



# 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 III**

**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**



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**State of Wisconsin**  
2015 - 2016 LEGISLATURE

In: 1/28/15

P3  
LRB-1255/P2  
TJD:kjf:kf  
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DOA:.....Dombrowski, BB0447 – Changes to community options program;  
create children’s COP

**FOR 2015-2017 BUDGET – NOT READY FOR INTRODUCTION**

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

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***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.

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

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

1 under par. (o), to fund the pilot project under s. 46.27 (9) and (10), to provide a portion  
2 of the facility payments under 1999 Wisconsin Act 9, section 9123 (9m), to fund  
3 services provided by resource centers under s. 46.283, for services under the family  
4 care benefit under s. 46.284 (5), for assisting victims of diseases, as provided in ss.  
5 49.68, 49.683, and 49.685, for distributing grants under s. 146.64, and for reduction  
6 of any operating deficits as specified in 2005 Wisconsin Act 15, section 3.  
7 Notwithstanding s. 20.002 (1), the department may transfer from this appropriation  
8 account to the appropriation account under sub. (5) (kc) funds in the amount of and  
9 for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002  
10 (1), the department may credit or deposit into this appropriation account and may  
11 transfer between fiscal years funds that it transfers from the appropriation account  
12 under sub. (5) (kc) for the purposes specified in s. 46.485 (3r). Notwithstanding s.  
13 ~~20.002 (1), the department may transfer from this appropriation account to the~~  
14 ~~appropriation account under sub. (7) (bd) funds in the amount and for the purposes~~  
15 ~~specified in s. 49.45 (6v).~~

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

17 20.435 (7) (bd) *Long-term care programs.* The amounts in the schedule for  
18 assessments, case planning, services, administration and risk reserve escrow  
19 accounts under s. 46.27, for pilot projects under s. 46.271 (1), to fund services  
20 provided by resource centers under s. 46.283 (5), for services under the family care  
21 benefit under s. 46.284 (5), for services and supports under s. 46.2803 (2), for services  
22 provided under the children's community options program under s. 46.272, and for  
23 the payment of premiums under s. 49.472 (5). ~~If the department transfers funds to~~  
24 ~~this appropriation from the appropriation account under sub. (4) (b), the amounts in~~  
25 ~~the schedule for the fiscal year for which the transfer is made are increased by the~~

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

9 **SECTION 3.** 46.27 (13) of the statutes is created to read:

10 46.27 (13) PROGRAM TERMINATION. Notwithstanding subs. (5), (6), (6g), (6u), (7),  
11 (7m), (8), and (11), after the date the family care benefit, as defined in s. 46.2805 (4),  
12 is available to eligible residents of a county, the department may discontinue the  
13 program under this section in that county.

14 **SECTION 4.** 46.272 of the statutes is created to read:

15 **46.272 Children's community options program. (1) DEFINITIONS.** In this  
16 section:

17 (a) "Child" means a person under 22 years of age who is not receiving services  
18 in or on a waiting list for an adult long-term care program.

19 (b) "Disability" means a severe physical, developmental, or emotional  
20 impairment which is diagnosed medically, behaviorally, or psychologically, which is  
21 characterized by the need for individually planned and coordinated care, treatment,  
22 vocational rehabilitation, or other services and which has resulted or is likely to  
23 result in substantial limitation on the ability to function in at least 2 of the following  
24 areas, equivalent to nursing home or institution for mental disease level of care:

25 1. Self-care.

1           2. Receptive and expressive language.

2           3. Learning.

3           4. Mobility.

4           5. Self-direction.

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

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

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

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

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

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

20           (a) Review and approve or disapprove the selection of a county department to  
21 administer the children's community options program.

22           (b) In consultation with representatives of counties, hospitals, and other  
23 institutional settings and with recipients of children's community support services,  
24 develop guidelines for implementing the program and criteria for reviewing  
25 community options plans from counties participating in the program under this

1 section. The guidelines and criteria shall address cost-effectiveness, scope,  
2 feasibility and impact on the quality and appropriateness of health services and  
3 social services and shall provide counties with maximum flexibility to develop  
4 programs that address local needs.

