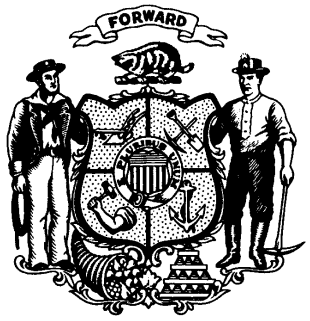
State of Wisconsin



Date of enactment: **May 10, 2006**
2005 Senate Bill 653 Date of publication*: **May 24, 2006**

2005 WISCONSIN ACT 386

AN ACT ***to repeal*** 46.281 (1) (d) (intro.), 46.281 (1) (d) 1. and 46.281 (1) (e) (intro.); ***to renumber and amend*** 46.281 (1) (d) 2.; ***to amend*** 46.27 (4) (c) 8., 46.27 (5) (am), 46.27 (6) (a) 3., 46.27 (6g) (intro.), 46.27 (9) (c), 46.281 (1) (e) 1., 46.281 (1) (e) 2., 46.281 (1) (g) 3., 46.282 (2) (a) (intro.), 46.283 (2) (b) (intro.), 46.284 (4) (e), 46.285 (1) (a) and 49.45 (3) (ag); and ***to create*** 46.2804 and 51.06 (8) of the statutes; **relating to:** contracts with entities to operate resource centers and care management organizations under the Family Care Program, the option of self−directed services, review of expansions of capitation of payments under managed care programs for provision of long−term care services, evaluations of certain managed care programs for provision of long−term care services, requiring increased payment to nursing homes for care provided as a Family Care benefit, and requiring an annual report concerning relocations and diversions from nursing homes, intermediate care facilities for the mentally retarded, and centers for the developmentally disabled.

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

SECTION 1. 46.27 (4) (c) 8. of the statutes is amended to read:

46.27 **(4)** (c) 8. If a ~~pilot project~~ contract with an entity under s. 46.281 (1) ~~(d)~~ (e) 1. is established in the county, a description of how the activities of the ~~pilot project~~ entity relate to and are coordinated with the county's proposed program.

SECTION 2. 46.27 (5) (am) of the statutes is amended to read:

46.27 **(5)** (am) Organize assessment activities specified in sub. (6). The county department or aging unit shall utilize persons for each assessment who can determine the needs of the person being assessed and who know the availability within the county of services alternative to placement in a nursing home. If any hospital patient is referred to a nursing home for admission, these persons shall work with the hospital discharge planner in performing the activities specified in sub. (6). The county department or aging unit shall coordinate the involvement of representatives from the county departments under ss. 46.215, 46.22, 51.42 and 51.437, health service providers and the county commission on aging in the assessment activities specified in sub. (6), as well as the person being assessed and members of the person's family or the person's guardian. This paragraph does not apply to a county department or aging unit in a county ~~where a pilot project~~ in which the department has contracted with an entity under s. 46.281 (1) ~~(d) is established~~ (e) 1.

SECTION 3. 46.27 (6) (a) 3. of the statutes is amended to read:

46.27 **(6)** (a) 3. In each participating county, except in counties ~~where a pilot project~~ in which the department has contracted with an entity under s. 46.281 (1) ~~(d) is established~~ (e) 1., assessments shall be conducted for those persons and in accordance with the procedures described in the county's community options plan. The

* Section 991.11, WISCONSIN STATUTES 2003−04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

county may elect to establish assessment priorities for persons in target groups identified by the county in its plan regarding gradual implementation. If a person who is already admitted to a nursing home requests an assessment and if funds allocated for assessments under sub. (7) (am) are available, the county shall conduct the assessment.

