



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 II**

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



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-1255/P1
TJD:kjf:jm

P2

In: 1/27/15

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

FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION

Don + 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. 46.272, for Medical Assistance payment adjustments under s

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
 year by the joint committee on finance.

Insert
2-11

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.

22 SECTION 3. 46.272 of the statutes is created to read:

23 46.272 Children's community options program. (1) DEFINITIONS. In this
 24 section:

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

22
 who is not receiving
 services in or on a waiting
 list for an adult
 long-term care program

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

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

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equivalent to nursing home or institution for mental disease level of care

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

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

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

20 (f) "State-operated long-term care facility" means a state center for the
21 developmentally disabled and a Wisconsin veterans home operated by the
22 department of veterans affairs under s. 45.50.

23 (g) "Voluntary" means according to an individual's free choice, if competent, or
24 by choice of his or her parent or guardian, if the individual is adjudicated
25 incompetent or is a minor.

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

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

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

13 (c) Review and approve or disapprove the community options plan of each
14 county participating in the children's community options program.

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

18 (e) Periodically monitor the implementation of the children's community
19 options program.

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

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

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

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

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

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

9 3. A county department under s. 46.23.

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

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

14 (b).

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

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

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

23 (6) DUTIES OF ADMINISTERING AGENCY. A county department or other entity
24 selected by the department shall recommend a community options plan for

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51-23

1 participation in the children's community options program that includes all of the
2 following:

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

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

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

11 (d) A description of the method to be used to monitor the implementation of the
12 program.

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

15 (a) Organize assessment activities specified in par. (f) and sub. (8). The county
16 department shall utilize persons for each assessment who can determine the needs
17 of the child being assessed and who know the availability within the county of
18 services. The county department shall coordinate the involvement of
19 representatives from the county departments under ss. 46.215, 46.22, 51.42 and
20 51.437, and health service providers in the assessment activities specified in sub. (8),
21 as well as the child being assessed and members of the child's family or the child's
22 guardian.

23 (b) Within the limits of state and federal funds allocated under sub. (13),
24 arrange service contracts under s. 46.036 and ensure the provision of necessary

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1 long-term community support services for each child who meets the criteria
2 specified in sub. (8) (b).

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

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

11 (e) In the instances in which a child who is provided community support
12 services under this section for which the child or his or her parent or guardian
13 receives direct funding, serve directly as a fiscal agent or contract with a fiscal
14 intermediary to serve as a fiscal agent for that child for the purposes of performing
15 the responsibilities and protecting the interests of the individual under the
16 unemployment insurance law. The county department may elect to act as a fiscal
17 agent or contract with a fiscal intermediary to serve as a fiscal agent for a child who
18 is provided long-term community support services under s. 46.275, 46.277, 46.278,
19 46.2785, 46.495, 51.42, or 51.437. The fiscal agent under this paragraph is
20 responsible for remitting any federal unemployment compensation taxes or state
21 unemployment insurance contributions owed by the child, including any interest
22 and penalties which are owed by the child; for serving as the representative of the
23 child in any investigation, meeting, hearing or appeal involving ch. 108 or the federal
24 unemployment tax act (26 USC 3301 to 3311) in which the child is a party; and for
25 receiving, reviewing, completing and returning all forms, reports and other

fee

1 documents required under ch. 108 or the federal unemployment tax act on behalf of
2 the child. A child may make an informed, knowing and voluntary election to waive
3 the right to a fiscal agent. The waiver may be as to all or any portion of the fiscal
4 agent's responsibilities. The waiver may be rescinded in whole or in part 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.

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

7 (8) FUNCTIONAL ELIGIBILITY, ASSESSMENTS. (a) 1. Subject to sub. (3) and within
8 the limits of state and federal funds allocated under sub. (13) and within the limits
9 of fees collected, an assessment shall be conducted for any child with a disability who

10 may be placed in an institutional setting and for those children and in accordance
11 with the procedures described in the county's community options plan under sub. (7)

12 (f). The county may elect to establish assessment priorities for children in target
13 groups identified by the county in its plan regarding gradual implementation. A fee
14 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?

is seeking services in the program.

