



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-0584/P6
TJD:cde/wlj/ahe

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

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

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

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.

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).

****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.

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

1 s. 46.272, and for the payment of premiums under s. 49.472 (5). Notwithstanding ss.
2 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 5.** 20.435 (4) (gm) of the statutes is amended to read:

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

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

24 20.435 (4) (hp) *Disabled children's long-term support waivers.* All moneys
25 received under ss. 46.03 (18) and 46.10 for services for children reimbursed under a

1 waiver under s. 46.27(11), 46.275, or 46.278 or provided under the disabled children's
2 long-term support program, as defined in s. 46.011 (1g), for distribution to counties
3 according to a formula developed by the department as a portion of the state share
4 of payments for services for children under the waiver under s. 46.278 or for services
5 provided under the disabled children's long-term support program.

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

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

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

24 20.435 (4) (in) *Community options program; family care; recovery of costs*
25 *administration.* From the moneys received from the recovery of costs of care under

1 ss. 46.27 (7g), 2017 stats., and 49.849 for enrollees who are ineligible for medical
2 assistance, the amounts in the schedule for administration of the recovery of costs
3 of the care.

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

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

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

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

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

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

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

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

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

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

1 46.21 (2m) (b) 1. a. The powers and duties of the county departments under ss.
2 46.215, 51.42 and 51.437, ~~including the administration of the long-term support~~
3 ~~community options program under s. 46.27, if the county department under s. 46.215~~
4 ~~is designated as the administering agency under s. 46.27 (3) (b) 1.~~

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

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

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

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

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

10 **46.269 Determining financial eligibility for long-term care programs.**

11 To the extent approved by the federal government, the department or its designee
12 shall exclude any assets accumulated in a person's independence account, as defined
13 in s. 49.472 (1) (c), and any income or assets from retirement benefits earned or
14 accumulated from income or employer contributions while employed and receiving
15 ~~state-funded benefits under s. 46.27 or~~ medical assistance under s. 49.472 in
16 determining financial eligibility and cost-sharing requirements, if any, for a
17 long-term care program under s. 46.27, 46.275, or 46.277, for the family care
18 program that provides the benefit defined in s. 46.2805 (4), for the Family Care
19 Partnership program, or for the self-directed services option, as defined in s. 46.2897
20 (1).

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

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

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

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

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

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

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

8 46.277 (1m) (at) “Private nonprofit agency” ~~has the meaning specified in s.~~
9 46.27 (1) (bm) means a nonprofit corporation, as defined in s. 181.0103 (17), that
10 provides a program of all-inclusive care for the elderly under 42 USC 1395eee or
11 1396u-4.

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

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

22 **SECTION 25.** 46.277 (5) (d) 2. (intro.) and b. of the statutes are consolidated,
23 renumbered 46.277 (5) (d) 2. and amended to read:

24 46.277 (5) (d) 2. No county may use funds received under this section to provide
25 residential services in any community-based residential facility, as defined in s.

1 50.01 (1g), unless one of the following applies: b. ~~The~~ the department approves the
2 provision of services in a community-based residential facility that entirely consists
3 of independent apartments, each of which has an individual lockable entrance and
4 exit and individual separate kitchen, bathroom, sleeping and living areas, to
5 individuals who are eligible under this section and are physically disabled or are at
6 least 65 years of age.

7 **SECTION 26.** 46.277 (5) (d) 2. a. of the statutes is repealed.

8 **SECTION 27.** 46.277 (5) (d) 3. of the statutes is amended to read:

9 46.277 (5) (d) 3. If subd. 2. ~~a. or b.~~ applies, no county may use funds received
10 under this section to pay for services provided to a person who resides or intends to
11 reside in a community-based residential facility and who is initially applying for the
12 services, if the projected cost of services for the person, plus the cost of services for
13 existing participants, would cause the county to exceed the limitation under sub. (3)
14 (c). The department may grant an exception to the requirement under this
15 subdivision, under the conditions specified by rule, to avoid hardship to the person.

16 **SECTION 28.** 46.277 (5) (f) of the statutes is amended to read:

17 46.277 (5) (f) No county or private nonprofit agency may use funds received
18 under this subsection to provide services in any community-based residential
19 facility unless the county or agency uses as a service contract the approved model
20 contract developed under s. 46.27 (2) (j), 2017 stats., or a contract that includes all
21 of the provisions of the approved model contract.

22 **SECTION 29.** 46.278 (4) (a) of the statutes is amended to read:

23 46.278 (4) (a) ~~Sections 46.27 (3) (b) and Section 46.275 (3) (a) and (c) to (e) apply~~
24 applies to county participation in a program, except that services provided in the
25 program shall substitute for care provided a person in an intermediate care facility

1 for persons with an intellectual disability or in a brain injury rehabilitation facility
2 who meets the intermediate care facility for persons with an intellectual disability
3 or brain injury rehabilitation facility level of care requirements for medical
4 assistance reimbursement to that facility rather than for care provided at a state
5 center for the developmentally disabled.