SECTION 4. 46.27 (6g) (intro.) of the statutes is amended to read:

46.27 **(6g)** FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and within the limitations under sub. (7) (b), the fiscal responsibility of a county for an assessment, unless the assessment is performed by an entity under a contract as specified under s. 46.281 (1) ~~(d)~~ (e) 1., case plan, or services provided to a person under this section is as follows:

SECTION 5. 46.27 (9) (c) of the statutes is amended to read:

46.27 **(9)** (c) All long−term community support services provided under this pilot project in lieu of nursing home care shall be consistent with those services described in the participating county's community options plan under sub. (4) (c) 1. and provided under sub. (5) (b). Unless the department has contracted under s. 46.281 (1) ~~(d)~~ (e) 1. with an entity other than the county department, each county participating in the pilot project shall assess persons under sub. (6).

SECTION 6. 46.2804 of the statutes is created to read:

46.2804 **Managed care programs for long−term care services. (1)** If the department intends to expand its use of capitation payments under managed care programs for provision of long−term care services over the number of capitated payments made on behalf of individuals enrolled in these managed care programs under 2005 Wisconsin Act 25, the department shall first notify the joint committee on finance in writing of the proposed expansion. Unless the proposed expansion is a part of a biennial budget bill, the joint committee on finance shall, within 14 working days after the date of the department's notification, schedule a meeting under s. 13.10 to approve, modify, or disapprove the proposed expansion. The department may make the expansion only as approved or modified by the joint committee on finance.

(2) Under a managed care program for provision of long−term care services, the care manager shall provide, within guidelines established by the department, a mechanism by which an enrollee, beneficiary, or recipient of the program may arrange for, manage, and monitor his or her benefit directly or with the assistance of another person chosen by the enrollee, beneficiary, or recipient. The care manager shall provide each enrollee, beneficiary, or recipient with a form on which the enrollee, beneficiary, or recipient shall indicate whether he or she has been offered the option under this subsection and whether he or she has accepted or declined the option. If the enrollee, beneficiary, or recipient accepts the option, the care manager shall monitor the use by the enrollee, beneficiary, or recipient of a fixed budget for purchase of services or support items from any qualified provider, monitor the health and safety of the enrollee, beneficiary, or recipient, and provide assistance in management of the budget and services of the enrollee, beneficiary, or recipient at a level tailored to the need and desire of the enrollee, beneficiary, or recipient for the assistance.

SECTION 7. 46.281 (1) (d) (intro.) of the statutes is repealed.

SECTION 8. 46.281 (1) (d) 1. of the statutes is repealed.

SECTION 9. 46.281 (1) (d) 2. of the statutes is renumbered 46.281 (1) (d) and amended to read:

46.281 **(1)** (d) In geographic areas in which, in the aggregate, resides no more than ~~29%~~ 29 percent of the state population that is eligible for the family care benefit, contract with ~~counties or tribes or bands under a pilot project to demonstrate the ability of counties or tribes or bands~~ a county, a family care district, a tribe or band, the Great Lakes Inter−Tribal Council, Inc., or with 2 or more of these entities to manage all long−term care programs and administer the family care benefit as care management organizations. If the department proposes to contract with these entities to administer care management organizations in geographic areas in which, in the aggregate, resides more than 29 percent but less than 50 percent of the state population that is eligible for the family care benefit, the department shall first notify the joint committee on finance in writing of the proposed contract. The notification shall include the contract proposal; and an estimate of the fiscal impact of the proposed addition that demonstrates that the addition will be cost neutral, including startup, transitional, and ongoing operational costs and any proposed county contribution. If the cochairpersons of the committee do not notify the department within 14 working days after the date of the department's notification that the committee has scheduled a meeting for the purpose of reviewing the proposed contract, the department may enter into the proposed contract. If within 14 days after the date of the department's notification the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed contract, the department may enter into the proposed contract only upon approval of the committee. The department may contract with these entities to administer care management organizations in geographic areas in which, in the aggregate, resides 50 percent or more of the state population that is eligible for the family care benefit only if specifically authorized by the legislature and if the legislature appropriates necessary funding.

SECTION 10. 46.281 (1) (e) (intro.) of the statutes, as affected by 2005 Wisconsin Act 25, is repealed.

SECTION 11. 46.281 (1) (e) 1. of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

46.281 **(1)** (e) 1. ~~If~~ Subject to the requirements of par. (d), if the local long−term care council for the applicable area has developed the initial plan under s. 46.282 (3) (a) 1., contract with entities specified under par. (d) and may, only if specifically authorized by the legislature and if the legislature appropriates necessary funding, contract as so authorized with one or more entities in addition to those specified in par. (d) certified as meeting requirements under s. 46.284 (3) for services of the entity as a care management organization.

SECTION 12. 46.281 (1) (e) 2. of the statutes, as created by 2005 Wisconsin Act 25, is amended to read:

46.281 **(1)** (e) 2. Contract with entities specified under par. (d) and may contract with other entities for the provision of services under s. 46.283 (3) and (4), except that after July 27, 2005, the department shall notify the joint committee on finance in writing of any proposed contract with an entity that did not have a contract to provide services under s. 46.283 (3) and (4) before July 27, 2005. If the cochairpersons of the committee do not notify the department within 14 working days after the date of the department's notification that the committee has scheduled a meeting for the purpose of reviewing the proposed contract, the department may enter into the proposed contract. If within 14 working days after the date of the department's notification the cochairpersons of the committee notify the department that the committee has scheduled a meeting for the purpose of reviewing the proposed contract, the department may enter into the proposed contract only upon approval of the committee.

SECTION 13. 46.281 (1) (g) 3. of the statutes is amended to read:

46.281 **(1)** (g) 3. Conduct ongoing evaluations of ~~the long−term care system specified in ss. 46.2805 to 46.2895~~ managed care programs for provision of long−term care services that are funded by medical assistance, as defined in s. 46.278 (1m) (b), as to client access to services, the availability of client choice of living and service options, quality of care, and cost−effectiveness. In evaluating the availability of client choice, the department shall evaluate the opportunity for a client to arrange for, manage, and monitor his or her family care benefit directly or with assistance, as specified in s. 46.284 (4) (e).

SECTION 14. 46.282 (2) (a) (intro.) of the statutes is amended to read:

46.282 **(2)** (a) *Appointment by a county.* (intro.) In a county ~~that participates in a pilot project~~ in which the department has a contract under s. 46.281 (1) ~~(d)~~ (e) and before a county participates in the program under ss. 46.2805 to 46.2895, the following shall be done:

SECTION 15. 46.283 (2) (b) (intro.) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

46.283 **(2)** (b) (intro.) After June 30, 2001, the department ~~shall contract with the entities specified under s. 46.281 (1) (d) 1. and~~ may, if the applicable review conditions under ~~s. 48.281 (1) (e) 2.~~ s. 46.281 (1) (e) 2. are satisfied, ~~in addition to contracting with these entities,~~ contract to operate a resource center with counties, family care districts, or the governing body of a tribe or band or the Great Lakes Inter−Tribal Council, Inc., under a joint application of any of these, or with a private nonprofit organization if the department determines that the organization has no significant connection to an entity that operates a care management organization and if any of the following applies:

SECTION 16. 46.284 (4) (e) of the statutes is amended to read:

46.284 **(4)** (e) Provide, within guidelines established by the department, a mechanism by which an enrollee may arrange for, manage, and monitor his or her family care benefit directly or with the assistance of another person chosen by the enrollee. The care management organization shall provide each enrollee with a form on which the enrollee shall indicate whether he or she has been offered the option under this paragraph and whether he or she has accepted or declined the option. If the enrollee accepts the option, the care management organization shall monitor the enrollee's use of a fixed budget for purchase of services or support items from any qualified provider, monitor the health and safety of the enrollee, and provide assistance in management of the enrollee's budget and services at a level tailored to the enrollee's need and desire for the assistance.

