREMENTS.**

19 (a) 1. The department shall reimburse, if applicable, and the county
 20 department or private nonprofit agency shall provide long-term community support
 21 services to eligible children who have a disability, including all of the following
 22 services:

- 23 a. Home modification.
- 24 b. Adaptive equipment. ✓
- 25 c. Care management, subject to par. (b).

1 d. Communication aids.

2 e. Home health care.

3 2. The department may not reimburse and the county department or private
4 nonprofit agency may not pay for room and board for children under the children's
5 community options program.

****NOTE: The statutes do not contain an adequate description of services provided
under COP. I found the items on the list on the DHS website. As drafted, DHS may
provided additional long-term community support services to those on this list.

6 (b) The department, after consulting with representatives of counties,
7 hospitals, and individuals who receive services under the children's community
8 options program under this section, shall do all of the following:

9 1. Establish minimum requirements for the provision of care management
10 services, as defined by the department, including standards for care, times for
11 performance of duties, and size of caseloads.

12 2. Specify a reasonable schedule for phasing in the requirements established
13 under subd. 1.

14 3. Provide technical consultation and assistance to the administrator of the
15 program, as designated under sub. (4) (a), with respect to the requirements
16 established under subd. 1.

17 (c) The department need not promulgate as rules under ch. 227 the
18 requirements under par. (b) 1. or the schedule under par. (b) 2.

19 (11) FISCAL RESPONSIBILITY. Except as provided in s. 51.40, and within the
20 limitations under sub. (13) (a) 2., the fiscal responsibility of a county for an
21 assessment, unless the assessment is performed by an entity under a contract as
22 specified under s. 46.284 (2), case plan, or services provided to a person under this
23 section is as follows:

↓ - Child
↑

1 (a) For a child seeking admission to or about to be admitted to an institutional
2 setting, the county in which the person has residence is the county of fiscal
3 responsibility. *child*

4 (b) For a child residing in an institutional setting, except a state-operated
5 long-term care facility, the county in which the institution is located is the county
6 of fiscal responsibility.

7 (c) For a child living in an institutional setting, except a state-operated
8 long-term care facility, whose legal residence is established in another county, the
9 county in which the legal residence is established is the county of fiscal responsibility.

10 (d) For a child residing in a state-operated long-term care facility, or for a
11 person protectively placed under ch. 55, the county in which the child has residence
12 before he or she enters the state-operated long-term care facility or is protectively
13 placed is the county of fiscal responsibility.

14 (12) REIMBURSEMENT DISALLOWANCES. The department may disallow
15 reimbursement under this section for services provided to persons who do not meet
16 the eligibility requirements under sub. (8) or any other eligibility requirements
17 established by the department. *children*

18 (13) FUNDING. (a) Subject to sub. (3) *and* par. (b) from the appropriation under
19 s. 20.435 (7) (b), the department shall allocate funds to each county or private
20 nonprofit agency with which the department contracts for all of the following
21 purposes:

- 22 1. To pay assessment and case plan costs under sub. (8) not otherwise paid by
23 fee or under s. 49.45 or 49.78 (2). The department shall reimburse multicounty
24 consortia for the cost of assessing persons eligible for medical assistance under s.
25 49.46, 49.46~~8~~, 49.47, or 49.471 (4) (a) as part of the administrative services of medical *children*

1 assistance, payable under s. 49.45 (3) (a). Counties may use unspent funds allocated
2 under this ^{subdivision} paragraph to pay the cost of long-term community support services and
3 for a risk reserve under par. (f).

4 2. To pay the cost of providing long-term community support services described
5 under sub. (7) (b) not otherwise paid under s. 49.45 to ^{children} persons eligible for medical
6 assistance under s. 49.46, 49.47, or 49.471 (4) (a) or to ^{children} persons whose family the
7 county department administering the program finds likely to become medically
8 indigent within 6 months by spending excess income or assets for medical or
9 remedial care. The average per person reimbursement under this paragraph may
10 not exceed the state share of the average per person payment rate the department
11 expects under s. 49.45 (6m). The county department administering the program may
12 spend funds received under this paragraph only in accordance with the case plan and
13 service contract created for each ^{child} person receiving long-term community support
14 services. Counties may use unspent funds allocated under this ^{subdivision} paragraph from the
15 appropriation under s. 20.435 (7) (b) for a risk reserve under par. (f).