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

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

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

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

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

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

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

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

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

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

23 (c) If the county, through an assessment, determines that a community
24 arrangement is not feasible, the county department administering the program shall
25 explain the reasons to the child and his or her family or guardian. The county

1 department administering the program shall maintain records sufficient to provide
2 the department with a periodic review of the reasons community arrangements were
3 not feasible in order to assist future program planning.

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

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

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

14 (9) FINANCIAL ELIGIBILITY AND COST-SHARING REQUIREMENTS (a) The department
15 shall create a sliding scale formula for a cost-sharing amount chargeable for conduct
16 of an assessment under sub. (8) or for development of a case plan under sub. (8) (b)
17 that is based on the child's ability to pay, unless prohibited from payment under the
18 federal Medicaid law.

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

23 1. A declaration of income, on a form prescribed by the department.

FEEs

fee

and for children's long-term community support services

1 2. A declaration of costs paid annually for care and services related to the
2 special needs or disability of the child for whom the application is made or services
3 are provided.

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

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

14 **(10) SERVICES; CARE MANAGEMENT REQUIREMENTS.** (a) 1. The department shall
15 reimburse, if applicable, and the county department or private nonprofit agency
16 shall provide long-term community support services to eligible children who have
17 a disability, including all of the following services:

- 18 a. Home modification.
- 19 b. Adaptive equipment.
- 20 c. Care management, subject to par. (b).
- 21 d. Communication aids.
- 22 e. Home health care.

23 2. The department may not reimburse and the county department or private
24 nonprofit agency may not pay for room and board for children under the children's
25 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.

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

4 1. Establish minimum requirements for the provision of care management
5 services, as defined by the department, including standards for care, times for
6 performance of duties, and size of case loads.

7 2. Specify a reasonable schedule for phasing in the requirements established
8 under subd. 1.

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

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

14 (11) FISCAL RESPONSIBILITY. Except as provided in s. 51.40, and within the
15 limitations under sub. (13) (a) 2., the fiscal responsibility of a county for an
16 assessment, unless the assessment is performed by an entity under a contract as
17 specified under s. 46.284 (2), case plan, or services provided to a child under this
18 section is as follows:

19 (a) For a child seeking admission to or about to be admitted to an institutional
20 setting, the county in which the child has residence is the county of fiscal
21 responsibility.

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

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

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

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

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

- 19 1. To pay assessment and case plan costs under sub. (8) not otherwise paid by
20 fee or under s. 49.45 or 49.78 (2). The department shall reimburse multicounty
21 consortia for the cost of assessing children eligible for medical assistance under s.
22 49.46, 49.468, 49.47, or 49.471 (4) (a) as part of the administrative services of medical
23 assistance, payable under s. 49.45 (3) (a). Counties may use unspent funds allocated
24 under this subdivision to pay the cost of long-term community support services and
25 for a risk reserve under par. (f).

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

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

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

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

20 4. No county may use funds received under this section to purchase land or
21 construct buildings.

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

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

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

20 (f) 1. Notwithstanding s. 46.036 (3) and (5m), a county may place in a risk
21 reserve funds that are allocated under par. (a) or sub. (14) (b) 1. and are not expended
22 or encumbered for services under this subsection or sub. (14). The county shall notify
23 the department of this decision and of the amount to be placed in the risk reserve.
24 The county shall maintain the risk reserve in an interest-bearing escrow account
25 with a financial institution, as defined in s. 69.30 (1) (b), if the department has

1 approved the terms of the escrow. All interest from the principal shall be reinvested
2 in the escrow account.

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

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

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

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

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

17 (g) The department may carry forward to the next state fiscal year funds
18 allocated under this subsection and not encumbered by counties by December 31 or
19 carried forward under par. (e). The department may transfer moneys within s.

