



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-0584/P3

TJD:cdc

twj

DOA:.....Stinebrink, BB0038 - Long-term care; managed care

**FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION**

*D note*

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

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

**1. Long-term care programs; managed care**

This bill generally makes changes to certain long-term care programs that receive funding under the Medical Assistance program. The Family Care program concluded its expansion statewide replacing the Community Options Program, known as COP. The bill eliminates the statutory language for the COP program, a requirement that DHS certify availability of an aging and disability resource center, and a requirement that aging and disability resource centers perform outreach in new Family Care program counties. The bill requires aging and disability resource centers to provide information and assistance on the self-directed services option, known as IRIS; the Family Care Partnership program; and the program of all-inclusive care for the elderly, known as PACE, in addition to the current requirement to provide information and assistance on the Family Care program. The bill eliminates regional long-term care advisory committees, which, among other things, evaluate the care management organizations that administer the Family Care program.

Current law specifies a 45-day deadline by which an applicant for or recipient of Medical Assistance must file an appeal of his or her eligibility determination. The

bill specifies that for appeals of the adverse benefit determinations described in the bill made by a care management organization or managed care organization, the Medical Assistance recipient has 90 days to appeal. The bill also specifies that the individual seeking an appeal must exhaust the internal appeal procedures of the care management organization or managed care organization first.

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:*

1           **SECTION 1.** 16.009 (2) (em) of the statutes is amended to read:

2           16.009 (2) (em) Monitor, evaluate, and make recommendations concerning  
3 long-term community support services received by clients of the long-term support  
4 ~~community options program under s. 46.27~~ the self-directed services option, the  
5 family care program, the Family Care Partnership Program, and the program of  
6 all-inclusive care for the elderly.

7           **SECTION 2.** 16.643 (2) of the statutes is amended to read:

8           16.643 (2) **ELIGIBILITY FOR LONG-TERM CARE PROGRAMS.** A person who is  
9 determining eligibility for an individual for a long-term care program under s. 46.27,  
10 46.275, or 46.277, the family care benefit under s. 46.286, the family care partnership  
11 program, the long-term care program defined in s. 46.2899 (1), or any other  
12 demonstration program or program operated under a waiver of federal medicaid law  
13 that provides long-term care benefits shall exclude from the determination any  
14 income from assets accumulated in an account that is part of a qualified ABLE  
15 program under section 529A of the Internal Revenue Code.

16           **SECTION 3.** 20.435 (4) (b) of the statutes is amended to read:

17           20.435 (4) (b) *Medical Assistance program benefits.* Biennially, the amounts  
18 in the schedule to provide a portion of the state share of Medical Assistance program

1 benefits administered under subch. IV of ch. 49, for a portion of the Badger Care  
2 health care program under s. 49.665, to provide a portion of the Medical Assistance  
3 program benefits administered under subch. IV of ch. 49 that are not also provided  
4 under par. (o), to fund the pilot project under s. 46.27 (9) and (10), to provide a portion  
5 of the facility payments under 1999 Wisconsin Act 9, section 9123 (9m), to fund  
6 services provided by resource centers under s. 46.283, for services under the family  
7 care benefit under s. 46.284 (5), for the community options program under s. 46.27,  
8 2017 stats., for assisting victims of diseases, as provided in ss. 49.68, 49.683, and  
9 49.685, for distributing grants under s. 146.64, and for reduction of any operating  
10 deficits as specified in 2005 Wisconsin Act 15, section 3. Notwithstanding s. 20.002  
11 (1), the department may transfer from this appropriation account to the  
12 appropriation account under sub. (5) (kc) funds in the amount of and for the purposes  
13 specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002 (1), the  
14 department may credit or deposit into this appropriation account and may transfer  
15 between fiscal years funds that it transfers from the appropriation account under  
16 sub. (5) (kc) for the purposes specified in s. 46.485 (3r).

17 **SECTION 4.** 20.435 (4) (bd) of the statutes is amended to read:

18 20.435 (4) (bd) *Long-term care programs.* The amounts in the schedule for  
19 ~~assessments, case planning, services, administration and risk reserve escrow~~  
20 ~~accounts under s. 46.27, for pilot projects under s. 46.271 (1), to fund services~~  
21 ~~provided by resource centers other entities under s. 46.283 (5), for services under the~~  
22 ~~family care program under s. 46.284 (5), for services and supports under s. 46.2803~~  
23 ~~(2), and for services provided under the children's community options program under~~  
24 ~~s. 46.272, and for the payment of premiums under s. 49.472 (5).~~ Notwithstanding ss.  
25 20.001 (3) (a) and 20.002 (1), the department may under this paragraph transfer

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

7 **SECTION 5.** 20.435 (4) (gm) of the statutes is amended to read:

8 20.435 (4) (gm) *Medical assistance; provider refunds and collections.* All  
9 moneys received from provider refunds, third party liability payments, drug rebates,  
10 audit recoveries, and other collections related to expenditures made from pars. (b),  
11 (jz), and (w), except for those moneys deposited in the appropriation accounts under  
12 par. (im) or (in) regardless of the fiscal year in which the expenditure from par. (b),  
13 (jz), or (w) is made, to provide a portion of the state share of Medical Assistance  
14 program benefits administered under subch. IV of ch. 49; to provide a portion of the  
15 Badger Care health care program under s. 49.665; to provide a portion of the Medical  
16 Assistance program benefits administered under subch. IV of ch. 49 that are not also  
17 provided under par. (o); ~~to fund the pilot project under s. 46.27 (9) and (10); to fund~~  
18 ~~services provided by resource centers under s. 46.283; to fund services under the~~  
19 ~~family care benefit under s. 46.284 (5); and to assist victims of diseases, as provided~~  
20 ~~in ss. 49.68, 49.683, and 49.685.~~

21 **SECTION 6.** 20.435 (4) (hp) of the statutes is amended to read:

22 20.435 (4) (hp) *Disabled children's long-term support waivers.* All moneys  
23 received under ss. 46.03 (18) and 46.10 for services for children reimbursed under a  
24 waiver under s. ~~46.27 (11)~~, 46.275, or 46.278 or provided under the disabled children's  
25 long-term support program, as defined in s. 46.011 (1g), for distribution to counties

1 according to a formula developed by the department as a portion of the state share  
2 of payments for services for children under the waiver under s. 46.278 or for services  
3 provided under the disabled children's long-term support program.

4 **SECTION 7.** 20.435 (4) (im) of the statutes is amended to read:

5 20.435 (4) (im) *Medical assistance; correct payment recovery; collections;*  
6 *community services; other recoveries.* All moneys received from the recovery of  
7 correct medical assistance payments under ss. 49.496 and 49.849, all moneys  
8 received as collections and other recoveries from providers, drug manufacturers, and  
9 other 3rd parties under medical assistance performance-based contracts, all moneys  
10 received from the recovery of costs of care under ss. 46.27 (7g), 2017 stats., and 49.849  
11 for enrollees who are ineligible for Medical Assistance, all moneys not appropriated  
12 under par. (in), and all moneys credited to this appropriation account under s. 49.89  
13 (7) (f), for payments to counties and tribal governing bodies under s. 49.496 (4) (a),  
14 for payment of claims under s. 49.849 (5), for payments to the federal government for  
15 its share of medical assistance benefits recovered, for the state share of medical  
16 assistance benefits provided under subch. IV of ch. 49, for payments to care  
17 management organizations for provision of the family care benefit under s. 46.284  
18 (5), for payments for long-term community support services funded under s. 46.27  
19 ~~(7) as provided in s. 46.27 (7g) (e) and 49.849 (6) (b)~~, for administration of the waiver  
20 program under s. 46.99, and for costs related to collections and other recoveries.