SECTION 17. 46.285 (1) (a) of the statutes is amended to read:

46.285 **(1)** (a) For ~~a pilot project established~~ an entity with which the department has contracted under s. 46.281 (1) ~~(d) 2.~~ (e) 1., provision of the services specified under s. 46.283 (3) (b), (e), (f) and (g) shall be structurally separate from the provision of services of the care management organization by January 1, 2001.

SECTION 18. 49.45 (3) (ag) of the statutes is amended to read:

49.45 **(3)** (ag) Reimbursement shall be made to each entity contracted with under s. 46.281 (1) ~~(d)~~ (e) for functional screens performed ~~under s. 46.281 (1) (d)~~ by the entity.

SECTION 18m. 51.06 (8) of the statutes is created to read:

51.06 **(8)** RELOCATIONS; REPORT. (a) In this subsection:

1. "Intermediate care facility for the mentally retarded" has the meaning given in 42 USC 1396d (d).

2. "Medical Assistance" has the meaning given in s. 49.43 (8).

3. "Nursing home" has the meaning given in s. 50.01 (3).

(b) Annually by October 1, the department shall submit to the joint committee on finance and to the appropriate standing committees of the legislature under s. 13.172 (3) a report that includes information collected from the

previous fiscal year on the relocation or diversion of individuals who are Medical Assistance eligibles or recipients from nursing homes, intermediate care facilities for the mentally retarded, and centers for the developmentally disabled. The report shall include all of the following information:

1. The impact of the relocations and diversions on the health and safety of the individuals relocated or diverted.

2. The extent of involvement of guardians or family members of the individuals in efforts to relocate or divert the individuals.

3. The nature and duration of relocations or diversions that specifies the locations of relocated or diverted individuals every year after home or community placement occurs, so as to keep track of the individuals on an ongoing basis.

4. An accounting of the costs and savings under the Medical Assistance program of relocations and diversions and the resulting reduction in capacity for services of nursing homes, intermediate care facilities for the mentally retarded, and centers for the developmentally disabled. The accounting shall include the per individual savings as well as the collective savings of relocations and diversions.

5. The costs under the Medical Assistance program of administration, housing, and other services, including nursing, personal care, and physical therapy services, that are associated with the relocations and diversions.

6. The extent of Medical Assistance provided to relocated or diverted individuals that is in addition to Medical Assistance provided to the individuals under s. 46.27 (11), 46.275, 46.277, or 46.278, as a family care benefit under ss. 46.2805 to 46.2895, or under any other home−based or community−based program for which the department has received a waiver under 42 USC 2396n (c).

7. Staff turnover rates for nursing homes, intermediate care facilities for the mentally retarded, and centers for the developmentally disabled in communities in which an individual relocated or diverted from a nursing home, intermediate care facility for the mentally retarded, or center for the developmentally disabled currently resides.

SECTION 19. Nonstatutory provisions.

(1) INCREASED PAYMENTS FOR NURSING HOMES PROVIDING FAMILY CARE BENEFIT SERVICES.

(a) In this subsection:

1. "Care management organization" has the meaning given in section 46.2805 (1) of the statutes.

2. "Facility" has the meaning given in section 49.45 (6m) (a) 3. of the statutes.

3. "Family Care benefit" has the meaning given in section 46.2805 (4) of the statutes.

4. "Medical Assistance" has the meaning given in section 46.278 (1m) (b) of the statutes.

(b) Care management organizations shall provide increased funding for reimbursement for care provided by facilities for recipients of Medical Assistance as a Family Care benefit, in amounts that proportionately reflect all of the following:

1. For fiscal year 2005−06, the nursing home reimbursement supplement authorized under 2005 Wisconsin Act 211, Section 1 (4d).

2. For fiscal year 2006−07, the nursing home reimbursement rate increase authorized under 2005 Wisconsin Act 211, Section 1 (4c).