



State of Wisconsin
2005 - 2006 LEGISLATURE

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ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2005 ASSEMBLY BILL 1110

March 30, 2006 – Offered by JOINT COMMITTEE ON FINANCE.

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

Analysis by the Legislative Reference Bureau

Currently, the Department of Health and Family Services (DHFS) administers Family Care, a program that provides in certain areas a flexible long-term care

benefit called the Family Care benefit. A person must be at least 18 years of age, meet functional and financial eligibility requirements, and have a physical disability, a developmental disability, or infirmities of aging to qualify for the Family Care benefit.

Under current law, before July 1, 2001, DHFS was required to establish in certain geographical areas pilot projects under which DHFS contracted with counties, Family Care districts, federally recognized American Indian tribes or bands, or the Great Lakes Inter-Tribal Council, Inc., to operate resource centers (organizations that provide information and referral services and determine financial and functional eligibility of prospective enrollees) or care management organizations (organizations that assess enrollees' service needs, develop comprehensive care plans for each enrollee, and provide or contract for provision of necessary services), or both. After June 30, 2001, if the local long-term care council for an applicable area had developed a required initial plan, and if authorized and funded by the legislature, DHFS was required to contract with one or more entities in addition to those under pilot projects, for services of a resource center or care management organization; however, as affected by 2005 Wisconsin Act 25 (the biennial budget act), any prospective additional contract with an entity to operate a resource center requires advance approval by the Joint Committee on Finance (JCF), on a passive review basis. Currently, DHFS must conduct on-going evaluations of Family Care.

This substitute amendment eliminates the requirements for establishing Family Care pilot projects before July 1, 2001, and integrates requirements for those pilot projects with current requirements for contracts with resource centers and care management organizations. The substitute amendment specifies that DHFS may contract with a county, a Family Care district, a tribe or band, the Great Lakes Inter-Tribal Council, Inc., or two or more of these entities to administer the Family Care benefit as care management organizations or resource centers. The substitute amendment authorizes DHFS to contract with these entities to administer care management organizations in geographic areas in which, in the aggregate, more than 29 percent but less than 50 percent of the state population that is eligible for the family care benefit reside, if such a proposed contract receives advance approval from JCF, under a passive review process. Notification by DHFS to the JCF concerning such a proposed contract must include the contract proposal and an estimate of the fiscal impact of the proposed addition that demonstrates cost neutrality. However, for contracts with the entities to administer care management organizations in geographic areas in which, in the aggregate, 50 percent or more of the state population that is eligible for the Family Care benefit resides, the legislature must provide specific authorization and necessary funding.

The substitute amendment requires that, if DHFS 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 must first notify JCF of that intention, and JCF must approve the expansion. Further, a care manager of a managed care program for provision of

long-term care services must provide 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 substitute amendment requires that a care management organization provide each Family Care enrollee with a form on which the enrollee must indicate whether he or she has been offered the option of arranging for, managing, and monitoring his or her own Family Care benefit directly or with assistance. The enrollee also must indicate whether he or she accepted or declined the option. This same requirement applies to the care manager of a managed care program for provision of long-term care services.

The substitute amendment also requires that the evaluations that DHFS must make concerning Family Care include client access to services, the availability of client choice of living and service options (including the opportunity for the client to have self-directed services), quality of care, and cost effectiveness. Lastly, the substitute amendment expands these evaluations to include all managed care programs for provision of long-term care services that are funded by Medical Assistance.

Lastly, the substitute amendment requires that care management organizations provide increased funding for reimbursement for care provided by nursing homes for recipients of Medical Assistance as a Family Care benefit, in amounts that proportionately reflect the nursing home reimbursement rate increase for fiscal year 2006-07 and the nursing home reimbursement supplement for fiscal year 2005-06 that were authorized under 2005 Wisconsin Act 211.

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

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

2 46.27 (4) (c) 8. If a pilot project contract with an entity under s. 46.281 (1) (d)
3 (e) 1. is established in the county, a description of how the activities of the ~~pilot project~~
4 entity relate to and are coordinated with the county's proposed program.

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

6 46.27 (5) (am) Organize assessment activities specified in sub. (6). The county
7 department or aging unit shall utilize persons for each assessment who can
8 determine the needs of the person being assessed and who know the availability
9 within the county of services alternative to placement in a nursing home. If any

1 hospital patient is referred to a nursing home for admission, these persons shall work
2 with the hospital discharge planner in performing the activities specified in sub. (6).
3 The county department or aging unit shall coordinate the involvement of
4 representatives from the county departments under ss. 46.215, 46.22, 51.42 and
5 51.437, health service providers and the county commission on aging in the
6 assessment activities specified in sub. (6), as well as the person being assessed and
7 members of the person's family or the person's guardian. This paragraph does not
8 apply to a county department or aging unit in a county ~~where a pilot project in which~~
9 the department has contracted with an entity under s. 46.281 (1) (d) ~~is established~~
10 (e) 1.