21 **SECTION 8.** 20.435 (4) (in) of the statutes is amended to read:

22 20.435 (4) (in) *Community options program; family care; recovery of costs*  
23 *administration.* From the moneys received from the recovery of costs of care under  
24 ss. 46.27 (7g), 2017 stats., and 49.849 for enrollees who are ineligible for medical

1 assistance, the amounts in the schedule for administration of the recovery of costs  
2 of the care.

3 **SECTION 9.** 20.435 (4) (w) of the statutes is amended to read:

4 20.435 (4) (w) *Medical Assistance trust fund.* From the Medical Assistance  
5 trust fund, biennially, the amounts in the schedule for meeting costs of medical  
6 assistance administered under ss. ~~46.27~~, 46.275 (5), 46.278 (6), 46.283 (5), 46.284 (5),  
7 49.45, and 49.472 (6), for refunds under s. 50.38 (6) (a) and (6m) (a), and for  
8 administrative costs associated with augmenting the amount of federal moneys  
9 received under 42 CFR 433.51.

10 **SECTION 10.** 20.435 (7) (b) of the statutes is amended to read:

11 20.435 (7) (b) *Community aids and Medical Assistance payments.* The  
12 amounts in the schedule for human services and community mental health services  
13 under s. 46.40, to fund services provided by resource centers under s. 46.283 (5), to  
14 fund activities in support of resource center operations, for services under the family  
15 care benefit under s. 46.284 (5), for Medical Assistance payment adjustments under  
16 s. 49.45 (52) (a) for services described in s. 49.45 (52) (a) 1., for Medical Assistance  
17 payments under s. 49.45 (6tw), and for Medical Assistance payments under s. 49.45  
18 (53) for services described in s. 49.45 (53) that are provided before January 1, 2012.  
19 Social services disbursements under s. 46.03 (20) (b) may be made from this  
20 appropriation. Refunds received relating to payments made under s. 46.03 (20) (b)  
21 for the provision of services for which moneys are appropriated under this paragraph  
22 shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and  
23 20.002 (1), the department of health services may transfer funds between fiscal years  
24 under this paragraph. The department shall deposit into this appropriation funds  
25 it recovers under ss. 46.495 (2) (b) and 51.423 (15), from prior year audit adjustments

1 including those resulting from audits of services under s. 46.26, 1993 stats., or s.  
2 46.27, 2017 stats. Except for amounts authorized to be carried forward under s.  
3 46.45, all funds recovered under ss. 46.495 (2) (b) and 51.423 (15) and all funds  
4 allocated under s. 46.40 and not spent or encumbered by December 31 of each year  
5 shall lapse to the general fund on the succeeding January 1 unless carried forward  
6 to the next calendar year by the joint committee on finance.

7 **SECTION 11.** 20.930 of the statutes is amended to read:

8 **20.930 Attorney fees.** Except as provided in ss. 5.05 (2m) (c) 7., 19.49 (2) (b)  
9 6., ~~46.27 (7g) (h)~~, 49.496 (3) (f), and 49.682 (6), no state agency in the executive branch  
10 may employ any attorney until such employment has been approved by the governor.

11 **SECTION 12.** 46.10 (16) of the statutes is amended to read:

12 46.10 (16) The department shall delegate to county departments under ss.  
13 51.42 and 51.437 or the local providers of care and services meeting the standards  
14 established by the department under s. 46.036, the responsibilities vested in the  
15 department under this section for collection of patient fees for services other than  
16 those provided at state facilities, those provided to children that are reimbursed  
17 under a waiver under s. ~~46.27 (11)~~, 46.275, 46.278, or 46.2785, or those provided  
18 under the disabled children's long-term support program if the county departments  
19 or providers meet the conditions that the department determines are appropriate.  
20 The department may delegate to county departments under ss. 51.42 and 51.437 the  
21 responsibilities vested in the department under this section for collection of patient  
22 fees for services provided at the state facilities if the necessary conditions are met.

23 **SECTION 13.** 46.21 (2m) (b) 1. a. of the statutes is amended to read:

24 46.21 (2m) (b) 1. a. The powers and duties of the county departments under ss.  
25 46.215, 51.42 and 51.437, ~~including the administration of the long-term support~~

1 ~~community options program under s. 46.27, if the county department under s. 46.215~~  
2 ~~is designated as the administering agency under s. 46.27 (3) (b) 1.~~

3 **SECTION 14.** 46.21 (2m) (b) 1. b. of the statutes is repealed.

4 **SECTION 15.** 46.215 (1) (m) of the statutes is repealed.

5 **SECTION 16.** 46.22 (1) (b) 1. e. of the statutes is repealed.

6 **SECTION 17.** 46.23 (3) (bm) of the statutes is repealed.

7 **SECTION 18.** 46.269 of the statutes is amended to read:

8 **46.269 Determining financial eligibility for long-term care programs.**

9 To the extent approved by the federal government, the department or its designee  
10 shall exclude any assets accumulated in a person's independence account, as defined  
11 in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or  
12 accumulated from income or employer contributions while employed and receiving  
13 ~~state-funded benefits under s. 46.27~~ or medical assistance under s. 49.472 in  
14 determining financial eligibility and cost-sharing requirements, if any, for a  
15 long-term care program under s. ~~46.27~~, 46.275, or 46.277, for the family care  
16 program that provides the benefit defined in s. 46.2805 (4), for the Family Care  
17 Partnership program, or for the self-directed services option, as defined in s. 46.2897  
18 (1).

19 **SECTION 19.** 46.27 of the statutes is repealed.

20 **SECTION 20.** 46.271 (1) (c) of the statutes is amended to read:

21 46.271 (1) (c) The department may contract with an aging unit, as defined in  
22 s. ~~46.27~~ 46.82 (1) (a), for administration of services under par. (a) if, by resolution,  
23 the county board of supervisors of that county so requests the department.

24 **SECTION 21.** 46.275 (3) (e) of the statutes is repealed.

25 **SECTION 22.** 46.275 (5) (b) 7. of the statutes is amended to read:



1           46.275 (5) (b) 7. Provide services in any community-based residential facility  
2 unless the county or department uses as a service contract the approved model  
3 contract developed under s. 46.27 (2) (j), 2017 stats., or a contract that includes all  
4 of the provisions of the approved model contract.

5           **SECTION 23.** 46.277 (1m) (at) of the statutes is amended to read:

6           46.277 (1m) (at) "Private nonprofit agency" ~~has the meaning specified in s.~~  
7 46.27 (1) (bm) means a nonprofit corporation, as defined in s. 181.0103 (17), that  
8 provides a program of all-inclusive care for the elderly under 42 USC 1395eee or  
9 1396u-4.

10          **SECTION 24.** 46.277 (3) (a) of the statutes is amended to read:

11          46.277 (3) (a) ~~Sections 46.27 (3) (b) and Section 46.275 (3) (a) and (c) to (e) apply~~  
12 applies to county participation in this program, except that services provided in the  
13 program shall substitute for care provided a person in a skilled nursing facility or  
14 intermediate care facility who meets the level of care requirements for medical  
15 assistance reimbursement to that facility rather than for care provided at a state  
16 center for the developmentally disabled. The number of persons who receive services  
17 provided by the program under this paragraph may not exceed the number of  
18 nursing home beds, other than beds specified in sub. (5g) (b), that are delicensed as  
19 part of a plan submitted by the facility and approved by the department.

20          **SECTION 25.** 46.277 (5) (d) 2. a. of the statutes is repealed.

21          **SECTION 26.** 46.277 (5) (d) 3. of the statutes is amended to read:

22          46.277 (5) (d) 3. If subd. 2. a. ~~or~~ b. applies, no county may use funds received  
23 under this section to pay for services provided to a person who resides or intends to  
24 reside in a community-based residential facility and who is initially applying for the  
25 services, if the projected cost of services for the person, plus the cost of services for

1 existing participants, would cause the county to exceed the limitation under sub. (3)

2 (c). The department may grant an exception to the requirement under this  
3 subdivision, under the conditions specified by rule, to avoid hardship to the person.

4 **SECTION 27.** 46.277 (5) (f) of the statutes is amended to read:

5 46.277 (5) (f) No county or private nonprofit agency may use funds received  
6 under this subsection to provide services in any community-based residential  
7 facility unless the county or agency uses as a service contract the approved model  
8 contract developed under s. 46.27 (2) (j), 2017 stats., or a contract that includes all  
9 of the provisions of the approved model contract.

10 **SECTION 28.** 46.278 (4) (a) of the statutes is amended to read:

11 46.278 (4) (a) ~~Sections 46.27 (3) (b) and Section 46.275 (3) (a) and (c) to (e) apply~~  
12 applies to county participation in a program, except that services provided in the  
13 program shall substitute for care provided a person in an intermediate care facility  
14 for persons with an intellectual disability or in a brain injury rehabilitation facility  
15 who meets the intermediate care facility for persons with an intellectual disability  
16 or brain injury rehabilitation facility level of care requirements for medical  
17 assistance reimbursement to that facility rather than for care provided at a state  
18 center for the developmentally disabled.

19 **SECTION 29.** 46.2803 of the statutes is repealed.

20 **SECTION 30.** 46.2805 (1) (b) of the statutes is amended to read:

21 46.2805 (1) (b) A demonstration program known as the ~~Wisconsin partnership~~  
22 Family Care Partnership program under a federal waiver authorized under 42 USC  
23 ~~1315~~ 1396n.

24 **SECTION 31.** 46.281 (1n) (d) of the statutes is repealed.

25 **SECTION 32.** 46.281 (3) of the statutes is repealed.

1           **SECTION 33.** 46.2825 of the statutes is repealed.

2           **SECTION 34.** 46.283 (3) (f) of the statutes is amended to read:

3           46.283 (3) (f) Assistance to a person who is eligible for the family care benefit  
4 with respect to the person's choice of whether or not to enroll in the self-directed  
5 services option, as defined in s. 46.2899 (1), a care management organization for the  
6 family care benefit or the Family Care Partnership program, or the program of  
7 all-inclusive care for the elderly and, if so, which available long-term care program  
8 or care management organization would best meet his or her needs.

9           **SECTION 35.** 46.283 (4) (e) of the statutes is repealed.

10          **SECTION 36.** 46.283 (4) (f) of the statutes is amended to read:

11          46.283 (4) (f) Perform a functional screening and a financial and cost-sharing  
12 screening for any resident, ~~as specified in par. (e),~~ who requests a screening and  
13 assist any resident who is eligible and chooses to enroll in a care management  
14 organization or the self-directed services option to do so.

15          **SECTION 37.** 46.283 (6) (b) 7. of the statutes is repealed.

16          **SECTION 38.** 46.283 (6) (b) 9. of the statutes is amended to read:

17          46.283 (6) (b) 9. Review the number and types of grievances and appeals  
18 concerning the long-term care system in the area served by related to the resource  
19 center, to determine if a need exists for system changes, and recommend system or  
20 other changes if appropriate.

21          **SECTION 39.** 46.283 (6) (b) 10. of the statutes is repealed.

22          **SECTION 40.** 46.285 (intro.) of the statutes is renumbered 46.285 and amended  
23 to read:

24          **46.285    Operation of resource center and care management**  
25 **organization.** In order to meet federal requirements and assure federal financial

1 participation in funding of the family care benefit, a county, a tribe or band, a  
2 long-term care district or an organization, including a private, nonprofit  
3 corporation, may not directly operate both a resource center and a care management  
4 organization, ~~except as follows:~~

5 **SECTION 41.** 46.285 (1) of the statutes is repealed.

6 **SECTION 42.** 46.285 (2) of the statutes is repealed.

7 **SECTION 43.** 46.286 (3) (b) 2. a. of the statutes is repealed.

8 **SECTION 44.** 46.287 (2) (a) 1. (intro.) of the statutes is amended to read:

9 46.287 (2) (a) 1. (intro.) Except as provided in subd. 2., a client may contest any  
10 of the following applicable matters by filing, within 45 days of the failure of a resource  
11 center or ~~care management organization~~ county to act on the contested matter  
12 within the time frames specified by rule by the department or within 45 days after  
13 receipt of notice of a decision in a contested matter, a written request for a hearing  
14 under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1):

15 **SECTION 45.** 46.287 (2) (a) 1. d. of the statutes is renumbered 46.287 (2) (a) 1m.

16 b.

17 **SECTION 46.** 46.287 (2) (a) 1. e. of the statutes is repealed.

18 **SECTION 47.** 46.287 (2) (a) 1. f. of the statutes is repealed.

19 **SECTION 48.** 46.287 (2) (a) 1m. of the statutes is created to read:

20 46.287 (2) (a) 1m. Except as provided in subd. 2., a client may contest any of  
21 the following adverse benefit determinations by filing, within 90 days of the failure  
22 of a care management organization to act on a contested adverse benefit  
23 determination within the time frames specified by rule by the department or within  
24 90 days after receipt of notice of a decision upholding the adverse benefit

1 determination, a written request for a hearing under s. 227.44 to the division of  
2 hearings and appeals created under s. 15.103 (1):

3 a. Denial of functional eligibility <sup>eligibility</sup> under s. 46.286 (1) as a result of the care  
4 management organization's administration of the long-term care functional screen,  
5 including a change from a nursing home level of care to a non-nursing home level  
6 of care.

7 c. Denial or limited authorization of a requested service, including  
8 determinations based on type or level of service, requirements or medical necessity,  
9 appropriateness, setting, or effectiveness of a covered benefit.

10 d. Reduction, suspension, or termination of a previously authorized service,  
11 unless the service was only authorized for a limited amount or duration and that  
12 amount or duration has been completed.

13 e. Denial, in whole or in part, of payment for a service.

14 f. The failure of a care management organization to act within the time frames  
15 provided in 42 CFR 438.408 (b) (1) and (2) regarding the standard resolution of  
16 grievances and appeals.