6 **SECTION 30.** 46.2803 of the statutes is repealed.

7 **SECTION 31.** 46.2805 (1) (b) of the statutes is amended to read:

8 46.2805 (1) (b) A demonstration program known as the Wisconsin partnership
9 Family Care Partnership program under a federal waiver authorized under 42 USC
10 1315 1396n.

11 **SECTION 32.** 46.281 (1d) of the statutes is amended to read:

12 46.281 (1d) WAIVER REQUEST. The department shall request from the secretary
13 of the federal department of health and human services any waivers of federal
14 medicaid laws necessary to permit the use of federal moneys to provide the family
15 care benefit and the self-directed services option to recipients of medical assistance.
16 The department shall implement any waiver that is approved and that is consistent
17 with ss. 46.2805 to 46.2895. Regardless of whether a waiver is approved, the
18 department may implement operation of resource centers, care management
19 organizations, and the family care benefit.

20 **SECTION 33.** 46.281 (1n) (d) of the statutes is repealed.

21 **SECTION 34.** 46.281 (3) of the statutes is repealed.

22 **SECTION 35.** 46.2825 of the statutes is repealed.

23 **SECTION 36.** 46.283 (3) (f) of the statutes is amended to read:

24 46.283 (3) (f) Assistance to a person who is eligible for the family care benefit
25 with respect to the person's choice of whether or not to enroll in the self-directed

1 services option, as defined in s. 46.2899 (1), a care management organization for the
2 family care benefit or the Family Care Partnership program, or the program of
3 all-inclusive care for the elderly and, if so, which available long-term care program
4 or care management organization would best meet his or her needs.

5 **SECTION 37.** 46.283 (4) (e) of the statutes is repealed.

6 **SECTION 38.** 46.283 (4) (f) of the statutes is amended to read:

7 46.283 (4) (f) Perform a functional screening and a financial and cost-sharing
8 screening for any resident, ~~as specified in par. (e),~~ who requests a screening and
9 assist any resident who is eligible and chooses to enroll in a care management
10 organization or the self-directed services option to do so.

11 **SECTION 39.** 46.283 (6) (b) 7. of the statutes is repealed.

12 **SECTION 40.** 46.283 (6) (b) 9. of the statutes is amended to read:

13 46.283 (6) (b) 9. Review the number and types of grievances and appeals
14 concerning the long-term care system in the area served by related to the resource
15 center, to determine if a need exists for system changes, and recommend system or
16 other changes if appropriate.

17 **SECTION 41.** 46.283 (6) (b) 10. of the statutes is repealed.

18 **SECTION 42.** 46.285 (intro.) of the statutes is renumbered 46.285 and amended
19 to read:

20 **46.285 Operation of resource center and care management**
21 **organization.** In order to meet federal requirements and assure federal financial
22 participation in funding of the family care benefit, a county, a tribe or band, a
23 long-term care district or an organization, including a private, nonprofit
24 corporation, may not directly operate both a resource center and a care management
25 organization, ~~except as follows:~~

1 **SECTION 43.** 46.285 (1) of the statutes is repealed.

2 **SECTION 44.** 46.285 (2) of the statutes is repealed.

3 **SECTION 45.** 46.286 (3) (b) 2. a. of the statutes is repealed.

4 **SECTION 46.** 46.287 (2) (a) 1. (intro.) of the statutes is amended to read:

5 46.287 (2) (a) 1. (intro.) Except as provided in subd. 2., a client may contest any
6 of the following applicable matters by filing, within 45 days of the failure of a resource
7 center or ~~care management organization~~ county to act on the contested matter
8 within the time frames specified by rule by the department or within 45 days after
9 receipt of notice of a decision in a contested matter, a written request for a hearing
10 under s. 227.44 to the division of hearings and appeals created under s. 15.103 (1):

11 **SECTION 47.** 46.287 (2) (a) 1. d. of the statutes is renumbered 46.287 (2) (a) 1m.

12 b.

13 **SECTION 48.** 46.287 (2) (a) 1. e. of the statutes is repealed.

14 **SECTION 49.** 46.287 (2) (a) 1. f. of the statutes is repealed.

15 **SECTION 50.** 46.287 (2) (a) 1m. of the statutes is created to read:

16 46.287 (2) (a) 1m. Except as provided in subd. 2., a client may contest any of
17 the following adverse benefit determinations by filing, within 90 days of the failure
18 of a care management organization to act on a contested adverse benefit
19 determination within the time frames specified by rule by the department or within
20 90 days after receipt of notice of a decision upholding the adverse benefit
21 determination, a written request for a hearing under s. 227.44 to the division of
22 hearings and appeals created under s. 15.103 (1):

23 a. Denial of functional eligibility under s. 46.286 (1) as a result of the care
24 management organization's administration of the long-term care functional screen,

1 including a change from a nursing home level of care to a non-nursing home level
2 of care.