16 (b) 1. Receipt of funds under this section is subject to s. 46.495 (2).

17 2. The department may not release funds under this subsection before
18 approving the county's community options plan.

19 3. No county may use funds received under par. (a) 2. to pay for long-term
20 community support services provided to any ^{child} person who resides in a nursing home,
21 unless the department waives this restriction on use of funds and the services are
22 provided in accordance with a discharge plan.

23 4. No county may use funds received under this section to purchase land or
24 construct buildings. *

1 (c) The department may release funds to counties acting jointly, if the counties
2 sign a contract approved by the secretary that explains the plans for joint
3 sponsorship.

4 (d) If the department determines that a county demonstrates a pattern of
5 failure to serve clients whose cost of care significantly exceeds the average cost of care
6 for children's long-term community support services provided under this section, the
7 department may require that county to reserve a portion of funds allocated under
8 this subsection for provision of service to those clients.

9 (e) The department shall, at the request of a county, carry forward up to 5% of
10 the amount allocated under this subsection to the county for a calendar year if up to
11 5% of the amount so allocated has not been spent or encumbered by the county by
12 December 31 of that year, for use by the county in the following calendar year, except
13 that the amount carried forward shall be reduced by the amount of funds that the
14 county has notified the department that the county wishes to place in a risk reserve
15 under par. (f). The department may transfer funds within s. 20.435 (7) (b) to
16 accomplish this purpose. An allocation under this paragraph does not affect a
17 county's base allocation under this subsection and shall lapse to the general fund
18 unless expended within the calendar year to which the funds are carried forward.
19 A county may not expend funds carried forward under this paragraph for
20 administrative or staff costs, except administrative or staff costs that are associated
21 with implementation of the waiver under sub. (14) and approved by the department.

22 (f) 1. Notwithstanding s. 46.036 (3) and (5m), a county may place in a risk
23 reserve funds that are allocated under par. (a) or sub. (14) (b) 1. and are not expended
24 or encumbered for services under this subsection or sub. (14). The county shall notify
25 the department of this decision and of the amount to be placed in the risk reserve.

1 The county shall maintain the risk reserve in an interest-bearing escrow account
2 with a financial institution, as defined in s. 69.30 (1) (b), if the department has
3 approved the terms of the escrow. All interest from the principal shall be reinvested
4 in the escrow account.

5 2. The annual amount of a county's expenditure for a risk reserve, as specified
6 in subd. 1., may not exceed 10% of the county's most recent allocation under par. (a)
7 and sub. (14) (b) 1. or \$750,000, whichever is less. The total amount of the risk
8 reserve, including interest, may not exceed 15% of the county's most recent allocation
9 under this subsection.

10 3. A county may expend funds maintained in a risk reserve, as specified in subd.
11 1., for any of the following purposes:

12 a. To defray costs of children's long-term community support services under
13 this section.

14 b. If approved by the department, for administrative or staff costs under this
15 section.

16 4. A county that maintains a risk reserve, as specified in subd. 1., shall
17 annually, on a form prescribed by the department, submit to the department a record
18 of the status of the risk reserve, including revenues and disbursements.

19 (g) The department may carry forward to the next state fiscal year funds
20 allocated under this subsection and not encumbered by counties by December 31 or
21 carried forward under par. (e). The department may transfer moneys within s.
22 20.435 (7) (b) to accomplish this purpose. An allocation under this paragraph shall
23 not affect a county's base allocation for the program. The department may allocate
24 these transferred moneys during the next fiscal year to counties for the improvement
25 or expansion of long-term community support services for clients whose cost of care

1 significantly exceeds the average cost of care provided under this section, including
2 any of the following:

- 3 1. Specialized training for providers of services under this section.
- 4 2. Start-up costs for developing needed services.
- 5 3. Home modifications.
- 6 4. Purchase of medical equipment or other specially adapted equipment.