20 20.435 (7) ^{e (bd)} (b) to accomplish this purpose. An allocation under this paragraph shall
21 not affect a county's base allocation for the program. The department may allocate
22 these transferred moneys during the next fiscal year to counties for the improvement
23 or expansion of long-term community support services for clients whose cost of care
24 significantly exceeds the average cost of care provided under this section, including
25 any of the following:

Insert 17-5

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

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

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

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

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

21 4. No county or private nonprofit agency may use funds received under this
 22 subsection to provide residential services in a group home, as defined in s. 48.02 (7),
 23 that has more than 5 beds, unless the department approves the provision of services
 24 in a group home that has 6 to 8 beds.

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

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

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

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

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

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

22 46.40 (1) (a) Within the limits of available federal funds and of the
23 appropriations under s. 20.435 (7) (b) and (o), the department shall distribute funds
24 for community social, mental health, developmental disabilities, and alcohol and
25 other drug abuse services and for services under ss. 46.87, 46.985, and 51.421 to

1 county departments under ss. 46.215, 46.22, 46.23, 51.42, and 51.437 and to county
2 aging units, as provided in subs. (2), (2m), ~~(8)~~, and ~~(7)~~ to (9).

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

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

5 46.40 (14m) COUNTY COMMUNITY AIDS BUDGETS. Before December 1 of each year,
6 each county department under ss. 46.215, 46.22, 46.23, 51.42 and 51.437 and each
7 tribal governing body shall submit to the department a proposed budget for the
8 expenditure of funds allocated under this section or carried forward under s. 46.45
9 (3) (a). The proposed budget shall be submitted on a form developed by the
10 department and approved by the department of administration.

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

12 46.45 (3) (a) Except as provided in par. (b), at the request of a county, tribal
13 governing body, or private nonprofit organization, the department shall carry
14 forward up to 3% of the total amount allocated to the county, tribal governing body,
15 or nonprofit organization for a calendar year, ~~not including the amount allocated to~~
16 ~~the county under s. 46.40 (7), which amount may be carried forward as provided in~~
17 ~~par. (e).~~ All funds carried forward for a tribal governing body or nonprofit
18 organization and all funds allocated under s. 46.40 (2m) carried forward for a county
19 shall be used for the purpose for which the funds were originally allocated. Other
20 funds carried forward under this paragraph may be used for any purpose under s.
21 20.435 (7) (b), except that a county may not use any funds carried forward under this
22 paragraph for administrative or staff costs. An allocation of carried-forward funding
23 under this paragraph does not affect a county's base allocations under s. 46.40 (2),
24 (2m), (8), and (9).

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

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

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

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

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

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

11 **SECTION 14.** 46.985 of the statutes is repealed.

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

13 **SECTION 9418. Effective dates; Health Services.** (bd)

14 (1) CHANGES TO COMMUNITY OPTIONS PROGRAM; CHILDREN'S COMMUNITY OPTIONS
15 PROGRAM. The treatment of sections 20.435 (7) (b), 46.27 (13), 46.272, 46.2803 (2),
16 46.40 (1) (a), (7), and (14m), 46.45 (3) (a) and (c) and (6) (a) and (b), 46.56 (3) (a) 4.
17 and (10), 46.985, and 49.45 (6v) (c) of the statutes takes effect on January 1, 2016.

18

(END)

**2015-2016 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1255/P2
TJD:.....

1 **INSERT 2-17** ✓

2 **SECTION 1.** 20.435 (4) (b) of the statutes is amended to read:

3 20.435 (4) (b) *Medical Assistance program benefits.* Biennially, the amounts

4 in the schedule to provide a portion of the state share of Medical Assistance program

5 benefits administered under subch. IV of ch. 49, for a portion of the Badger Care

6 health care program under s. 49.665, to provide a portion of the Medical Assistance

7 program benefits administered under subch. IV of ch. 49 that are not also provided

8 under par. (o), to fund the pilot project under s. 46.27 (9) and (10), to provide a portion

9 of the facility payments under 1999 Wisconsin Act 9, section 9123 (9m), to fund

10 services provided by resource centers under s. 46.283, for services under the family

11 care benefit under s. 46.284 (5), for assisting victims of diseases, as provided in ss.

12 49.68, 49.683, and 49.685, for distributing grants under s. 146.64, and for reduction

13 of any operating deficits as specified in 2005 Wisconsin Act 15, section 3.

14 Notwithstanding s. 20.002 (1), the department may transfer from this appropriation

15 account to the appropriation account under sub. (5) (kc) funds in the amount of and

16 for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002

17 (1), the department may credit or deposit into this appropriation account and may

18 transfer between fiscal years funds that it transfers from the appropriation account

19 under sub. (5) (kc) for the purposes specified in s. 46.485 (3r). ~~Notwithstanding s.~~

20 ~~20.002 (1), the department may transfer from this appropriation account to the~~

21 ~~appropriation account under sub. (7) (bd) funds in the amount and for the purposes~~

22 ~~specified in s. 49.45 (6v).~~ ✓

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (e); 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. 77; 2013 a. 168 s. 21; 2013 a. 195, 203, 246; s. 13.92 (2) (i).

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

2 20.435 (7) (bd) *Long-term care programs.* The amounts in the schedule for
3 assessments, case planning, services, administration and risk reserve escrow
4 accounts under s. 46.27, for pilot projects under s. 46.271 (1), to fund services
5 provided by resource centers under s. 46.283 (5), for services under the family care
6 benefit under s. 46.284 (5), for services and supports under s. 46.2803 (2), for services
7 provided under the children's community options program under s. 46.272, and for
8 the payment of premiums under s. 49.472 (5). ~~If the department transfers funds to~~
9 ~~this appropriation from the appropriation account under sub. (4) (b), the amounts in~~
10 ~~the schedule for the fiscal year for which the transfer is made are increased by the~~
11 ~~amount of the transfer for the purposes specified in s. 49.45 (6v).~~ Notwithstanding
12 ss. 20.001 (3) (a) and 20.002 (1), the department may under this paragraph transfer
13 moneys between fiscal years. Except for moneys authorized for transfer under this
14 appropriation or under s. 46.27 (7) (fm) or (g), all moneys under this appropriation
15 that are allocated under s. 46.27 and are not spent or encumbered by counties or by
16 the department by December 31 of each year shall lapse to the general fund on the
17 succeeding January 1 unless transferred to the next calendar year by the joint
18 committee on finance.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (e); 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. 77; 2013 a. 168 s. 21; 2013 a. 195, 203, 246; s. 13.92 (2) (i).

19 **END INSERT 2-17**

1 **INSERT 5-1**

2 (4) **DUTIES OF PARTICIPATING COUNTY DEPARTMENTS.** Each participating county
3 department shall do all of the following:

4 (a) Appoint members to an advisory committee or appoint an existing
5 committee in the service area as the children's community options advisory
6 committee to assist in developing the program plan and to monitor the program. The
7 committee shall include, but need not be limited to, the following members:

8 1. Parents of children with disabilities including, if possible, parents from
9 families that participate in the children's community options program. To the
10 maximum extent possible, the parents shall be representative of the various
11 disability, racial and ethnic groups in the service area. The members specified under
12 this subdivision shall constitute a majority of the membership of the committee.

13 2. Persons from the service area representing the county department under s.
14 46.23, 51.42 or 51.437 and the county department under s. 46.215 or 46.22, school
15 districts and local health departments, as defined in s. 250.01 (4). At least one of the
16 committee members selected under this subdivision shall be a person providing
17 community social services to children with disabilities who are eligible for the
18 program.

19 3. Persons in the service area who provide social or educational services to
20 children who have disabilities other than the providers specified in subd. 2.

21 (b) Cooperate with the committee appointed under par. (a) to prepare a
22 program plan. The program plan shall include all of the following:

- 23 1. A description of the proposed program.
24 2. The estimated number of families that will be assessed and served.

1 3. A list of specific groups, if any, that will be given priority for available
2 funding.

3 4. A description of the outreach procedures that will be used to ensure that the
4 program will be made available to children with physical, emotional, and mental
5 impairments.

6 5. The procedures that will be used to determine family needs.

7 6. A description of the methods that will be used for the development and
8 monitoring of service plans and for coordinating the provision of services and goods
9 to participating families.

10 7. A description of the methods that will be used to promote the creation of
11 informal support and advocacy systems for families.

12 8. A description of the method that will be used to monitor the children's
13 community options program.

14 (c) Submit the proposed program plan to the county board of supervisors in each
15 county in the service area for review. After approval by the county board of
16 supervisors in each county in which families are eligible to participate in the
17 program, the county department shall submit the proposed program plan to the
18 department.

19 (d) Administer the program or contract with a human service agency in the
20 service area to administer the program within the limits of state and federal funds
21 under subs. (13) and (14).

22 (e) In conjunction with the county department under s. 46.215 or 46.22, if any,
23 in the service area and with the administering agency, if it is not the county
24 department under s. 46.23, 51.42 or 51.437, coordinate the administration of the

1 program with the administration of other publicly funded programs that serve
2 children who have disabilities.

3 (f) Submit all information and reports required by the department.

4 History: 1985 a. 29, 120, 176; 1985 a. 182 s. 57; 1987 a. 27, 186; 1989 a. 31; 1993 a. 27, 446; 1995 a. 27; 1997 a. 27; 2001 a. 16; 2005 a. 25; 2007 a. 20; 2009 a. 28.

4 **END INSERT 5-1**

5 **INSERT 5-23**

6 **(6) DUTIES OF ADMINISTERING AGENCIES.** Each administering agency shall:

7 (a) Cooperate in the development of the program plan under sub. (4) (b). ✓

8 (b) Provide information about the program and other programs for children
9 who have disabilities to families in the service area.

10 (c) Implement the program in accordance with the program plan.

11 (d) Designate one of its employees as the coordinator for each participating
12 family.

13 **END INSERT 5-23**

14 **INSERT 17-5**

15 (h) Funds allocated under this subsection may not be used to replace any other
16 state and federal funds or any county funds that are currently being provided under
17 any program to a family whose child is receiving services through the children's
18 community options program. ✓

19 **END INSERT 17-5**

Dodge, Tamara

From: Dombrowski, Cynthia A - DOA <Cynthia.Dombrowski@wisconsin.gov>
Sent: Wednesday, January 28, 2015 9:57 AM
To: Dodge, Tamara
Subject: Children's COP Final changes

Hi Tami –

A few final changes, if we still have time. Please let me know if you have any questions or concerns with these changes or wish to discuss. I appreciate your help with this drafting.

- ✓1. Page 9 – Regarding (8) starting on line 19 – We had intended that everything in (8) starting on line 23 would be deleted. So, (8)(a)1. in the current draft should be retained but the rest of (8)(a) and (b) through (e) should be deleted. (8)
- ✓2. P. 12, p. 5. We would like to delete the words “unless the child is a recipient of medical assistance under s.49.472. If the person is a recipient of medical assistance under s. 49.472, the county department may not require any payment from the person under this paragraph.” This language references the MAPP statute, and no children should be enrolled in MAPP. Also, we want to apply the fee to all children, regardless of their MA status, to the extent we can do so under federal rules.
- ✓3. P. 12 line 10 – Tami – a question for you – we want to make sure that the Department’s and county’s obligation to fund/provide services in (10) is limited to available state, federal, and fee revenue, as is the obligation to provide assessments under (8)(a)1. As drafted, do you think it is limited in that way?
4. P. 18 line 3 – We would like to delete paragraph 2. (14)(b) 2.

Cindy

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