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

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

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

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

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

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

19 i. Development of a plan of care that is unacceptable to the enrollee because the
20 plan of care requires the enrollee to live in a place that is unacceptable to the enrollee;
21 the plan of care does not provide sufficient care, treatment, or support to meet the
22 enrollee's needs and support the enrollee's identified outcomes; or the plan of care
23 requires the enrollee to accept care, treatment, or support that is unnecessarily
24 restrictive or unwanted by the enrollee.

25 j. Involuntary disenrollment from the care management organization.

1 **SECTION 51.** 46.287 (2) (b) of the statutes is amended to read:

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

11 **SECTION 52.** 46.288 (2) (intro.) of the statutes is renumbered 46.288 (2) and
12 amended to read:

13 46.288 (2) Criteria and procedures for determining functional eligibility under
14 s. 46.286 (1) (a), financial eligibility under s. 46.286 (1) (b), and cost sharing under
15 s. 46.286 (2) (a). ~~The rules for determining functional eligibility under s. 46.286 (1)~~
16 ~~(a) 1m. shall be substantially similar to eligibility criteria for receipt of the long-term~~
17 ~~support community options program under s. 46.27. Rules under this subsection~~
18 ~~shall include definitions of the following terms applicable to s. 46.286:~~

19 **SECTION 53.** 46.288 (2) (d) to (j) of the statutes are repealed.

20 **SECTION 54.** 46.2896 (1) (a) of the statutes is amended to read:

21 46.2896 (1) (a) “Long-term care program” means the long-term care program
22 under s. ~~46.27, 46.275, 46.277, 46.278, or 46.2785~~; the family care program providing
23 the benefit under s. 46.286; the Family Care Partnership program; or the long-term
24 care program defined in s. 46.2899 (1).

25 **SECTION 55.** 46.82 (3) (a) 13. of the statutes is repealed.

1 **SECTION 56.** 49.45 (2) (a) 23. of the statutes is amended to read:

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

6 **SECTION 57.** 49.45 (3) (a) of the statutes is amended to read:

7 49.45 (3) (a) Reimbursement shall be made to each county department under
8 ss. 46.215, 46.22, and 46.23 for any administrative services performed in the Medical
9 Assistance program on the basis of s. 49.78 (8). ~~For purposes of reimbursement~~
10 ~~under this paragraph, assessments completed under s. 46.27 (6) (a) are~~
11 ~~administrative services performed in the Medical Assistance program.~~

12 **SECTION 58.** 49.45 (5) (a) of the statutes is amended to read:

13 49.45 (5) (a) Any person whose application for medical assistance is denied or
14 is not acted upon promptly or who believes that the payments made in the person’s
15 behalf have not been properly determined or that his or her eligibility has not been
16 properly determined may file an appeal with the department pursuant to par. (b).
17 Review is unavailable if the decision or failure to act arose more than 45 days before
18 submission of the petition for a hearing, except as provided in par. (ag) or (ar).

19 **SECTION 59.** 49.45 (5) (ag) of the statutes is created to read:

20 49.45 (5) (ag) A person shall request a hearing within 90 days of the date of
21 receipt of a notice from a care management organization or managed care
22 organization upholding its adverse benefit determination relating to any of the
23 following or within 90 days of the date the care management organization or
24 managed care organization failed to act on the contested matter within the time
25 specified by the department:

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

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

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

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

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

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

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

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

19 49.45 (5) (ar) If a federal regulation specifies a different time limit to request
20 a hearing than par. (a) or (ag), the time limit in the federal regulation shall apply.

21 **SECTION 61.** 49.45 (5) (b) 1. (intro.) of the statutes is amended to read:

22 49.45 (5) (b) 1. (intro.) Upon receipt of a timely petition under par. (a) the
23 department shall give the applicant or recipient reasonable notice and opportunity
24 for a fair hearing. The department may make such additional investigation as it
25 considers necessary. Notice of the hearing shall be given to the applicant or recipient

SECTION 61

1 and, if a county department under s. 46.215, 46.22, or 46.23 is responsible for making
2 the medical assistance determination, to the county clerk of the county. The county
3 may be represented at such hearing. The department shall render its decision as
4 soon as possible after the hearing and shall send a certified copy of its decision to the
5 applicant or recipient, to the county clerk, and to any county officer charged with
6 administration of the Medical Assistance program. The decision of the department
7 shall have the same effect as an order of a county officer charged with the
8 administration of the Medical Assistance program. The decision shall be final, but
9 may be revoked or modified as altered conditions may require. The department shall
10 deny a petition for a hearing or shall refuse to grant relief if:

11 **SECTION 62.** 49.45 (5) (b) 1. d. of the statutes is created to read:

12 49.45 (5) (b) 1. d. The issue is an adverse benefit determination described in
13 par. (ag) 1. to 7. made by a care management organization or managed care
14 organization and the person requesting the hearing has not exhausted the internal
15 appeal procedure with the organization.