17 g. Denial of an enrollee's request to dispute financial liability, including  
18 copayments, premiums, deductibles, coinsurance, other cost sharing, and other  
19 member financial liabilities.

20 h. Denial of an enrollee, who is a resident of a rural area with only one care  
21 management organization, to obtain services outside the care management  
22 organization's network of contracted providers.

23 i. Development of a plan of care that is unacceptable to the enrollee because the  
24 plan of care requires the enrollee to live in a place that is unacceptable to the enrollee;  
25 the plan of care does not provide sufficient care, treatment, or support to meet the

1 enrollee's needs and support the enrollee's identified outcomes; or the plan of care  
2 requires the enrollee to accept care, treatment, or support that is unnecessarily  
3 restrictive or unwanted by the enrollee.

4 j. Involuntary disenrollment from the care management organization.

5 **SECTION 49.** 46.287 (2) (b) of the statutes is amended to read:

6 46.287 (2) (b) An enrollee may contest a decision, omission or action of a care  
7 management organization other than those specified in par. (a), ~~or may contest the~~  
8 ~~choice of service provider. In these instances, the enrollee shall first send a written~~  
9 ~~request for review by the unit of the department that monitors care management~~  
10 ~~organization contracts. This unit shall review and attempt to resolve the dispute.~~  
11 1m. by filing a grievance with the care management organization. If the dispute  
12 grievance is not resolved to the satisfaction of the enrollee, he or she may request  
13 ~~a hearing under the procedures specified in par. (a) 1. (intro.)~~ that the department  
14 review the decision of the care management organization.

15 **SECTION 50.** 46.288 (2) (intro.) of the statutes is renumbered 46.288 (2) and  
16 amended to read:

17 46.288 (2) Criteria and procedures for determining functional eligibility under  
18 s. 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), and cost sharing under  
19 s. 46.286 (2) (a). ~~The rules for determining functional eligibility under s. 46.286 (1)~~  
20 ~~(a) 1m. shall be substantially similar to eligibility criteria for receipt of the long-term~~  
21 ~~support community options program under s. 46.27. Rules under this subsection~~  
22 ~~shall include definitions of the following terms applicable to s. 46.286:~~

23 **SECTION 51.** 46.288 (2) (d) to (j) of the statutes are repealed.

24 **SECTION 52.** 46.2896 (1) (a) of the statutes is amended to read:

1           46.2896 (1) (a) “Long-term care program” means the long-term care program  
2           under s. 46.27, 46.275, 46.277, 46.278, or 46.2785; the family care program providing  
3           the benefit under s. 46.286; the Family Care Partnership program; or the long-term  
4           care program defined in s. 46.2899 (1).

5           **SECTION 53.** 46.82 (3) (a) 13. of the statutes is repealed.

6           **SECTION 54.** 49.45 (2) (a) 23. of the statutes is amended to read:

7           49.45 (2) (a) 23. Promulgate rules that define “supportive services”, “personal  
8           services” and “nursing services” provided in a certified residential care apartment  
9           complex, as defined under s. 50.01 (6d), for purposes of reimbursement under ~~ss.~~  
10          ~~46.27 (11) (c) 7. and s. 46.277 (5) (e).~~

11          **SECTION 55.** 49.45 (3) (a) of the statutes is amended to read:

12          49.45 (3) (a) Reimbursement shall be made to each county department under  
13          ss. 46.215, 46.22, and 46.23 for any administrative services performed in the Medical  
14          Assistance program on the basis of s. 49.78 (8). ~~For purposes of reimbursement~~  
15          ~~under this paragraph, assessments completed under s. 46.27 (6) (a) are~~  
16          ~~administrative services performed in the Medical Assistance program.~~

17          **SECTION 56.** 49.45 (5) (a) of the statutes is amended to read:

18          49.45 (5) (a) Any person whose application for medical assistance is denied or  
19          is not acted upon promptly or who believes that the payments made in the person’s  
20          behalf have not been properly determined or that his or her eligibility has not been  
21          properly determined may file an appeal with the department pursuant to par. (b).  
22          Review is unavailable if the decision or failure to act arose more than 45 days before  
23          submission of the petition for a hearing, except as provided in par. (ag) or (ar).

24          **SECTION 57.** 49.45 (5) (ag) of the statutes is created to read:

1           49.45 (5) (ag) A person shall request a hearing within 90 days of the date of  
2 receipt of a notice from a care management organization or managed care  
3 organization upholding its adverse benefit determination relating to any of the  
4 following or within 90 days of the date the care management organization or  
5 managed care organization failed to act on the contested matter within the time  
6 specified by the department:

7           1. Denial or limited authorization of a requested services, including a  
8 determination based on the type or level of service, requirement for medical  
9 necessity, appropriateness, setting, or effectiveness of a covered benefit.

10           2. Reduction, suspension, or termination of a previously authorized service,  
11 unless the service was only authorized for a limited amount or duration and that  
12 amount or duration has been completed.

13           3. Denial, in whole or in part, of payment for a service.

14           4. Failure to provide services in a timely manner.

15           5. Failure of a care management organization or managed care organization  
16 to act within the time frames provided in 42 CFR 438.408 (b) (1) and (2) regarding  
17 the standard resolution of grievances and appeals.

18           6. Denial of an enrollee's request to dispute financial liability, including  
19 copayments, premiums, deductibles, coinsurance, other cost sharing, and other  
20 member financial liabilities.

21           7. Denial of an enrollee, who is a resident of a rural area with only one care  
22 management organization or managed care organization, to obtain services outside  
23 the organization's network of contracted providers.

24           **SECTION 58.** 49.45 (5) (ar) of the statutes is created to read:



1           49.45 (5) (ar) If a federal regulation specifies a different time limit to request  
2 a hearing than par. (a) or (ag), the time limit in the federal regulation shall apply.

3           **SECTION 59.** 49.45 (5) (b) 1. (intro.) of the statutes is amended to read:

4           49.45 (5) (b) 1. (intro.) Upon receipt of a timely petition under par. (a) the  
5 department shall give the applicant or recipient reasonable notice and opportunity  
6 for a fair hearing. The department may make such additional investigation as it  
7 considers necessary. Notice of the hearing shall be given to the applicant or recipient  
8 and, if a county department under s. 46.215, 46.22, or 46.23 is responsible for making  
9 the medical assistance determination, to the county clerk of the county. The county  
10 may be represented at such hearing. The department shall render its decision as  
11 soon as possible after the hearing and shall send a certified copy of its decision to the  
12 applicant or recipient, to the county clerk, and to any county officer charged with  
13 administration of the Medical Assistance program. The decision of the department  
14 shall have the same effect as an order of a county officer charged with the  
15 administration of the Medical Assistance program. The decision shall be final, but  
16 may be revoked or modified as altered conditions may require. The department shall  
17 deny a petition for a hearing or shall refuse to grant relief if:

18           **SECTION 60.** 49.45 (5) (b) 1. d. of the statutes is created to read:

19           49.45 (5) (b) 1. d. The issue is an adverse benefit determination described in  
20 par. (ag) 1. to 7. made by a care management organization or managed care  
21 organization and the person requesting the hearing has not exhausted the internal  
22 appeal procedure with the organization.

23           **SECTION 61.** 49.45 (6m) (c) 5. of the statutes is amended to read:

1           49.45 (6m) (c) 5. Admit only patients assessed or who waive or are exempt from  
2 the requirement of assessment under s. 46.27 (6) (a) or, if required under s. 50.035  
3 (4n) or 50.04 (2h), who have been referred to a resource center.

4           **SECTION 62.** 49.45 (6m) (L) of the statutes is amended to read:

5           49.45 (6m) (L) For purposes of ~~ss. 46.27 (11) (e) 7. and s. 46.277 (5) (e)~~, the  
6 department shall, by July 1 annually, determine the statewide medical assistance  
7 daily cost of nursing home care and submit the determination to the department of  
8 administration for review. The department of administration shall approve the  
9 determination before payment may be made under s. ~~46.27 (11) (e) 7. or 46.277 (5)~~  
10 (e).

11           **SECTION 63.** 49.45 (47) (b) of the statutes is amended to read:

12           49.45 (47) (b) No person may receive reimbursement under ~~s. 46.27 (11)~~ for the  
13 provision of services to clients in an adult day care center unless the adult day care  
14 center is certified by the department under sub. (2) (a) 11. as a provider of medical  
15 assistance.

16           **SECTION 64.** 49.46 (1) (a) 14. of the statutes is amended to read:

17           49.46 (1) (a) 14. Any person who would meet the financial and other eligibility  
18 requirements for home or community-based services under s. ~~46.27 (11)~~, 46.277, or  
19 46.2785 but for the fact that the person engages in substantial gainful activity under  
20 42 USC 1382c (a) (3), if a waiver under s. 49.45 (38) is in effect or federal law permits  
21 federal financial participation for medical assistance coverage of the person and if  
22 funding is available for the person under s. ~~46.27 (11)~~, 46.277, or 46.2785.

23           **SECTION 65.** 49.46 (1) (em) of the statutes is amended to read:

24           49.46 (1) (em) To the extent approved by the federal government, for the  
25 purposes of determining financial eligibility and any cost-sharing requirements of

1 an individual under par. (a) 6m., 14., or 14m., (d) 2., or (e), the department or its  
2 designee shall exclude any assets accumulated in a person's independence account,  
3 as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits  
4 earned or accumulated from income or employer contributions while employed and  
5 receiving state-funded benefits under s. 46.27 or medical assistance under s. 49.472.

6 **SECTION 66.** 49.46 (2) (b) 8. of the statutes is amended to read:

7 49.46 (2) (b) 8. Home or community-based services, if provided under s. 46.27  
8 (~~11~~), 46.275, 46.277, 46.278, 46.2785, 46.99, or under the family care benefit if a  
9 waiver is in effect under s. 46.281 (1d), or under the disabled children's long-term  
10 support program, as defined in s. 46.011 (1g).

11 **SECTION 67.** 49.47 (4) (as) 1. of the statutes is amended to read:

12 49.47 (4) (as) 1. The person would meet the financial and other eligibility  
13 requirements for home or community-based services under s. 46.27 (~~11~~), 46.277, or  
14 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1d)  
15 but for the fact that the person engages in substantial gainful activity under 42 USC  
16 1382c (a) (3).

17 **SECTION 68.** 49.47 (4) (as) 3. of the statutes is amended to read:

18 49.47 (4) (as) 3. Funding is available for the person under s. 46.27 (~~11~~), 46.277,  
19 or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1d).

20 **SECTION 69.** 49.47 (4) (b) (intro.) of the statutes is amended to read:

21 49.47 (4) (b) (intro.) Eligibility exists if the applicant's property, subject to the  
22 exclusion of any amounts under the Long-Term Care Partnership Program  
23 established under s. 49.45 (31), any amounts in an independence account, as defined  
24 in s. 49.472 (1) (c), or any retirement assets that accrued from employment while the  
25 applicant was eligible for the community options program under s. 46.27 (11), 2017

1 stats., or any other Medical Assistance program, including deferred compensation  
2 or the value of retirement accounts in the Wisconsin Retirement System or under the  
3 federal Social Security Act, does not exceed the following:

4 **SECTION 70.** 49.472 (3) (b) of the statutes is amended to read:

5 49.472 (3) (b) The individual's assets do not exceed \$15,000. In determining  
6 assets, the department may not include assets that are excluded from the resource  
7 calculation under 42 USC 1382b (a), assets accumulated in an independence  
8 account, and, to the extent approved by the federal government, assets from  
9 retirement benefits accumulated from income or employer contributions while  
10 employed and receiving medical assistance under this section or state-funded  
11 benefits under s. 46.27, 2017 stats. The department may exclude, in whole or in part,  
12 the value of a vehicle used by the individual for transportation to paid employment.

13 **SECTION 71.** 49.472 (3) (f) of the statutes is amended to read:

14 49.472 (3) (f) The individual maintains premium payments under sub. (4) (am)  
15 and, if applicable and to the extent approved by the federal government, premium  
16 payments calculated by the department in accordance with sub. (4) (bm), unless the  
17 individual is exempted from premium payments under sub. (4) (dm) ~~or (5)~~.

18 **SECTION 72.** 49.472 (4) (am) of the statutes is amended to read:

19 49.472 (4) (am) To the extent approved by the federal government and except  
20 as provided in pars. (dm) and (em) ~~and sub. (5)~~, an individual who receives medical  
21 assistance under this section shall pay a monthly premium of \$25 to the department.

22 **SECTION 73.** 49.472 (5) of the statutes is repealed.

23 **SECTION 74.** 49.849 (1) (e) of the statutes is amended to read:

24 49.849 (1) (e) "Public assistance" means any services provided as a benefit  
25 under a long-term care program, as defined in s. 49.496 (1) (bk), medical assistance

1 under subch. IV, ~~long-term community support services funded under s. 46.27 (7),~~  
2 or aid under s. 49.68, 49.683, 49.685, or 49.785.

3 **SECTION 75.** 49.849 (2) (a) (intro.) of the statutes is amended to read:

4 49.849 (2) (a) (intro.) Subject to par. (b), the department may collect from the  
5 property of a decedent by affidavit under sub. (3) (b) or by lien under sub. (4) (a) an  
6 amount equal to the medical assistance that is recoverable under s. 49.496 (3) (a), the  
7 long-term community support services under s. 46.27, 2017 stats., that is  
8 recoverable under s. 46.27 (7g) (c) 1., 2017 stats., or the aid under s. 49.68, 49.683,  
9 49.685, or 49.785 that is recoverable under s. 49.682 (2) (a) or (am), and that was paid  
10 on behalf of the decedent or the decedent's spouse, if all of the following conditions  
11 are satisfied:

12 **SECTION 76.** 49.849 (6) (a) of the statutes is renumbered 49.849 (6).

13 **SECTION 77.** 49.849 (6) (b) of the statutes is repealed.

14 **SECTION 78.** 50.034 (1) (a) of the statutes is amended to read:

15 50.034 (1) (a) No person may operate a residential care apartment complex that  
16 provides living space for residents who are clients under s. ~~46.27 (11)~~ or 46.277 and  
17 publicly funded services as a home health agency or under contract with a county  
18 department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 that is a home health  
19 agency unless the residential care apartment complex is certified by the department  
20 under this section. The department may charge a fee, in an amount determined by  
21 the department, for certification under this paragraph. The amount of any fee  
22 charged by the department for certification of a residential care apartment complex  
23 need not be promulgated as a rule under ch. 227.

24 **SECTION 79.** 50.034 (3) (a) 1. of the statutes is repealed.

25 **SECTION 80.** 50.034 (5m) of the statutes is amended to read:

1           50.034 (5m) PROVISION OF INFORMATION REQUIRED. ~~Subject to sub. (5p), when~~  
2           When a residential care apartment complex first provides written material  
3           regarding the residential care apartment complex to a prospective resident, the  
4           residential care apartment complex shall also provide the prospective resident  
5           information specified by the department concerning the services of a resource center  
6           under s. 46.283, the family care benefit under s. 46.286, and the availability of a  
7           functional screening and a financial and cost-sharing screening to determine the  
8           prospective resident's eligibility for the family care benefit under s. 46.286 (1).

9           **SECTION 81.** 50.034 (5n) (intro.) of the statutes is amended to read:

10          50.034 (5n) REQUIRED REFERRAL. (intro.) ~~Subject to sub. (5p), when~~ When a  
11          residential care apartment complex first provides written material regarding the  
12          residential care apartment complex to a prospective resident who is at least 65 years  
13          of age or has developmental disability or a physical disability and whose disability  
14          or condition is expected to last at least 90 days, the residential care apartment  
15          complex shall refer the prospective resident to a resource center under s. 46.283,  
16          unless any of the following applies:

17          **SECTION 82.** 50.034 (5p) of the statutes is repealed.

18          **SECTION 83.** 50.034 (6) of the statutes is amended to read:

19          50.034 (6) FUNDING. Funding for supportive, personal or nursing services that  
20          a person who resides in a residential care apartment complex receives, other than  
21          private or 3rd-party funding, may be provided only under s. ~~46.27 (11) (e) 7. or 46.277~~  
22          (5) (e), except if the provider of the services is a certified medical assistance provider  
23          under s. 49.45 or if the funding is provided as a family care benefit under ss. 46.2805  
24          to 46.2895.

25          **SECTION 84.** 50.035 (4m) of the statutes is amended to read:

1           50.035 (4m) PROVISION OF INFORMATION REQUIRED. ~~Subject to sub. (4p), when~~  
2           When a community-based residential facility first provides written material  
3           regarding the community-based residential facility to a prospective resident, the  
4           community-based residential facility shall also provide the prospective resident  
5           information specified by the department concerning the services of a resource center  
6           under s. 46.283, the family care benefit under s. 46.286, and the availability of a  
7           functional screening and a financial and cost-sharing screening to determine the  
8           prospective resident's eligibility for the family care benefit under s. 46.286 (1).

9           **SECTION 85.** 50.035 (4n) (intro.) of the statutes is amended to read:

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

20          **SECTION 86.** 50.035 (4p) of the statutes is repealed.

21          **SECTION 87.** 50.04 (2g) (a) of the statutes is amended to read:

22          50.04 (2g) (a) ~~Subject to sub. (2i), a~~ A nursing home shall, within the time  
23          period after inquiry by a prospective resident that is prescribed by the department  
24          by rule, inform the prospective resident of the services of a resource center under s.  
25          46.283, the family care benefit under s. 46.286, and the availability of a functional

1 screening and a financial and cost-sharing screening to determine the prospective  
2 resident's eligibility for the family care benefit under s. 46.286 (1).

3 **SECTION 88.** 50.04 (2h) (a) (intro.) of the statutes is amended to read:

4 50.04 (2h) (a) (intro.) Subject to sub. (2i), a A nursing home shall, within the  
5 time period prescribed by the department by rule, refer to a resource center under  
6 s. 46.283 a person who is seeking admission, who is at least 65 years of age or has  
7 developmental disability or physical disability and whose disability or condition is  
8 expected to last at least 90 days, unless any of the following applies:

9 **SECTION 89.** 50.04 (2i) of the statutes is repealed.

10 **SECTION 90.** 50.04 (2m) of the statutes is repealed.

11 **SECTION 91.** 50.06 (7) of the statutes is amended to read:

12 50.06 (7) An individual who consents to an admission under this section may  
13 request that ~~an assessment be conducted for the incapacitated individual under the~~  
14 ~~long-term support community options program under s. 46.27 (6) or, if the secretary~~  
15 ~~has certified under s. 46.281 (3) that a resource center is available for the individual,~~  
16 a functional screening and a financial and cost-sharing screening to determine  
17 eligibility for the family care benefit under s. 46.286 (1). If admission is sought on  
18 behalf of the incapacitated individual or if the incapacitated individual is about to  
19 be admitted on a private pay basis, the individual who consents to the admission may  
20 waive the requirement for a financial and cost-sharing screening under s. 46.283 (4)  
21 (g), unless the incapacitated individual is expected to become eligible for medical  
22 assistance within 6 months.

23 **SECTION 92.** 51.06 (8) (b) 6. of the statutes is amended to read:

24 51.06 (8) (b) 6. The extent of Medical Assistance provided to relocated or  
25 diverted individuals that is in addition to Medical Assistance provided to the



1 individuals under s. ~~46.27 (11)~~, 46.275, 46.277, or 46.278, as a family care benefit  
2 under ss. 46.2805 to 46.2895, or under any other home-based or community-based  
3 program for which the department has received a waiver under 42 USC 1396n (c).

4 **SECTION 93.** 51.42 (3) (ar) 3. of the statutes is amended to read:

5 51.42 (3) (ar) 3. Plan for and establish a community developmental disabilities  
6 program to deliver the services required under s. 51.437 if, under s. 51.437 (4g) (b),  
7 the county board of supervisors in a county with a single-county department of  
8 community programs or the county boards of supervisors in counties with a  
9 multicounty department of community programs transfer the powers and duties of  
10 the county department under s. 51.437 to the county department of community  
11 programs. The county board of supervisors in a county with a single-county  
12 department of community programs and the county boards of supervisors in counties  
13 with a multicounty department of community programs may designate the county  
14 department of community programs to which these powers and duties have been  
15 transferred as the administrative agency of the ~~long-term support community~~  
16 ~~options program under s. 46.27 (3) (b) 1. and 5. and the community integration~~  
17 programs under ss. 46.275, 46.277 and 46.278.

18 **SECTION 94.** 51.421 (1) of the statutes is amended to read:

19 51.421 (1) PURPOSE. In order to provide the least restrictive and most  
20 appropriate care and treatment for persons with serious and persistent mental  
21 illness, community support programs should be available in all parts of the state.  
22 In order to integrate community support programs with other long-term care  
23 programs, community support programs shall be coordinated, to the greatest extent  
24 possible, ~~with the community options program under s. 46.27,~~ with the protective  
25 services system in a county, with the medical assistance program under subch. IV of

1 ch. 49 and with other care and treatment programs for persons with serious and  
2 persistent mental illness.