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

12 46.27 (6) (a) 3. In each participating county, except in counties ~~where a pilot~~
13 project in which the department has contracted with an entity under s. 46.281 (1) (d)
14 ~~is established (e) 1.~~, assessments shall be conducted for those persons and in
15 accordance with the procedures described in the county's community options plan.
16 The county may elect to establish assessment priorities for persons in target groups
17 identified by the county in its plan regarding gradual implementation. If a person
18 who is already admitted to a nursing home requests an assessment and if funds
19 allocated for assessments under sub. (7) (am) are available, the county shall conduct
20 the assessment.

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

22 46.27 (6g) FISCAL RESPONSIBILITY. (intro.) Except as provided in s. 51.40, and
23 within the limitations under sub. (7) (b), the fiscal responsibility of a county for an
24 assessment, unless the assessment is performed by an entity under a contract as

1 specified under s. 46.281 (1) ~~(d)~~ (e) 1., case plan, or services provided to a person
2 under this section is as follows:

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

4 46.27 (9) (c) All long-term community support services provided under this
5 pilot project in lieu of nursing home care shall be consistent with those services
6 described in the participating county's community options plan under sub. (4) (c) 1.
7 and provided under sub. (5) (b). Unless the department has contracted under s.
8 46.281 (1) ~~(d)~~ (e) 1. with an entity other than the county department, each county
9 participating in the pilot project shall assess persons under sub. (6).

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

11 46.2804 **Managed care programs for long-term care services.** (1) If the
12 department intends to expand its use of capitation payments under managed care
13 programs for provision of long-term care services over the number of capitated
14 payments made on behalf of individuals enrolled in these managed care programs
15 under 2005 Wisconsin Act 25, the department shall first notify the joint committee
16 on finance in writing of the proposed expansion. Unless the proposed expansion is
17 a part of a biennial budget bill, the joint committee on finance shall, within 14
18 working days after the date of the department's notification, schedule a meeting
19 under s. 13.10 to approve, modify, or disapprove the proposed expansion. The
20 department may make the expansion only as approved or modified by the joint
21 committee on finance.

22 (2) Under a managed care program for provision of long-term care services, the
23 care manager shall provide, within guidelines established by the department, a
24 mechanism by which an enrollee, beneficiary, or recipient of the program may
25 arrange for, manage, and monitor his or her benefit directly or with the assistance

1 of another person chosen by the enrollee, beneficiary, or recipient. The care manager
2 shall provide each enrollee, beneficiary, or recipient with a form on which the
3 enrollee, beneficiary, or recipient shall indicate whether he or she has been offered
4 the option under this subsection and whether he or she has accepted or declined the
5 option. If the enrollee, beneficiary, or recipient accepts the option, the care manager
6 shall monitor the use by the enrollee, beneficiary, or recipient of a fixed budget for
7 purchase of services or support items from any qualified provider, monitor the health
8 and safety of the enrollee, beneficiary, or recipient, and provide assistance in
9 management of the budget and services of the enrollee, beneficiary, or recipient at
10 a level tailored to the need and desire of the enrollee, beneficiary, or recipient for the
11 assistance.

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

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

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

16 46.281 (1) (d) In geographic areas in which, in the aggregate, resides no more
17 than ~~29%~~ 29 percent of the state population that is eligible for the family care benefit,
18 ~~contract with counties or tribes or bands under a pilot project to demonstrate the~~
19 ~~ability of counties or tribes or bands~~ a county, a family care district, a tribe or band,
20 the Great Lakes Inter-Tribal Council, Inc., or with 2 or more of these entities to
21 manage all long-term care programs and administer the family care benefit as care
22 management organizations. If the department proposes to contract with these
23 entities to administer care management organizations in geographic areas in which,
24 in the aggregate, resides more than 29 percent but less than 50 percent of the state
25 population that is eligible for the family care benefit, the department shall first

1 notify the joint committee on finance in writing of the proposed contract. The
2 notification shall include the contract proposal; and an estimate of the fiscal impact
3 of the proposed addition that demonstrates that the addition will be cost neutral,
4 including startup, transitional, and ongoing operational costs and any proposed
5 county contribution. If the cochairpersons of the committee do not notify the
6 department within 14 working days after the date of the department's notification
7 that the committee has scheduled a meeting for the purpose of reviewing the
8 proposed contract, the department may enter into the proposed contract. If within
9 14 days after the date of the department's notification the cochairpersons of the
10 committee notify the department that the committee has scheduled a meeting for the
11 purpose of reviewing the proposed contract, the department may enter into the
12 proposed contract only upon approval of the committee. The department may
13 contract with these entities to administer care management organizations in
14 geographic areas in which, in the aggregate, resides 50 percent or more of the state
15 population that is eligible for the family care benefit only if specifically authorized
16 by the legislature and if the legislature appropriates necessary funding.