16 **SECTION 63.** 49.45 (6m) (c) 5. of the statutes is amended to read:

17 49.45 (6m) (c) 5. Admit only patients assessed or who waive or are exempt from
18 the requirement of assessment under s. 46.27 (6) (a) or, if required under s. 50.035
19 (4n) or 50.04 (2h), who have been referred to a resource center.

20 **SECTION 64.** 49.45 (6m) (L) of the statutes is amended to read:

21 49.45 (6m) (L) For purposes of ss. 46.27 (11) (e) 7. and s. 46.277 (5) (e), the
22 department shall, by July 1 annually, determine the statewide medical assistance
23 daily cost of nursing home care and submit the determination to the department of
24 administration for review. The department of administration shall approve the

1 determination before payment may be made under s. ~~46.27 (11) (e) 7.~~ or 46.277 (5)
2 (e).

3 **SECTION 65.** 49.45 (47) (b) of the statutes is amended to read:

4 49.45 (47) (b) No person may receive reimbursement under s. ~~46.27 (11)~~ for the
5 provision of services to clients in an adult day care center unless the adult day care
6 center is certified by the department under sub. (2) (a) 11. as a provider of medical
7 assistance.

8 **SECTION 66.** 49.46 (1) (a) 14. of the statutes is amended to read:

9 49.46 (1) (a) 14. Any person who would meet the financial and other eligibility
10 requirements for home or community-based services under s. ~~46.27 (11)~~, 46.277, or
11 46.2785 but for the fact that the person engages in substantial gainful activity under
12 42 USC 1382c (a) (3), if a waiver under s. 49.45 (38) is in effect or federal law permits
13 federal financial participation for medical assistance coverage of the person and if
14 funding is available for the person under s. ~~46.27 (11)~~, 46.277, or 46.2785.

15 **SECTION 67.** 49.46 (1) (em) of the statutes is amended to read:

16 49.46 (1) (em) To the extent approved by the federal government, for the
17 purposes of determining financial eligibility and any cost-sharing requirements of
18 an individual under par. (a) 6m., 14., or 14m., (d) 2., or (e), the department or its
19 designee shall exclude any assets accumulated in a person's independence account,
20 as defined in s. 49.472 (1) (c), and any income or assets from retirement benefits
21 earned or accumulated from income or employer contributions while employed and
22 receiving ~~state-funded benefits under s. 46.27~~ or medical assistance under s. 49.472.

23 **SECTION 68.** 49.46 (2) (b) 8. of the statutes is amended to read:

24 49.46 (2) (b) 8. Home or community-based services, if provided under s. ~~46.27~~
25 (11), 46.275, 46.277, 46.278, 46.2785, 46.99, or under the family care benefit if a

1 waiver is in effect under s. 46.281 (1d), or under the disabled children's long-term
2 support program, as defined in s. 46.011 (1g).

3 **SECTION 69.** 49.47 (4) (as) 1. of the statutes is amended to read:

4 49.47 (4) (as) 1. The person would meet the financial and other eligibility
5 requirements for home or community-based services under s. ~~46.27 (11)~~, 46.277, or
6 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1d)
7 but for the fact that the person engages in substantial gainful activity under 42 USC
8 1382c (a) (3).

9 **SECTION 70.** 49.47 (4) (as) 3. of the statutes is amended to read:

10 49.47 (4) (as) 3. Funding is available for the person under s. ~~46.27 (11)~~, 46.277,
11 or 46.2785 or under the family care benefit if a waiver is in effect under s. 46.281 (1d).

12 **SECTION 71.** 49.47 (4) (b) (intro.) of the statutes is amended to read:

13 49.47 (4) (b) (intro.) Eligibility exists if the applicant's property, subject to the
14 exclusion of any amounts under the Long-Term Care Partnership Program
15 established under s. 49.45 (31), any amounts in an independence account, as defined
16 in s. 49.472 (1) (c), or any retirement assets that accrued from employment while the
17 applicant was eligible for the community options program under s. 46.27 (11), 2017
18 stats., or any other Medical Assistance program, including deferred compensation
19 or the value of retirement accounts in the Wisconsin Retirement System or under the
20 federal Social Security Act, does not exceed the following:

21 **SECTION 72.** 49.472 (3) (b) of the statutes is amended to read:

22 49.472 (3) (b) The individual's assets do not exceed \$15,000. In determining
23 assets, the department may not include assets that are excluded from the resource
24 calculation under 42 USC 1382b (a), assets accumulated in an independence
25 account, and, to the extent approved by the federal government, assets from

1 retirement benefits accumulated from income or employer contributions while
2 employed and receiving medical assistance under this section or state-funded
3 benefits under s. 46.27, 2017 stats. The department may exclude, in whole or in part,
4 the value of a vehicle used by the individual for transportation to paid employment.