3 **SECTION 95.** 54.21 (2) (g) of the statutes is amended to read:

4 54.21 (2) (g) The current and likely future effect of the proposed transfer of  
5 assets on the ward's eligibility for public benefits, including medical assistance ~~or a~~  
6 ~~benefit under s. 46.27.~~

7 **SECTION 96.** 54.34 (1) (k) of the statutes is amended to read:

8 54.34 (1) (k) Whether the proposed ward is a recipient of a public benefit,  
9 including medical assistance ~~or a benefit under s. 46.27.~~

10 **SECTION 97.** 71.52 (6) of the statutes is amended to read:

11 71.52 (6) "Income" means the sum of Wisconsin adjusted gross income and the  
12 following amounts, to the extent not included in Wisconsin adjusted gross income:  
13 maintenance payments (except foster care maintenance and supplementary  
14 payments excludable under section 131 of the internal revenue code), support money,  
15 cash public assistance (not including credit granted under this subchapter and  
16 amounts under s. 46.27, 2017 stats.), cash benefits paid by counties under s. 59.53  
17 (21), the gross amount of any pension or annuity (including railroad retirement  
18 benefits, all payments received under the federal social security act and veterans  
19 disability pensions), nontaxable interest received from the federal government or  
20 any of its instrumentalities, nontaxable interest received on state or municipal  
21 bonds, worker's compensation, unemployment insurance, the gross amount of "loss  
22 of time" insurance, compensation and other cash benefits received from the United  
23 States for past or present service in the armed forces, scholarship and fellowship gifts  
24 or income, capital gains, gain on the sale of a personal residence excluded under  
25 section 121 of the internal revenue code, dividends, income of a nonresident or

1 part-year resident who is married to a full-year resident, housing allowances  
2 provided to members of the clergy, the amount by which a resident manager's rent  
3 is reduced, nontaxable income of an American Indian, nontaxable income from  
4 sources outside this state and nontaxable deferred compensation. Intangible drilling  
5 costs, depletion allowances and depreciation, including first-year depreciation  
6 allowances under section 179 of the internal revenue code, amortization,  
7 contributions to individual retirement accounts under section 219 of the internal  
8 revenue code, contributions to Keogh plans, net operating loss carry-backs and  
9 carry-forwards, capital loss carry-forwards, and disqualified losses deducted in  
10 determining Wisconsin adjusted gross income shall be added to "income". "Income"  
11 does not include gifts from natural persons, cash reimbursement payments made  
12 under title XX of the federal social security act, surplus food or other relief in kind  
13 supplied by a governmental agency, the gain on the sale of a personal residence  
14 deferred under section 1034 of the internal revenue code or nonrecognized gain from  
15 involuntary conversions under section 1033 of the internal revenue code. Amounts  
16 not included in adjusted gross income but added to "income" under this subsection  
17 in a previous year and repaid may be subtracted from income for the year during  
18 which they are repaid. Scholarship and fellowship gifts or income that are included  
19 in Wisconsin adjusted gross income and that were added to household income for  
20 purposes of determining the credit under this subchapter in a previous year may be  
21 subtracted from income for the current year in determining the credit under this  
22 subchapter. A marital property agreement or unilateral statement under ch. 766 has  
23 no effect in computing "income" for a person whose homestead is not the same as the  
24 homestead of that person's spouse.

25 **SECTION 98.** 71.58 (7) (a) of the statutes is amended to read:

1           71.58 (7) (a) For an individual, means income as defined under s. 71.52 (6), plus  
2 nonfarm business losses, plus amounts under s. 46.27, 2017 stats., less net operating  
3 loss carry-forwards, less first-year depreciation allowances under section 179 of the  
4 internal revenue code and less the first \$25,000 of depreciation expenses in respect  
5 to the farm claimed by all of the individuals in a household.

6           **SECTION 99.** 102.07 (20) of the statutes is amended to read:

7           102.07 (20) An individual who is performing services for a person participating  
8 in the self-directed services option, as defined in s. 46.2897 (1), for a person receiving  
9 long-term care benefits under s. ~~46.27~~, 46.275, or 46.277 or under any children's  
10 long-term support waiver program on a self-directed basis, or for a person receiving  
11 the Family Care benefit, as defined in s. 46.2805 (4), or benefits under the Family  
12 Care Partnership program, as described in s. 49.496 (1) (bk) 3., on a self-directed  
13 basis and who does not otherwise have worker's compensation coverage for those  
14 services is considered to be an employee of the entity that is providing financial  
15 management services for that person.

16           **SECTION 100.** 108.02 (13) (k) of the statutes is amended to read:

17           108.02 (13) (k) "Employer" does not include a county department, an aging  
18 unit, or, under s. 46.2785, a private agency that serves as a fiscal agent or contracts  
19 with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i), 46.272 (7)  
20 (e), or 47.035 as to any individual performing services for a person receiving  
21 long-term support services under s. ~~46.27 (5) (b)~~, 46.272 (7) (b), 46.275, 46.277,  
22 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance services  
23 under s. 47.02 (6) (c).

24           **SECTION 101.** 108.22 (10) of the statutes is amended to read:

1           108.22 (10) A private agency that serves as a fiscal agent under s. 46.2785 or  
2 contracts with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i),  
3 46.272 (7) (e), or 47.035 as to any individual performing services for a person  
4 receiving long-term support services under s. ~~46.27 (5) (b)~~, 46.272 (7) (b), 46.275,  
5 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance  
6 services under s. 47.02 (6) (c) may be found jointly and severally liable for the  
7 amounts owed by the person under this chapter, if, at the time the person's quarterly  
8 report is due under this chapter, the private agency served as a fiscal agent for the  
9 person. The liability of the agency as provided in this subsection survives  
10 dissolution, reorganization, bankruptcy, receivership, assignment for the benefit of  
11 creditors, judicially confirmed extension or composition, or any analogous situation  
12 of the person and shall be set forth in a determination or decision issued under s.  
13 108.10. An appeal or review of a determination under this subsection shall not  
14 include an appeal or review of determinations of amounts owed by the person.

15           **SECTION 102.** 632.697 of the statutes is amended to read:

16           **632.697 Benefits subject to department's right to recover.** Death  
17 benefits payable under a life insurance policy or an annuity are subject to the right  
18 of the department of health services to recover under s. 46.27 (7g), 2017 stats.,  
19 49.496, 49.682, or 49.849 an amount equal to the medical assistance that is  
20 recoverable under s. 49.496 (3) (a), an amount equal to aid under s. 49.68, 49.683,  
21 49.685, or 49.785 that is recoverable under s. 49.682 (2) (a) or (am), or an amount  
22 equal to long-term community support services under s. 46.27, 2017 stats., that is  
23 recoverable under s. 46.27 (7g) (c) 1., 2017 stats., and that was paid on behalf of the  
24 deceased policyholder or annuitant.

25           **SECTION 103.** 701.0508 (1) (b) 1. of the statutes is amended to read:

1           701.0508 (1) (b) 1. The claim is a claim based on tort, on a marital property  
2 agreement that is subject to the time limitations under s. 766.58 (13) (b) or (c), on  
3 Wisconsin income, franchise, sales, withholding, gift, or death taxes, or on  
4 unemployment compensation contributions due or benefits overpaid; a claim for  
5 funeral or administrative expenses; a claim of this state under s. 46.27 (7g), 2017  
6 stats., 49.496, 49.682, or 49.849; or a claim of the United States.

7           **SECTION 104.** 705.04 (2g) of the statutes is amended to read:

8           705.04 (2g) Notwithstanding subs. (1) and (2), the department of health  
9 services may collect, from funds of a decedent that are held by the decedent  
10 immediately before death in a joint account or a P.O.D. account, an amount equal to  
11 the medical assistance that is recoverable under s. 49.496 (3) (a), an amount equal  
12 to aid under s. 49.68, 49.683, 49.685, or 49.785 that is recoverable under s. 49.682 (2)  
13 (a) or (am), or an amount equal to long-term community support services under s.  
14 46.27, 2017 stats., that is recoverable under s. 46.27 (7g) (c) 1., 2017 stats., and that  
15 was paid on behalf of the decedent or the decedent's spouse.

16           **SECTION 105.** 766.55 (2) (bm) of the statutes is amended to read:

17           766.55 (2) (bm) An obligation incurred by a spouse that is recoverable under  
18 s. 46.27 (7g), 2017 stats., 49.496, 49.682, or 49.849 may be satisfied from all property  
19 that was the property of that spouse immediately before that spouse's death.

20           **SECTION 106.** 859.02 (2) (a) of the statutes is amended to read:

21           859.02 (2) (a) It is a claim based on tort, on a marital property agreement that  
22 is subject to the time limitations under s. 766.58 (13) (b) or (c), on Wisconsin income,  
23 franchise, sales, withholding, gift, or death taxes, or on unemployment insurance  
24 contributions due or benefits overpaid; a claim for funeral or administrative

1 expenses; a claim of this state under s. 46.27 (7g), 2017 stats., 49.496, 49.682, or  
2 49.849; or a claim of the United States; or

3 **SECTION 107.** 859.07 (2) (a) 3. of the statutes is amended to read:

4 859.07 (2) (a) 3. The decedent or the decedent's spouse received services  
5 provided as a benefit under a long-term care program, as defined in s. 49.496 (1) (bk),  
6 medical assistance under subch. IV of ch. 49, long-term community support services  
7 funded under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685, or 49.785.

8 **SECTION 108.** 867.01 (3) (am) 4. of the statutes is amended to read:

9 867.01 (3) (am) 4. Whether the decedent or the decedent's spouse received  
10 services provided as a benefit under a long-term care program, as defined in s. 49.496  
11 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support  
12 services funded under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685,  
13 or 49.785.

14 **SECTION 109.** 867.01 (3) (d) of the statutes is amended to read:

15 867.01 (3) (d) *Notice.* The court may hear the matter without notice or order  
16 notice to be given under s. 879.03. If the decedent or the decedent's spouse received  
17 services provided as a benefit under a long-term care program, as defined in s. 49.496  
18 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support  
19 services funded under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685,  
20 or 49.785, the petitioner shall give notice by certified mail to the department of  
21 health services as soon as practicable after filing the petition with the court.

22 **SECTION 110.** 867.02 (2) (am) 6. of the statutes is amended to read:

23 867.02 (2) (am) 6. Whether the decedent or the decedent's spouse received  
24 services provided as a benefit under a long-term care program, as defined in s. 49.496  
25 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support

1 services funded under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685,  
2 or 49.785.

3 **SECTION 111.** 867.03 (1g) (c) of the statutes is amended to read:

4 867.03 (1g) (c) Whether the decedent or the decedent's spouse ever received  
5 services provided as a benefit under a long-term care program, as defined in s. 49.496  
6 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support  
7 services funded under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685,  
8 or s. 49.785.

9 **SECTION 112.** 867.03 (1m) (a) of the statutes is amended to read:

10 867.03 (1m) (a) Whenever an heir, trustee, person named in the will to act as  
11 personal representative, or person who was guardian of the decedent at the time of  
12 the decedent's death intends to transfer a decedent's property by affidavit under sub.  
13 (1g) and the decedent or the decedent's spouse ever received services provided as a  
14 benefit under a long-term care program, as defined in s. 49.496 (1) (bk), medical  
15 assistance under subch. IV of ch. 49, long-term community support services funded  
16 under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685, or 49.785, the  
17 heir, trustee, person named in the will to act as personal representative, or person  
18 who was guardian of the decedent at the time of the decedent's death shall give notice  
19 to the department of health services of his or her intent. The notice shall include the  
20 information in the affidavit under sub. (1g) and the heir, trustee, person named in  
21 the will to act as personal representative, or person who was guardian of the  
22 decedent at the time of the decedent's death shall give the notice by certified mail,  
23 return receipt requested.

24 **SECTION 113.** 867.03 (1m) (b) of the statutes is amended to read:



1           867.03 (1m) (b) An heir, trustee, person named in the will to act as personal  
2 representative, or person who was guardian of the decedent at the time of the  
3 decedent's death who files an affidavit under sub. (1g) that states that the decedent  
4 or the decedent's spouse received services provided as a benefit under a long-term  
5 care program, as defined in s. 49.496 (1) (bk), medical assistance under subch. IV of  
6 ch. 49, long-term community support services funded under s. 46.27 (7), 2017 stats.,  
7 or aid under s. 49.68, 49.683, 49.685, or 49.785 shall attach to the affidavit the proof  
8 of mail delivery of the notice required under par. (a) showing the delivery date.

9           **SECTION 114.** 867.03 (2g) (b) of the statutes is amended to read:

10           867.03 (2g) (b) Property transferred under this section to or by an heir, trustee,  
11 person named in the will to act as personal representative, or person who was  
12 guardian of the decedent at the time of the decedent's death is subject to the right of  
13 the department of health services to recover under s. 46.27 (7g), 2017 stats., 49.496,  
14 49.682, or 49.849 an amount equal to the medical assistance that is recoverable  
15 under s. 49.496 (3) (a), an amount equal to aid under s. 49.68, 49.683, 49.685, or  
16 49.785 that is recoverable under s. 49.682 (2) (a) or (am), or an amount equal to  
17 long-term community support services under s. 46.27, 2017 stats., that is  
18 recoverable under s. 46.27 (7g) (c) 1., 2017 stats., and that was paid on behalf of the  
19 decedent or the decedent's spouse. Upon request, the heir, trustee, person named in  
20 the will to act as personal representative, or person who was guardian of the  
21 decedent at the time of the decedent's death shall provide to the department of health  
22 services information about any of the decedent's property that the heir, trustee,  
23 person named in the will to act as personal representative, or person who was  
24 guardian of the decedent at the time of the decedent's death has distributed and  
25 information about the persons to whom the property was distributed.



**2019-2020 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0584/P4ins  
TJD:...

**1            INSERT 3-17**

\*\*\*\*NOTE: This is reconciled s. 20.435 (4) (b). This SECTION has been affected by drafts with the following LRB numbers: -0584/P3 and -1772/P2.

**2            END INSERT 3-17**

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0584/P4dn

TJD:...

Wj

Date

This draft reconciles LRB-0584/P3 and LRB-1772/P2. <sup>Both</sup> All of these drafts should continue to appear in the compiled bill.

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**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-0584/P4dn

TJD:wlj

February 21, 2019

This draft reconciles LRB-0584/P3 and LRB-1772/P2. Both of these drafts should continue to appear in the compiled bill.

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