7 (14) MEDICAL ASSISTANCE WAIVER. (a) The department shall request a waiver
8 from the federal department of health and human services authorizing the
9 department to provide as part of the Medical Assistance program services for persons
10 who are eligible for children's long-term support community options program
11 services under sub. (7) (b).

12 (b) 1. Medical assistance reimbursement for services a county, ^{or} a private
13 nonprofit agency ^{or} with which the department contracts provides under this
14 subsection shall be made from the appropriation under s. 20.435 (7) (b). Payments
15 made under sub. (13) (a) may be used as the state share for purposes of Medical
16 Assistance reimbursement.

17 2. The department may provide reimbursement for services provided under
18 this subsection by counties that are in excess of the current average annual per
19 person rate, as established by the department, and are less than or equal to the
20 average amount approved in the waiver received under par. (a).

21 3. The department may contract for services under this subsection with a
22 county or a private nonprofit agency.

23 4. No county, ^{or} private nonprofit agency may use funds received under this
24 subsection to provide residential services in a group home, as defined in s. 48.02 (7),

1 that has more than 5 beds, unless the department approves the provision of services
2 in a group home that has 6 to 8 beds.

3 (c) If a county department or private nonprofit agency providing services under
4 this subsection is certified under s. 49.45 (37) (a), the waiver under s. 49.45 (37), if
5 in effect, applies to plans of care for children receiving services under this subsection.

6 (15) RIGHT TO HEARING. A ^{child} ~~person~~ who is denied eligibility for services or whose
7 services are reduced or terminated under this section may request a hearing from the
8 department under s. 227.44, except that lack of adequate funding may not serve as
9 the basis for a request under this subsection.

10 (16) REPORT. Beginning January 1, 2017, and every January 1 thereafter, the
11 department shall submit a report to the joint committee on finance and to the
12 appropriate standing committees under s. 13.172 (3), summarizing the data
13 collected for the state and for individual counties under the program in the calendar
14 year ending immediately before the preceding calendar year.

History: 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (5); 1983 a. 192, 239; 1985 a. 29 ss. 876s to 896am, 3200 (56); 1985 a. 120, 176; 1987 a. 27, 399; 1989 a. 31, 77, 336, 359; 1991 a. 32, 39, 235, 274; 1993 a. 16, 27, 437; 1995 a. 27; 1997 a. 13, 27, 39, 79, 237; 1999 a. 9, 63; 2001 a. 16, 103; 2003 a. 33; 2005 a. 22, 25, 264, 386, 387; 2007 a. 20 ss. 904 to 921, 9121 (6) (a); 2007 a. 141; 2009 a. 2; 2011 a. 32; 2013 a. 20, 92; 2013 a. 165 s. 114.

15 SECTION 4. 46.2803 (2) of the statutes is amended to read:

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

History: 1999 a. 9; 2007 a. 20 ss. 934, 1019, 1020, 9121 (6) (a).

23 SECTION 5. 46.40 (1) (a) of the statutes is amended to read:

1 46.40 (1) (a) Within the limits of available federal funds and of the
2 appropriations under s. 20.435 (7) (b) and (o), the department shall distribute funds
3 for community social, mental health, developmental disabilities, and alcohol and
4 other drug abuse services and for services under ss. 46.87, ~~46.985~~, and 51.421 to
5 county departments under ss. 46.215, 46.22, 46.23, 51.42, and 51.437 and to county
6 aging units, as provided in subs. (2), (2m), (8), and ~~(7)~~ to (9).

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; 2007 a. 20 ss. 1096 to 1104g, 9121 (6) (a); 2009 a. 28, 180; 2011 a. 32.

7 **SECTION 6.** 46.40 (7) of the statutes is repealed.

8 **SECTION 7.** 46.40 (14m) of the statutes is amended to read:

9 46.40 (14m) COUNTY COMMUNITY AIDS BUDGETS. Before December 1 of each year,
10 each county department under ss. 46.215, 46.22, 46.23, 51.42 and 51.437 and each
11 tribal governing body shall submit to the department a proposed budget for the
12 expenditure of funds allocated under this section or carried forward under s. 46.45
13 (3) (a). The proposed budget shall be submitted on a form developed by the
14 department and approved by the department of administration.

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; 2007 a. 20 ss. 1096 to 1104g, 9121 (6) (a); 2009 a. 28, 180; 2011 a. 32.

15 **SECTION 8.** 46.45 (3) (a) of the statutes is amended to read:

16 46.45 (3) ^(a) Except as provided in par. (b), at the request of a county, tribal
17 governing body, or private nonprofit organization, the department shall carry
18 forward up to 3% of the total amount allocated to the county, tribal governing body,
19 or nonprofit organization for a calendar year, ~~not including the amount allocated to~~
20 the county under s. 46.40 (7), which amount may be carried forward as provided in
21 par. (e). All funds carried forward for a tribal governing body or nonprofit
22 organization and all funds allocated under s. 46.40 (2m) carried forward for a county
23 shall be used for the purpose for which the funds were originally allocated. Other

1 funds carried forward under this paragraph may be used for any purpose under s.
2 20.435 (7) (b), except that a county may not use any funds carried forward under this
3 paragraph for administrative or staff costs. An allocation of carried-forward funding
4 under this paragraph does not affect a county's base allocations under s. 46.40 (2),
5 (2m), (8), and (9).

6 History: 1987 a. 27, 399, 405; 1989 a. 31, 122, 336; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27, 404; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 320; 2007 a. 20.

SECTION 9. 46.45 (3) (c) of the statutes is repealed.

SECTION 10. 46.45 (6) (a) of the statutes is renumbered and amended to read:

46.45 (6) (a) The department may carry forward 10% of any funds specified in
9 sub. (3) (a) that are not carried forward under sub. (3) (a) for emergencies, for
10 justifiable unit services costs above planned levels, and for increased costs due to
11 population shifts. An allocation of carried-forward funding under this paragraph
12 does not affect a county's base allocations under s. 46.40 (2), (2m), (8), and (9).

13 History: 1987 a. 27, 399, 405; 1989 a. 31, 122, 336; 1991 a. 39, 269; 1993 a. 16; 1995 a. 27, 404; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 320; 2007 a. 20.

SECTION 11. 46.45 (6) (b) of the statutes is repealed.

SECTION 12. 46.56 (3) (a) 4. of the statutes is repealed.

SECTION 13. 46.56 (10) of the statutes is repealed.

SECTION 14. 46.985 of the statutes is repealed.

SECTION 15. 49.45 (6v) (c) of the statutes is repealed.

SECTION 9418. Effective dates; Health Services.

19 (1) CHANGES TO COMMUNITY OPTIONS PROGRAM; CHILDREN'S COMMUNITY OPTIONS
20 PROGRAM. The treatment of sections 20.435 (7) (b), 46.27 (13), 46.271, 46.2803 (2),
21 46.40 (1) (a), (7), and (14m), 46.45 (3) (a) and (c) and (6) (a) and (b), 46.56 (3) (a) 4.
22 and (10), 46.985, and 49.45 (6v) (c) of the statutes takes effect on January 1, 2016.

46.45 (6)

Change
8

46.272

Dodge, Tamara

From: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Sent: Tuesday, January 27, 2015 2:54 PM
To: Dodge, Tamara
Subject: Children's COP draft

Hi Tami –

There are some changes to this draft. There may be one additional change, I am checking with DHS and will get back with you ASAP. Please let me know if you have any questions or concerns, or wish to discuss.

Thank you,
Cindy

First, Childrens COP should be funded out of 7bd, not 7b.

Page 4, lines 23-25 – delete all of (3). Originally this was to apply only to Family Care counties but we would like it to apply to all counties now.

Page 8, comment between line 4 and 5 – ok as drafted.

Page 8, comment between lines 14 and 15 – Modify (8): Line 9 after the word “disability” add “seeking services in the program.” Delete the remainder of (8). The intent here is to require that all children wishing to be served in the program undergo an assessment. The (8) language in the draft is adapted from s. 46.27(6). However, the purpose behind s. 46.27(6) is primarily to have counties conduct assessments for individuals who are at risk of entering an institution, as a way to inform them about community living options before they make the decision to enter the facility. For children’s COP, we simply want to have assessments for children who wish to be served in the program.

Page 10, line 10 – delete the 180 wait period in (f)

Page 10, line 14 – Please eliminate the word “cost share” throughout and use the word “fee” instead. Cost shares would be prohibited by Medicaid, but a fee applying to all state children’s programs is OK. (9)(a) should be broadened to include service costs, not just assessment and care plan development.

Page 12 LRB comment – to avoid confusion, please delete the list of services, since they are incomplete. Retain (10)(a)1. Intro and 2.

Page 13, line 16 – change appropriation to (7)(bd)

p. 14 lines 1-12 – delete the following language: “or to children whose family the county department administering the program finds likely to become medically indigent within 6 months by spending excess income or assets for medical or remedial care. The average per person reimbursement under this paragraph may not exceed the state share of the average per person payment rate the department expects under s. 49.45 (6m).”

Pg 15, line 13 – change appropriation to (7)(bd)

Pg 16, line 20 - change appropriation to (7)(bd)

Pg 17, line 5 - change “shall” to “may.”

Pg 17, line 12 – change “appropriation” to “appropriations” and after “under” replace “s. 20.435 (7) (b)” with “s. 20.435 (4)(o) and (7) (b) and (7) (bd).” This change would match existing statute.

Pg 17, line 15 – after “may” add “, from the appropriation under s. 20.435 (4) (o),” This change would match existing statute.

P. 18 line 8 – do not create the required report under (16).

Pg 20 line 12 – all of s. 49.45(6v) should be deleted. Not just (c)

Cynthia Dombrowski
Executive Policy and Budget Analyst
Wisconsin State Budget Office
608-267-7980 (p)
cynthia.dombrowski@wisconsin.gov

22y.o.
in
D46-272 (1) (a) not adult long term care program
or on waiting list

2) Disability – ^{developmental} nursing home or IMD level of
care

46.985 (3) & (4)

sub for (4) ↓ (6)

Include 46.985 (7)(b) under (13) funding

Dodge, Tamara

From: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Sent: Tuesday, January 27, 2015 4:44 PM
To: Dodge, Tamara
Subject: RE: Children's COP draft

Tami –

Here are the other changes to this draft. I believe this will be it for this draft. Please let me know if you have any questions or concerns, or wish to discuss. I realize this is a lot on this draft and please let me know if there are time constraints to draft these changes.

Thank you for all of your help today.

Cindy

Additional changes:

- a) to modify the definition under s. 46.272(1)(a) to be a child under 22 years of age who is not receiving services in an adult long term care program or on a waiting list for an adult long term care program
- b) Modify the definition of "disability" to say:

"(b) "Disability" means a severe physical, developmental or emotional, or mental impairment which is diagnosed medically, behaviorally, or psychologically, which is characterized by the need for individually planned and coordinated care, treatment, vocational rehabilitation, or other services and which has resulted or is likely to result in substantial limitation on the ability to function in at least 3 of the following areas, equivalent to a nursing home or IMD level of care:

1. Self-care.
2. Receptive and expressive language.
3. Learning.
4. Mobility.
5. Self-direction.
- ~~6. Capacity for independent living.~~
- ~~7. Economic self-sufficiency.~~

p. 5 Replace (4) Duties of Participating Counties and (6) Duties of Administering Agency with language equivalent to the Family Support statute at s. 46.985(3) and (4).

P 14 Add non supplanting language equivalent to s. 46.985(7)(b)

From: Dombrowski, Cynthia A - DOA
Sent: Tuesday, January 27, 2015 2:54 PM
To: Dodge, Tamara - LEGIS (Tamara.Dodge@legis.wisconsin.gov)
Subject: Children's COP draft

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Pg 17, line 5 - change “shall” to “may.”

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Cynthia Dombrowski
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