5 **SECTION 73.** 49.472 (3) (f) of the statutes is amended to read:

6 49.472 (3) (f) The individual maintains premium payments under sub. (4) (am)
7 and, if applicable and to the extent approved by the federal government, premium
8 payments calculated by the department in accordance with sub. (4) (bm), unless the
9 individual is exempted from premium payments under sub. (4) (dm) ~~or (5)~~.

10 **SECTION 74.** 49.472 (4) (am) of the statutes is amended to read:

11 49.472 (4) (am) To the extent approved by the federal government and except
12 as provided in pars. (dm) and (em) ~~and sub. (5)~~, an individual who receives medical
13 assistance under this section shall pay a monthly premium of \$25 to the department.

14 **SECTION 75.** 49.472 (5) of the statutes is repealed.

15 **SECTION 76.** 49.849 (1) (e) of the statutes is amended to read:

16 49.849 (1) (e) "Public assistance" means any services provided as a benefit
17 under a long-term care program, as defined in s. 49.496 (1) (bk), medical assistance
18 under subch. IV, ~~long-term community support services funded under s. 46.27 (7)~~,
19 or aid under s. 49.68, 49.683, 49.685, or 49.785.

20 **SECTION 77.** 49.849 (2) (a) (intro.) of the statutes is amended to read:

21 49.849 (2) (a) (intro.) Subject to par. (b), the department may collect from the
22 property of a decedent by affidavit under sub. (3) (b) or by lien under sub. (4) (a) an
23 amount equal to the medical assistance that is recoverable under s. 49.496 (3) (a), the
24 long-term community support services under s. 46.27, 2017 stats., that is
25 recoverable under s. 46.27 (7g) (c) 1., 2017 stats., or the aid under s. 49.68, 49.683,

1 49.685, or 49.785 that is recoverable under s. 49.682 (2) (a) or (am), and that was paid
2 on behalf of the decedent or the decedent's spouse, if all of the following conditions
3 are satisfied:

4 **SECTION 78.** 49.849 (6) (a) of the statutes is renumbered 49.849 (6).

5 **SECTION 79.** 49.849 (6) (b) of the statutes is repealed.

6 **SECTION 80.** 50.034 (1) (a) of the statutes is amended to read:

7 50.034 (1) (a) No person may operate a residential care apartment complex that
8 provides living space for residents who are clients under s. ~~46.27 (11) or~~ 46.277 and
9 publicly funded services as a home health agency or under contract with a county
10 department under s. 46.215, 46.22, 46.23, 51.42 or 51.437 that is a home health
11 agency unless the residential care apartment complex is certified by the department
12 under this section. The department may charge a fee, in an amount determined by
13 the department, for certification under this paragraph. The amount of any fee
14 charged by the department for certification of a residential care apartment complex
15 need not be promulgated as a rule under ch. 227.

16 **SECTION 81.** 50.034 (3) (a) 1. of the statutes is repealed.

17 **SECTION 82.** 50.034 (5m) of the statutes is amended to read:

18 50.034 (5m) PROVISION OF INFORMATION REQUIRED. ~~Subject to sub. (5p), when~~
19 When a residential care apartment complex first provides written material
20 regarding the residential care apartment complex to a prospective resident, the
21 residential care apartment complex shall also provide the prospective resident
22 information specified by the department concerning the services of a resource center
23 under s. 46.283, the family care benefit under s. 46.286, and the availability of a
24 functional screening and a financial and cost-sharing screening to determine the
25 prospective resident's eligibility for the family care benefit under s. 46.286 (1).

1 **SECTION 83.** 50.034 (5n) (intro.) of the statutes is amended to read:

2 **50.034 (5n) REQUIRED REFERRAL.** (intro.) ~~Subject to sub. (5p), when~~ When a
3 residential care apartment complex first provides written material regarding the
4 residential care apartment complex to a prospective resident who is at least 65 years
5 of age or has developmental disability or a physical disability and whose disability
6 or condition is expected to last at least 90 days, the residential care apartment
7 complex shall refer the prospective resident to a resource center under s. 46.283,
8 unless any of the following applies:

9 **SECTION 84.** 50.034 (5p) of the statutes is repealed.

10 **SECTION 85.** 50.034 (6) of the statutes is amended to read:

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

17 **SECTION 86.** 50.035 (4m) of the statutes is amended to read:

18 **50.035 (4m) PROVISION OF INFORMATION REQUIRED.** ~~Subject to sub. (4p), when~~
19 When a community-based residential facility first provides written material
20 regarding the community-based residential facility to a prospective resident, the
21 community-based residential facility shall also provide the prospective resident
22 information specified by the department concerning the services of a resource center
23 under s. 46.283, the family care benefit under s. 46.286, and the availability of a
24 functional screening and a financial and cost-sharing screening to determine the
25 prospective resident's eligibility for the family care benefit under s. 46.286 (1).