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

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

10 (e) Periodically monitor the implementation of the children's community  
11 options program.

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

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

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

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

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

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

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

11           1. A description of the proposed program.

12           2. The estimated number of families that will be assessed and served.

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

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

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

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

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

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

1           (c) Submit the proposed program plan to the county board of supervisors in each  
2 county in the service area for review. After approval by the county board of  
3 supervisors in each county in which families are eligible to participate in the  
4 program, the county department shall submit the proposed program plan to the  
5 department.

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

9           (e) In conjunction with the county department under s. 46.215 or 46.22, if any,  
10 in the service area and with the administering agency, if it is not the county  
11 department under s. 46.23, 51.42, or 51.437, coordinate the administration of the  
12 program with the administration of other publicly funded programs that serve  
13 children who have disabilities.

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

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

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

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

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

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

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



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

3 (a) Organize assessment activities specified in par. (f) and sub. (8). The county  
4 department shall utilize persons for each assessment who can determine the needs  
5 of the child being assessed and who know the availability within the county of  
6 services. The county department shall coordinate the involvement of  
7 representatives from the county departments under ss. 46.215, 46.22, 51.42 and  
8 51.437, and health service providers in the assessment activities specified in sub. (8),  
9 as well as the child being assessed and members of the child's family or the child's  
10 guardian.

11 (b) Within the limits of state and federal funds allocated under sub. (13),  
12 arrange service contracts under s. 46.036 and ensure the provision of necessary  
13 long-term community support services for each child who meets the criteria

14 specified in sub. (8) (b). for services under the children's community options  
program

15 (c) Within the limits of state and federal funds allocated under sub. (13),  
16 provide for ongoing care management services in accordance with the requirements  
17 established under sub. (10) (b) 1., periodic case plan review and follow-up services  
18 for any child receiving community support services under sub. (8) (b). the children's community  
options program

19 (d) Determine, under sub. (9), the fee, if any, for all families or guardians of  
20 children who meet the criteria to receive services specified in sub. (8) (b) and are applying for or  
21 receiving children's community support services that are funded under sub. (13) or  
22 (14).

23 (e) In the instances in which a child who is provided community support  
24 services under this section for which the child or his or her parent or guardian  
25 receives direct funding, serve directly as a fiscal agent or contract with a fiscal

1 intermediary to serve as a fiscal agent for that child for the purposes of performing  
2 the responsibilities and protecting the interests of the individual under the  
3 unemployment insurance law. The county department may elect to act as a fiscal  
4 agent or contract with a fiscal intermediary to serve as a fiscal agent for a child who  
5 is provided long-term community support services under s. 46.275, 46.277, 46.278,  
6 46.2785, 46.495, 51.42, or 51.437. The fiscal agent under this paragraph is  
7 responsible for remitting any federal unemployment compensation taxes or state  
8 unemployment insurance contributions owed by the child, including any interest  
9 and penalties which are owed by the child; for serving as the representative of the  
10 child in any investigation, meeting, hearing or appeal involving ch. 108 or the federal  
11 unemployment tax act (26 USC 3301 to 3311) in which the child is a party; and for  
12 receiving, reviewing, completing and returning all forms, reports and other  
13 documents required under ch. 108 or the federal unemployment tax act on behalf of  
14 the child. A child may make an informed, knowing and voluntary election to waive  
15 the right to a fiscal agent. The waiver may be as to all or any portion of the fiscal  
16 agent's responsibilities. The waiver may be rescinded in whole or in part at any time.

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

19 <sup>b</sup> (8) ~~FUNCTIONAL ELIGIBILITY~~ <sup>A</sup> ASSESSMENTS. <sup>b</sup> (a) 1. Within the limits of state and  
20 federal funds allocated under sub. (13) and within the limits of fees collected, an  
21 assessment shall be conducted for any child with a disability who is seeking services  
22 in the program.