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

19 **SECTION 11.** 46.281 (1) (e) 1. of the statutes, as affected by 2005 Wisconsin Act
20 25, is amended to read:

21 46.281 (1) (e) 1. If Subject to the requirements of par. (d), if the local long-term
22 care council for the applicable area has developed the initial plan under s. 46.282 (3)
23 (a) 1., contract with entities specified under par. (d) and may, only if specifically
24 authorized by the legislature and if the legislature appropriates necessary funding,
25 contract as so authorized with one or more entities in addition to those specified in

1 par. (d) certified as meeting requirements under s. 46.284 (3) for services of the entity
2 as a care management organization.

3 **SECTION 12.** 46.281 (1) (e) 2. of the statutes, as created by 2005 Wisconsin Act
4 25, is amended to read:

5 46.281 (1) (e) 2. Contract with entities specified under par. (d) and may contract
6 with other entities for the provision of services under s. 46.283 (3) and (4), except that
7 after July 27, 2005, the department shall notify the joint committee on finance in
8 writing of any proposed contract with an entity that did not have a contract to provide
9 services under s. 46.283 (3) and (4) before July 27, 2005. If the cochairpersons of the
10 committee do not notify the department within 14 working days after the date of the
11 department's notification that the committee has scheduled a meeting for the
12 purpose of reviewing the proposed contract, the department may enter into the
13 proposed contract. If within 14 working days after the date of the department's
14 notification the cochairpersons of the committee notify the department that the
15 committee has scheduled a meeting for the purpose of reviewing the proposed
16 contract, the department may enter into the proposed contract only upon approval
17 of the committee.

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

19 46.281 (1) (g) 3. Conduct ongoing evaluations of ~~the long-term care system~~
20 ~~specified in ss. 46.2805 to 46.2895~~ managed care programs for provision of long-term
21 care services that are funded by medical assistance, as defined in s. 46.278 (1m) (b),
22 as to client access to services, the availability of client choice of living and service
23 options, quality of care, and cost-effectiveness. In evaluating the availability of
24 client choice, the department shall evaluate the opportunity for a client to arrange

1 for, manage, and monitor his or her family care benefit directly or with assistance,
2 as specified in s. 46.284 (4) (e).

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

4 46.282 (2) (a) *Appointment by a county.* (intro.) In a county that participates
5 in a pilot project in which the department has a contract under s. 46.281 (1) (d) (e)
6 and before a county participates in the program under ss. 46.2805 to 46.2895, the
7 following shall be done:

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

10 46.283 (2) (b) (intro.) After June 30, 2001, the department ~~shall contract with~~
11 ~~the entities specified under s. 46.281 (1) (d) 1. and may, if the applicable review~~
12 ~~conditions under s. 48.281 (1) (e) 2. s. 46.281 (1) (e) 2. are satisfied, in addition to~~
13 ~~contracting with these entities,~~ contract to operate a resource center with counties,
14 family care districts, or the governing body of a tribe or band or the Great Lakes
15 Inter-Tribal Council, Inc., under a joint application of any of these, or with a private
16 nonprofit organization if the department determines that the organization has no
17 significant connection to an entity that operates a care management organization
18 and if any of the following applies:

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

20 46.284 (4) (e) Provide, within guidelines established by the department, a
21 mechanism by which an enrollee may arrange for, manage, and monitor his or her
22 family care benefit directly or with the assistance of another person chosen by the
23 enrollee. The care management organization shall provide each enrollee with a form
24 on which the enrollee shall indicate whether he or she has been offered the option
25 under this paragraph and whether he or she has accepted or declined the option. If

1 the enrollee accepts the option, the care management organization shall monitor the
2 enrollee’s use of a fixed budget for purchase of services or support items from any
3 qualified provider, monitor the health and safety of the enrollee, and provide
4 assistance in management of the enrollee’s budget and services at a level tailored to
5 the enrollee’s need and desire for the assistance.

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

7 46.285 (1) (a) For ~~a pilot project established~~ an entity with which the
8 department has contracted under s. 46.281 (1) ~~(d) 2.~~ (e) 1., provision of the services
9 specified under s. 46.283 (3) (b), (e), (f) and (g) shall be structurally separate from the
10 provision of services of the care management organization by January 1, 2001.

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

12 49.45 (3) (ag) Reimbursement shall be made to each entity contracted with
13 under s. 46.281 (1) ~~(d)~~ (e) for functional screens performed ~~under s. 46.281 (1) (d) by~~
14 the entity.

15 **SECTION 19. Nonstatutory provisions.**

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

18 (a) In this subsection:

19 1. “Care management organization” has the meaning given in section 46.2805
20 (1) of the statutes.

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

22 3. “Family Care benefit” has the meaning given in section 46.2805 (4) of the
23 statutes.

24 4. “Medical Assistance” has the meaning given in section 46.278 (1m) (b) of the
25 statutes.

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

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

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

8 (END)