1 **SECTION 87.** 50.035 (4n) (intro.) of the statutes is amended to read:

2 50.035 (4n) **REQUIRED REFERRAL.** (intro.) When a community-based residential
3 facility first provides written information regarding the community-based
4 residential facility to a prospective resident who is at least 65 years of age or has
5 developmental disability or a physical disability and whose disability or condition is
6 expected to last at least 90 days, the community-based residential facility shall refer
7 the individual to a resource center under s. 46.283 or, if the secretary has not certified
8 under s. 46.281 (3) that a resource center is available in the area of the
9 community-based residential facility to serve individuals in an eligibility group to
10 which the prospective resident belongs, to the county department that administers
11 a program under ss. 46.27 or 46.277, unless any of the following applies:

12 **SECTION 88.** 50.035 (4p) of the statutes is repealed.

13 **SECTION 89.** 50.04 (2g) (a) of the statutes is amended to read:

14 50.04 (2g) (a) ~~Subject to sub. (2i), a~~ **A** nursing home shall, within the time
15 period after inquiry by a prospective resident that is prescribed by the department
16 by rule, inform the prospective resident of the services of a resource center under s.
17 46.283, the family care benefit under s. 46.286, and the availability of a functional
18 screening and a financial and cost-sharing screening to determine the prospective
19 resident's eligibility for the family care benefit under s. 46.286 (1).

20 **SECTION 90.** 50.04 (2h) (a) (intro.) of the statutes is amended to read:

21 50.04 (2h) (a) (intro.) ~~Subject to sub. (2i), a~~ **A** nursing home shall, within the
22 time period prescribed by the department by rule, refer to a resource center under
23 s. 46.283 a person who is seeking admission, who is at least 65 years of age or has
24 developmental disability or physical disability and whose disability or condition is
25 expected to last at least 90 days, unless any of the following applies:

1 **SECTION 91.** 50.04 (2i) of the statutes is repealed.

2 **SECTION 92.** 50.04 (2m) of the statutes is repealed.

3 **SECTION 93.** 50.06 (7) of the statutes is amended to read:

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

15 **SECTION 94.** 51.06 (8) (b) 6. of the statutes is amended to read:

16 51.06 (8) (b) 6. The extent of Medical Assistance provided to relocated or
17 diverted individuals that is in addition to Medical Assistance provided to the
18 individuals under s. 46.27 (11), 46.275, 46.277, or 46.278, as a family care benefit
19 under ss. 46.2805 to 46.2895, or under any other home-based or community-based
20 program for which the department has received a waiver under 42 USC 1396n (c).

21 **SECTION 95.** 51.42 (3) (ar) 3. of the statutes is amended to read:

22 51.42 (3) (ar) 3. Plan for and establish a community developmental disabilities
23 program to deliver the services required under s. 51.437 if, under s. 51.437 (4g) (b),
24 the county board of supervisors in a county with a single-county department of
25 community programs or the county boards of supervisors in counties with a

1 multicounty department of community programs transfer the powers and duties of
2 the county department under s. 51.437 to the county department of community
3 programs. The county board of supervisors in a county with a single-county
4 department of community programs and the county boards of supervisors in counties
5 with a multicounty department of community programs may designate the county
6 department of community programs to which these powers and duties have been
7 transferred as the administrative agency of ~~the long-term support community~~
8 ~~options program under s. 46.27 (3) (b) 1. and 5. and the community integration~~
9 programs under ss. 46.275, 46.277 and 46.278.

10 **SECTION 96.** 51.421 (1) of the statutes is amended to read:

11 51.421 (1) PURPOSE. In order to provide the least restrictive and most
12 appropriate care and treatment for persons with serious and persistent mental
13 illness, community support programs should be available in all parts of the state.
14 In order to integrate community support programs with other long-term care
15 programs, community support programs shall be coordinated, to the greatest extent
16 possible, ~~with the community options program under s. 46.27,~~ with the protective
17 services system in a county, with the medical assistance program under subch. IV of
18 ch. 49 and with other care and treatment programs for persons with serious and
19 persistent mental illness.

20 **SECTION 97.** 54.21 (2) (g) of the statutes is amended to read:

21 54.21 (2) (g) The current and likely future effect of the proposed transfer of
22 assets on the ward's eligibility for public benefits, including medical assistance ~~or a~~
23 benefit under s. 46.27.