23 2. Each assessment shall determine the child's functional abilities, disabilities,  
24 and need for medical and social long-term community support services. Each  
25 assessment shall include an investigation of long-term community support services

1 that could serve as alternatives to institutional care. The assessment shall include  
2 an explanation of the potential community alternatives to the child being assessed  
3 and the child's family or guardian.

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

6 a. A child or community options plan is excluded because of gradual  
7 implementation of the program.

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

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

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

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

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

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

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

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

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

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

13 (9) FINANCIAL ELIGIBILITY AND FEES. (a) The department shall create a sliding  
14 scale formula for a fee chargeable for conduct of an assessment under sub. (8), for  
15 development of a case plan under sub. (8) (b), and for children's long-term  
16 community support services that is based on the child's ability to pay, unless  
17 prohibited from payment under the federal Medicaid law.

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

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

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

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

8 (d) The county department shall use funds received under par (c) to pay for  
9 long-term community support services for children who are eligible under sub. (8).  
For services the Children's community Options Program

10 (10) SERVICES; CARE MANAGEMENT REQUIREMENTS. (a) 1. The department shall  
11 reimburse, if applicable, and the county department or private nonprofit agency  
12 shall provide long-term community support services to eligible children who have  
13 a disability. Within the limits of state and federal funds allocated under sub. (13) and within the limits of fees collected, the

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

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

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

23 2. Specify a reasonable schedule for phasing in the requirements established  
24 under subd. 1.

1           3. Provide technical consultation and assistance to the administrator of the  
2 program with respect to the requirements established under subd. 1.

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

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

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

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

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

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

23           (12) REIMBURSEMENT DISALLOWANCES. The department may disallow  
24 reimbursement under this section for services provided to children who do not meet

*For the children's community options program*

1 the eligibility requirements under sub. (8) or any other eligibility requirements  
2 established by the department.

3 (13) FUNDING. (a) Subject to pars. (b) and (h), from the appropriation under  
4 s. 20.435 (7) (bd), the department shall allocate funds to each county or private  
5 nonprofit agency with which the department contracts for all of the following  
6 purposes:

7 1. To pay assessment and case plan costs under sub. (8) not otherwise paid by  
8 fee or under s. 49.45 or 49.78 (2). The department shall reimburse multicounty  
9 consortia for the cost of assessing children eligible for medical assistance under s.  
10 49.46, 49.468, 49.47, or 49.471 (4) (a) as part of the administrative services of medical  
11 assistance, payable under s. 49.45 (3) (a). Counties may use unspent funds allocated  
12 under this subdivision to pay the cost of long-term community support services and  
13 for a risk reserve under par. (f).

14 2. To pay the cost of providing long-term community support services described  
15 under sub. (7) (b) not otherwise paid under s. 49.45 to children eligible for medical  
16 assistance under s. 49.46, 49.47, or 49.471 (4) (a). The county department  
17 administering the program may spend funds received under this paragraph only in  
18 accordance with the case plan and service contract created for each child receiving  
19 long-term community support services. Counties may use unspent funds allocated  
20 under this subdivision from the appropriation under s. 20.435 (7) (bd) for a risk  
21 reserve under par. (f).

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

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

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

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

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

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

15          (e) The department shall, at the request of a county, carry forward up to 5  
16 percent of the amount allocated under this subsection to the county for a calendar  
17 year if up to 5 percent of the amount so allocated has not been spent or encumbered  
18 by the county by December 31 of that year, for use by the county in the following  
19 calendar year, except that the amount carried forward shall be reduced by the  
20 amount of funds that the county has notified the department that the county wishes  
21 to place in a risk reserve under par. (f). The department may transfer funds within  
22 s. 20.435 (7) (bd) to accomplish this purpose. An allocation under this paragraph does  
23 not affect a county's base allocation under this subsection and shall lapse to the  
24 general fund unless expended within the calendar year to which the funds are  
25 carried forward. A county may not expend funds carried forward under this



1 paragraph for administrative or staff costs, except administrative or staff costs that  
2 are associated with implementation of the waiver under sub. (14) and approved by  
3 the department.

4 (f) 1. Notwithstanding s. 46.036 (3) and (5m), a county may place in a risk  
5 reserve funds that are allocated under par. (a) or sub. (14) (b) 1. and are not expended  
6 or encumbered for services under this subsection or sub. (14). The county shall notify  
7 the department of this decision and of the amount to be placed in the risk reserve.  
8 The county shall maintain the risk reserve in an interest-bearing escrow account  
9 with a financial institution, as defined in s. 69.30 (1) (b), if the department has  
10 approved the terms of the escrow. All interest from the principal shall be reinvested  
11 in the escrow account.

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

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

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

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

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

1 (g) The department may carry forward to the next state fiscal year funds  
2 allocated under this subsection and not encumbered by counties by December 31 or  
3 carried forward under par. (e). The department may transfer moneys within s.  
4 20.435 (7) (bd) to accomplish this purpose. An allocation under this paragraph shall  
5 not affect a county's base allocation for the program. The department may allocate  
6 these transferred moneys during the next fiscal year to counties for the improvement  
7 or expansion of long-term community support services for clients whose cost of care  
8 significantly exceeds the average cost of care provided under this section, including  
9 any of the following:

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

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

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

23 (b) 1. Medical assistance reimbursement for services a county or a private  
24 nonprofit agency, or with which the department contracts provides under this  
25 subsection shall be made from the appropriations under s. 20.435 (4) (o) and (7) (b)

1 and (bd). Payments made under sub. (13) (a) may be used as the state share for  
2 purposes of Medical Assistance reimbursement.

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

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

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

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

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

20 SECTION 5. 46.2803 (2) of the statutes is amended to read:

21 46.2803 (2) Notwithstanding s. 46.27 (7), a county in which a care management  
22 organization is operating pursuant to a contract under s. 46.284 (2) or a county in  
23 which a program described under s. 46.2805 (1) (a) or (b) is administered may use  
24 funds appropriated under 20.435 (7) (bd) and allocated to the county under s. 46.27  
25 (7) to provide community mental health or substance abuse services and supports for

1 persons with mental illness or persons in need of services or supports for substance  
2 abuse ~~and to provide services under the Family Support Program under s. 46.985.~~

3 **SECTION 6.** 46.40 (1) (a) of the statutes is amended to read:

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

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

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

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

18 **SECTION 9.** 46.45 (3) (a) of the statutes is amended to read:

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

1 shall be used for the purpose for which the funds were originally allocated. Other  
2 funds carried forward under this paragraph may be used for any purpose under s.  
3 20.435 (7) (b), except that a county may not use any funds carried forward under this  
4 paragraph for administrative or staff costs. An allocation of carried-forward funding  
5 under this paragraph does not affect a county's base allocations under s. 46.40 (2),  
6 (2m), (8), and (9).

7 **SECTION 10.** 46.45 (3) (c) of the statutes is repealed.

8 **SECTION 11.** 46.45 (6) (a) of the statutes is renumbered 46.45 (6) and amended  
9 to read:

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

15 **SECTION 12.** 46.45 (6) (b) of the statutes is repealed.

16 **SECTION 13.** 46.56 (3) (a) 4. of the statutes is repealed.

17 **SECTION 14.** 46.56 (10) of the statutes is repealed.

18 **SECTION 15.** 46.985 of the statutes is repealed.

19 **SECTION 16.** 49.45 (6v) of the statutes is repealed.

20 **SECTION 9418. Effective dates; Health Services.**

21 (1) CHANGES TO COMMUNITY OPTIONS PROGRAM; CHILDREN'S COMMUNITY OPTIONS  
22 PROGRAM. The treatment of sections 20.435 (4) (b) and (7) (bd), 46.27 (13), 46.272,  
23 46.2803 (2), 46.40 (1) (a), (7), and (14m), 46.45 (3) (a) and (c) and (6) (a) and (b), 46.56

1 (3) (a) 4. and (10), 46.985, and 49.45 (6v) of the statutes takes effect on January 1,  
2 2016.

3 (END)



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-1255/P3  
TJD:kjf&cjs:rs

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

**FOR 2015-2017 BUDGET - NOT READY FOR INTRODUCTION**

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

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***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.

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

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

1 under par. (o), to fund the pilot project under s. 46.27 (9) and (10), to provide a portion  
2 of the facility payments under 1999 Wisconsin Act 9, section 9123 (9m), to fund  
3 services provided by resource centers under s. 46.283, for services under the family  
4 care benefit under s. 46.284 (5), for assisting victims of diseases, as provided in ss.  
5 49.68, 49.683, and 49.685, for distributing grants under s. 146.64, and for reduction  
6 of any operating deficits as specified in 2005 Wisconsin Act 15, section 3.  
7 Notwithstanding s. 20.002 (1), the department may transfer from this appropriation  
8 account to the appropriation account under sub. (5) (kc) funds in the amount of and  
9 for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002  
10 (1), the department may credit or deposit into this appropriation account and may  
11 transfer between fiscal years funds that it transfers from the appropriation account  
12 under sub. (5) (kc) for the purposes specified in s. 46.485 (3r). ~~Notwithstanding s.~~  
13 ~~20.002 (1), the department may transfer from this appropriation account to the~~  
14 ~~appropriation account under sub. (7) (bd) funds in the amount and for the purposes~~  
15 ~~specified in s. 49.45 (6v).~~

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

17 20.435 (7) (bd) *Long-term care programs.* The amounts in the schedule for  
18 assessments, case planning, services, administration and risk reserve escrow  
19 accounts under s. 46.27, for pilot projects under s. 46.271 (1), to fund services  
20 provided by resource centers under s. 46.283 (5), for services under the family care  
21 benefit under s. 46.284 (5), for services and supports under s. 46.2803 (2), for services  
22 provided under the children's community options program under s. 46.272, and for  
23 the payment of premiums under s. 49.472 (5). ~~If the department transfers funds to~~  
24 ~~this appropriation from the appropriation account under sub. (4) (b), the amounts in~~  
25 ~~the schedule for the fiscal year for which the transfer is made are increased by the~~



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

9 **SECTION 3.** 46.27 (13) of the statutes is created to read:

10 46.27 (13) PROGRAM TERMINATION. Notwithstanding subs. (5), (6), (6g), (6u), (7),  
11 (7m), (8), and (11), after the date the family care benefit, as defined in s. 46.2805 (4),  
12 is available to eligible residents of a county, the department may discontinue the  
13 program under this section in that county.

14 **SECTION 4.** 46.272 of the statutes is created to read:

15 **46.272 Children's community options program. (1) DEFINITIONS.** In this  
16 section:

17 (a) "Child" means a person under 22 years of age who is not receiving services  
18 in or on a waiting list for an adult long-term care program.

19 (b) "Disability" means a severe physical, developmental, or emotional  
20 impairment which is diagnosed medically, behaviorally, or psychologically, which is  
21 characterized by the need for individually planned and coordinated care, treatment,  
22 vocational rehabilitation, or other services and which has resulted or is likely to  
23 result in substantial limitation on the ability to function in at least 2 of the following  
24 areas, equivalent to nursing home or institution for mental disease level of care:

25 1. Self-care.

1           2. Receptive and expressive language.

2           3. Learning.

3           4. Mobility.

4           5. Self-direction.

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

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

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

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

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

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

20           (a) Review and approve or disapprove the selection of a county department to  
21 administer the children's community options program.

22           (b) In consultation with representatives of counties, hospitals, and other  
23 institutional settings and with recipients of children's community support services,  
24 develop guidelines for implementing the program and criteria for reviewing  
25 community options plans from counties participating in the program under this

1 section. The guidelines and criteria shall address cost-effectiveness, scope,  
2 feasibility and impact on the quality and appropriateness of health services and  
3 social services and shall provide counties with maximum flexibility to develop  
4 programs that address local needs.

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

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

10 (e) Periodically monitor the implementation of the children's community  
11 options program.

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

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

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

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

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

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

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

11           1. A description of the proposed program.

12           2. The estimated number of families that will be assessed and served.

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

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

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

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

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

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

1           (c) Submit the proposed program plan to the county board of supervisors in each  
2 county in the service area for review. After approval by the county board of  
3 supervisors in each county in which families are eligible to participate in the  
4 program, the county department shall submit the proposed program plan to the  
5 department.

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

9           (e) In conjunction with the county department under s. 46.215 or 46.22, if any,  
10 in the service area and with the administering agency, if it is not the county  
11 department under s. 46.23, 51.42, or 51.437, coordinate the administration of the  
12 program with the administration of other publicly funded programs that serve  
13 children who have disabilities.

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

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

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

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

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

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

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

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

3           (a) Organize assessment activities specified in par. (f) and sub. (8). The county  
4 department shall utilize persons for each assessment who can determine the needs  
5 of the child being assessed and who know the availability within the county of  
6 services. The county department shall coordinate the involvement of  
7 representatives from the county departments under ss. 46.215, 46.22, 51.42 and  
8 51.437, and health service providers in the assessment activities specified in sub. (8),  
9 as well as the child being assessed and members of the child's family or the child's  
10 guardian.

11           (b) Within the limits of state and federal funds allocated under sub. (13),  
12 arrange service contracts under s. 46.036 and ensure the provision of necessary  
13 long-term community support services for each child who meets the criteria for  
14 services under the children's community options program.

15           (c) Within the limits of state and federal funds allocated under sub. (13),  
16 provide for ongoing care management services in accordance with the requirements  
17 established under sub. (10) (b) 1., periodic case plan review and follow-up services  
18 for any child receiving community support services under the children's community  
19 options program.

20           (d) Determine, under sub. (9), the fee, if any, for all families or guardians of  
21 children who meet the criteria to receive services and are applying for or receiving  
22 children's community support services that are funded under sub. (13) or (14).

23           (e) In the instances in which a child who is provided community support  
24 services under this section for which the child or his or her parent or guardian  
25 receives direct funding, serve directly as a fiscal agent or contract with a fiscal

1 intermediary to serve as a fiscal agent for that child for the purposes of performing  
2 the responsibilities and protecting the interests of the individual under the  
3 unemployment insurance law. The county department may elect to act as a fiscal  
4 agent or contract with a fiscal intermediary to serve as a fiscal agent for a child who  
5 is provided long-term community support services under s. 46.275, 46.277, 46.278,  
6 46.2785, 46.495, 51.42, or 51.437. The fiscal agent under this paragraph is  
7 responsible for remitting any federal unemployment compensation taxes or state  
8 unemployment insurance contributions owed by the child, including any interest  
9 and penalties which are owed by the child; for serving as the representative of the  
10 child in any investigation, meeting, hearing or appeal involving ch. 108 or the federal  
11 unemployment tax act (26 USC 3301 to 3311) in which the child is a party; and for  
12 receiving, reviewing, completing and returning all forms, reports and other  
13 documents required under ch. 108 or the federal unemployment tax act on behalf of  
14 the child. A child may make an informed, knowing and voluntary election to waive  
15 the right to a fiscal agent. The waiver may be as to all or any portion of the fiscal  
16 agent's responsibilities. The waiver may be rescinded in whole or in part at any time.

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

19 (8) ASSESSMENTS. Within the limits of state and federal funds allocated under  
20 sub. (13) and within the limits of fees collected, an assessment shall be conducted for  
21 any child with a disability who is seeking services in the program.

22 (9) FINANCIAL ELIGIBILITY AND FEES. (a) The department shall create a sliding  
23 scale formula for a fee chargeable for conduct of an assessment under sub. (8), for  
24 development of a case plan, and for children's long-term community support services

1 that is based on the child's ability to pay, unless prohibited from payment under the  
2 federal Medicaid law.

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

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

11 (c) From the information obtained under par. (b), the county department shall  
12 determine the amount of the fee for receipt of children's long-term community  
13 support services under this section. The county department shall require payment  
14 by the child or parent or guardian of the child of 100 percent of the amount calculated  
15 under this 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 for services  
18 under the children's community options program sub. (8).

19 **(10) SERVICES; CARE MANAGEMENT REQUIREMENTS.** (a) 1. Within the limits of state  
20 and federal funds allocated under sub. (13) and within the limits of fees collected, the  
21 department shall reimburse, if applicable, and the county department or private  
22 nonprofit agency shall provide long-term community support services to eligible  
23 children who have a disability.



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

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

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

10          2. Specify a reasonable schedule for phasing in the requirements established  
11 under subd. 1.

12          3. Provide technical consultation and assistance to the administrator of the  
13 program with respect to the requirements established under subd. 1.

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

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

21          (a) For a child seeking admission to or about to be admitted to an institutional  
22 setting, the county in which the child has residence is the county of fiscal  
23 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 for the children's community options program or any  
14 other eligibility requirements established by the department.

15 (13) FUNDING. (a) Subject to pars. (b) and (h), from the appropriation under  
16 s. 20.435 (7) (bd), 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 not otherwise paid by fee or under s.  
20 49.45 or 49.78 (2). The department shall reimburse multicounty consortia for the  
21 cost of assessing children eligible for medical assistance under s. 49.46, 49.468,  
22 49.47, or 49.471 (4) (a) as part of the administrative services of medical assistance,  
23 payable under s. 49.45 (3) (a). Counties may use unspent funds allocated under this  
24 subdivision to pay the cost of long-term community support services and for a risk  
25 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). The county department  
4 administering the program may spend funds received under this paragraph only in  
5 accordance with the case plan and service contract created for each child receiving  
6 long-term community support services. Counties may use unspent funds allocated  
7 under this subdivision from the appropriation under s. 20.435 (7) (bd) for a risk  
8 reserve under par. (f).

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

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

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

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

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

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

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

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

23 2. The annual amount of a county's expenditure for a risk reserve, as specified  
24 in subd. 1., may not exceed 10 percent of the county's most recent allocation under  
25 par. (a) and sub. (14) (b) 1. or \$750,000, whichever is less. The total amount of the

1 risk reserve, including interest, may not exceed 15 percent of the county's most recent  
2 allocation under this subsection.

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

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

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

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

12 (g) The department may carry forward to the next state fiscal year funds  
13 allocated under this subsection and not encumbered by counties by December 31 or  
14 carried forward under par. (e). The department may transfer moneys within s.  
15 20.435 (7) (bd) to accomplish this purpose. An allocation under this paragraph shall  
16 not affect a county's base allocation for the program. The department may allocate  
17 these transferred moneys during the next fiscal year to counties for the improvement  
18 or expansion of long-term community support services for clients whose cost of care  
19 significantly exceeds the average cost of care provided under this section, including  
20 any of the following:

21 1. Specialized training for providers of services under this section.

22 2. Start-up costs for developing needed services.

23 3. Home modifications.

24 4. Purchase of medical equipment or other specially adapted equipment.

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

5 (14) MEDICAL ASSISTANCE WAIVER. (a) The department 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 appropriations under s. 20.435 (4) (o) and (7) (b)  
13 and (bd). Payments made under sub. (13) (a) may be used as the state share for  
14 purposes of Medical Assistance reimbursement.

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

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

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

24 (15) RIGHT TO HEARING. A child who is denied eligibility for services or whose  
25 services are reduced or terminated under this section may request a hearing from the

1 department under s. 227.44, except that lack of adequate funding may not serve as  
2 the basis for a request under this subsection.

3 **SECTION 5.** 46.2803 (2) of the statutes is amended to read:

4 46.2803 (2) Notwithstanding s. 46.27 (7), a county in which a care management  
5 organization is operating pursuant to a contract under s. 46.284 (2) or a county in  
6 which a program described under s. 46.2805 (1) (a) or (b) is administered may use  
7 funds appropriated under 20.435 (7) (bd) and allocated to the county under s. 46.27  
8 (7) to provide community mental health or substance abuse services and supports for  
9 persons with mental illness or persons in need of services or supports for substance  
10 abuse and to provide services under the Family Support Program under s. 46.985.

11 **SECTION 6.** 46.40 (1) (a) of the statutes is amended to read:

12 46.40 (1) (a) Within the limits of available federal funds and of the  
13 appropriations under s. 20.435 (7) (b) and (o), the department shall distribute funds  
14 for community social, mental health, developmental disabilities, and alcohol and  
15 other drug abuse services and for services under ss. 46.87, 46.985, and 51.421 to  
16 county departments under ss. 46.215, 46.22, 46.23, 51.42, and 51.437 and to county  
17 aging units, as provided in subs. (2), (2m), (8), and (7) to (9).

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

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

20 46.40 (14m) COUNTY COMMUNITY AIDS BUDGETS. Before December 1 of each year,  
21 each county department under ss. 46.215, 46.22, 46.23, 51.42 and 51.437 and each  
22 tribal governing body shall submit to the department a proposed budget for the  
23 expenditure of funds allocated under this section or carried forward under s. 46.45  
24 (3) (a). The proposed budget shall be submitted on a form developed by the  
25 department and approved by the department of administration.

1           **SECTION 9.** 46.45 (3) (a) of the statutes is amended to read:

2           46.45 (3) (a) Except as provided in par. (b), at the request of a county, tribal  
3 governing body, or private nonprofit organization, the department shall carry  
4 forward up to 3% of the total amount allocated to the county, tribal governing body,  
5 or nonprofit organization for a calendar year, ~~not including the amount allocated to~~  
6 ~~the county under s. 46.40 (7), which amount may be carried forward as provided in~~  
7 ~~par. (e).~~ All funds carried forward for a tribal governing body or nonprofit  
8 organization and all funds allocated under s. 46.40 (2m) carried forward for a county  
9 shall be used for the purpose for which the funds were originally allocated. Other  
10 funds carried forward under this paragraph may be used for any purpose under s.  
11 20.435 (7) (b), except that a county may not use any funds carried forward under this  
12 paragraph for administrative or staff costs. An allocation of carried-forward funding  
13 under this paragraph does not affect a county's base allocations under s. 46.40 (2),  
14 (2m), (8), and (9).

15           **SECTION 10.** 46.45 (3) (c) of the statutes is repealed.

16           **SECTION 11.** 46.45 (6) (a) of the statutes is renumbered 46.45 (6) and amended  
17 to read:

18           46.45 (6) The department may carry forward 10% of any funds specified in sub.  
19 (3) ~~(a)~~ that are not carried forward under sub. (3) ~~(a)~~ for emergencies, for justifiable  
20 unit services costs above planned levels, and for increased costs due to population  
21 shifts. An allocation of carried-forward funding under this paragraph does not affect  
22 a county's base allocations under s. 46.40 (2), (2m), (8), and (9).

23           **SECTION 12.** 46.45 (6) (b) of the statutes is repealed.

24           **SECTION 13.** 46.56 (3) (a) 4. of the statutes is repealed.

25           **SECTION 14.** 46.56 (10) of the statutes is repealed.



1           **SECTION 15.** 46.985 of the statutes is repealed.

2           **SECTION 16.** 49.45 (6v) of the statutes is repealed.

3           **SECTION 9418. Effective dates; Health Services.**

4           (1) CHANGES TO COMMUNITY OPTIONS PROGRAM; CHILDREN'S COMMUNITY OPTIONS  
5 PROGRAM. The treatment of sections 20.435 (4) (b) and (7) (bd), 46.27 (13), 46.272,  
6 46.2803 (2), 46.40 (1) (a), (7), and (14m), 46.45 (3) (a) and (c) and (6) (a) and (b), 46.56  
7 (3) (a) 4. and (10), 46.985, and 49.45 (6v) of the statutes takes effect on January 1,  
8 2016.

9

(END)