24 **SECTION 98.** 54.34 (1) (k) of the statutes is amended to read:

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

3 **SECTION 99.** 71.52 (6) of the statutes is amended to read:

4 71.52 (6) "Income" means the sum of Wisconsin adjusted gross income and the
5 following amounts, to the extent not included in Wisconsin adjusted gross income:
6 maintenance payments (except foster care maintenance and supplementary
7 payments excludable under section 131 of the internal revenue code), support money,
8 cash public assistance (not including credit granted under this subchapter and
9 amounts under s. 46.27, 2017 stats.), cash benefits paid by counties under s. 59.53
10 (21), the gross amount of any pension or annuity (including railroad retirement
11 benefits, all payments received under the federal social security act and veterans
12 disability pensions), nontaxable interest received from the federal government or
13 any of its instrumentalities, nontaxable interest received on state or municipal
14 bonds, worker's compensation, unemployment insurance, the gross amount of "loss
15 of time" insurance, compensation and other cash benefits received from the United
16 States for past or present service in the armed forces, scholarship and fellowship gifts
17 or income, capital gains, gain on the sale of a personal residence excluded under
18 section 121 of the internal revenue code, dividends, income of a nonresident or
19 part-year resident who is married to a full-year resident, housing allowances
20 provided to members of the clergy, the amount by which a resident manager's rent
21 is reduced, nontaxable income of an American Indian, nontaxable income from
22 sources outside this state and nontaxable deferred compensation. Intangible drilling
23 costs, depletion allowances and depreciation, including first-year depreciation
24 allowances under section 179 of the internal revenue code, amortization,
25 contributions to individual retirement accounts under section 219 of the internal

1 revenue code, contributions to Keogh plans, net operating loss carry-backs and
2 carry-forwards, capital loss carry-forwards, and disqualified losses deducted in
3 determining Wisconsin adjusted gross income shall be added to "income". "Income"
4 does not include gifts from natural persons, cash reimbursement payments made
5 under title XX of the federal social security act, surplus food or other relief in kind
6 supplied by a governmental agency, the gain on the sale of a personal residence
7 deferred under section 1034 of the internal revenue code or nonrecognized gain from
8 involuntary conversions under section 1033 of the internal revenue code. Amounts
9 not included in adjusted gross income but added to "income" under this subsection
10 in a previous year and repaid may be subtracted from income for the year during
11 which they are repaid. Scholarship and fellowship gifts or income that are included
12 in Wisconsin adjusted gross income and that were added to household income for
13 purposes of determining the credit under this subchapter in a previous year may be
14 subtracted from income for the current year in determining the credit under this
15 subchapter. A marital property agreement or unilateral statement under ch. 766 has
16 no effect in computing "income" for a person whose homestead is not the same as the
17 homestead of that person's spouse.

18 **SECTION 100.** 71.58 (7) (a) of the statutes is amended to read:

19 71.58 (7) (a) For an individual, means income as defined under s. 71.52 (6), plus
20 nonfarm business losses, plus amounts under s. 46.27, 2017 stats., less net operating
21 loss carry-forwards, less first-year depreciation allowances under section 179 of the
22 internal revenue code and less the first \$25,000 of depreciation expenses in respect
23 to the farm claimed by all of the individuals in a household.

24 **SECTION 101.** 102.07 (20) of the statutes is amended to read:

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

10 **SECTION 102.** 108.02 (13) (k) of the statutes is amended to read:

11 108.02 (13) (k) "Employer" does not include a county department, an aging
12 unit, or, under s. 46.2785, a private agency that serves as a fiscal agent or contracts
13 with a fiscal intermediary to serve as a fiscal agent under s. 46.27 (5) (i), 46.272 (7)
14 (e), or 47.035 as to any individual performing services for a person receiving
15 long-term support services under s. ~~46.27 (5) (b)~~, 46.272 (7) (b), 46.275, 46.277,
16 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance services
17 under s. 47.02 (6) (c).

18 **SECTION 103.** 108.22 (10) of the statutes is amended to read:

19 108.22 (10) A private agency that serves as a fiscal agent under s. 46.2785 or
20 contracts with a fiscal intermediary to serve as a fiscal agent under s. ~~46.27 (5) (i)~~,
21 46.272 (7) (e), or 47.035 as to any individual performing services for a person
22 receiving long-term support services under s. ~~46.27 (5) (b)~~, 46.272 (7) (b), 46.275,
23 46.277, 46.278, 46.2785, 46.286, 46.495, 51.42, or 51.437 or personal assistance
24 services under s. 47.02 (6) (c) may be found jointly and severally liable for the
25 amounts owed by the person under this chapter, if, at the time the person's quarterly

1 report is due under this chapter, the private agency served as a fiscal agent for the
2 person. The liability of the agency as provided in this subsection survives
3 dissolution, reorganization, bankruptcy, receivership, assignment for the benefit of
4 creditors, judicially confirmed extension or composition, or any analogous situation
5 of the person and shall be set forth in a determination or decision issued under s.
6 108.10. An appeal or review of a determination under this subsection shall not
7 include an appeal or review of determinations of amounts owed by the person.

8 **SECTION 104.** 632.697 of the statutes is amended to read:

9 **632.697 Benefits subject to department's right to recover.** Death
10 benefits payable under a life insurance policy or an annuity are subject to the right
11 of the department of health services to recover under s. 46.27 (7g), 2017 stats.,
12 49.496, 49.682, or 49.849 an amount equal to the medical assistance that is
13 recoverable under s. 49.496 (3) (a), an amount equal to aid under s. 49.68, 49.683,
14 49.685, or 49.785 that is recoverable under s. 49.682 (2) (a) or (am), or an amount
15 equal to long-term community support services under s. 46.27, 2017 stats., that is
16 recoverable under s. 46.27 (7g) (c) 1., 2017 stats., and that was paid on behalf of the
17 deceased policyholder or annuitant.

18 **SECTION 105.** 701.0508 (1) (b) 1. of the statutes is amended to read:

19 701.0508 (1) (b) 1. The claim is a claim based on tort, on a marital property
20 agreement that is subject to the time limitations under s. 766.58 (13) (b) or (c), on
21 Wisconsin income, franchise, sales, withholding, gift, or death taxes, or on
22 unemployment compensation contributions due or benefits overpaid; a claim for
23 funeral or administrative expenses; a claim of this state under s. 46.27 (7g), 2017
24 stats., 49.496, 49.682, or 49.849; or a claim of the United States.

25 **SECTION 106.** 705.04 (2g) of the statutes is amended to read:

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

9 **SECTION 107.** 766.55 (2) (bm) of the statutes is amended to read:

10 766.55 (2) (bm) An obligation incurred by a spouse that is recoverable under
11 s. 46.27 (7g), 2017 stats., 49.496, 49.682, or 49.849 may be satisfied from all property
12 that was the property of that spouse immediately before that spouse's death.

13 **SECTION 108.** 859.02 (2) (a) of the statutes is amended to read:

14 859.02 (2) (a) It is a claim based on tort, on a marital property agreement that
15 is subject to the time limitations under s. 766.58 (13) (b) or (c), on Wisconsin income,
16 franchise, sales, withholding, gift, or death taxes, or on unemployment insurance
17 contributions due or benefits overpaid; a claim for funeral or administrative
18 expenses; a claim of this state under s. 46.27 (7g), 2017 stats., 49.496, 49.682, or
19 49.849; or a claim of the United States; or

20 **SECTION 109.** 859.07 (2) (a) 3. of the statutes is amended to read:

21 859.07 (2) (a) 3. The decedent or the decedent's spouse received services
22 provided as a benefit under a long-term care program, as defined in s. 49.496 (1) (bk),
23 medical assistance under subch. IV of ch. 49, long-term community support services
24 funded under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685, or 49.785.

25 **SECTION 110.** 867.01 (3) (am) 4. of the statutes is amended to read:

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

6 **SECTION 111.** 867.01 (3) (d) of the statutes is amended to read:

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

14 **SECTION 112.** 867.02 (2) (am) 6. of the statutes is amended to read:

15 867.02 (2) (am) 6. Whether the decedent or the decedent's spouse received
16 services provided as a benefit under a long-term care program, as defined in s. 49.496
17 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support
18 services funded under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685,
19 or 49.785.

20 **SECTION 113.** 867.03 (1g) (c) of the statutes is amended to read:

21 867.03 (1g) (c) Whether the decedent or the decedent's spouse ever received
22 services provided as a benefit under a long-term care program, as defined in s. 49.496
23 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support
24 services funded under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685,
25 or s. 49.785.

1 **SECTION 114.** 867.03 (1m) (a) of the statutes is amended to read:

2 867.03 (1m) (a) Whenever an heir, trustee, person named in the will to act as
3 personal representative, or person who was guardian of the decedent at the time of
4 the decedent's death intends to transfer a decedent's property by affidavit under sub.
5 (1g) and the decedent or the decedent's spouse ever received services provided as a
6 benefit under a long-term care program, as defined in s. 49.496 (1) (bk), medical
7 assistance under subch. IV of ch. 49, long-term community support services funded
8 under s. 46.27 (7), 2017 stats., or aid under s. 49.68, 49.683, 49.685, or 49.785, the
9 heir, trustee, person named in the will to act as personal representative, or person
10 who was guardian of the decedent at the time of the decedent's death shall give notice
11 to the department of health services of his or her intent. The notice shall include the
12 information in the affidavit under sub. (1g) and the heir, trustee, person named in
13 the will to act as personal representative, or person who was guardian of the
14 decedent at the time of the decedent's death shall give the notice by certified mail,
15 return receipt requested.

16 **SECTION 115.** 867.03 (1m) (b) of the statutes is amended to read:

17 867.03 (1m) (b) An heir, trustee, person named in the will to act as personal
18 representative, or person who was guardian of the decedent at the time of the
19 decedent's death who files an affidavit under sub. (1g) that states that the decedent
20 or the decedent's spouse received services provided as a benefit under a long-term
21 care program, as defined in s. 49.496 (1) (bk), medical assistance under subch. IV of
22 ch. 49, long-term community support services funded under s. 46.27 (7), 2017 stats.,
23 or aid under s. 49.68, 49.683, 49.685, or 49.785 shall attach to the affidavit the proof
24 of mail delivery of the notice required under par. (a) showing the delivery date.

25 **SECTION 116.** 867.03 (2g) (b) of the statutes is amended to read:

