



JOAN BALLWEG

STATE SENATOR · 14TH SENATE DISTRICT

Senate Bill 248: County of Residence for Care Management Organization Facility Placements
Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families
Testimony of Senator Joan Ballweg
September 21, 2023

Good morning, Chairman James and members of the committee. Thank you for hearing this important piece of legislation.

Senate Bill 248 makes a small, practical change to statute by updating which county is considered the county residence by a managed care organization after an individual is placed in long-term care.

Through Wisconsin's Family Care Program managed care organizations, commonly referred to as "MCOs", help long-term care providers assess the level of care and services an individual will require. Recently, there have been concerns around determinations made by MCOs and this bill allows for clarity in the determination of residency.

Typically, the issue of residency, or county of residency, comes into play when discussing which county has fiscal and case plan responsibility for an individual in need of long-term care services. The residency clarification provided under this bill is simply that an individual's county of residency is the county in which they lived immediately prior to being placed in long-term care.

Clarifying an individual's county of residency in state statute will help to prevent unnecessary disputes between counties and provide continuity to the Department of Health Services (DHS). This update is important because MCOs receive their funding through capitation payments from DHS; these payments are comprised of general purpose revenue and a matching medical assistance reimbursement.

Senate Bill 248 will allow for clarity in an individual's residency determination for DHS, MCOs, Wisconsin Counties and long-term care providers.

This bill is supported by the Wisconsin Counties Association.

Thank you for your consideration of Senate Bill 248.



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Testimony before the Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families

Senate Bill 248

September 21, 2023

Thank you Chair James, Vice-Chair Cabral-Guevara, and members of the Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families for holding this hearing on Senate Bill (SB) 248, relating to county of residence for care management organization facility placements. SB 248 is a common-sense bill to clarify the definition of “county of residency” to ensure the proper county is billed by a Managed Care Organization (MCO). Proper residency is important as MCOs receive funding through capitation payments from the Department of Health Services (DHS), both General Purpose Revenue (GPR) and matching Medical Assistance (MA) reimbursement.

Under current law, counties are responsible for paying for the care, treatment, and services of residents in certain facilities. Counties are also responsible for paying for the resident’s long-term care. State statute designates the county of residence as the county that is trying to place someone into care, not the county in which they reside. This definition can lead to disputes between counties about which county is responsible for the costs related to that individual. This legislation amends that definition to be the county where the individual originally resided.

SB 248 ensures clarity for county residency for those participating in Wisconsin’s family care program. This clarification will prevent unnecessary disputes between counties and define more clearly the individual county of residence for DHS.

Thank you for your kind attention and support of this legislation. I am happy to answer any questions you may have.



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Kirsten L. Johnson, Secretary

TO: Members of the Senate Committee on Mental Health, Substance Abuse Prevention, Children and Families

FROM: HJ Waukau, Legislative Director

DATE: September 21, 2023

RE: SB 248 relating to: County of residence for care management organization facility placements

The Department of Health Services (DHS) would like to submit testimony in support of Senate Bill 248 (SB 248) regarding county of residence for care management organization facility placements. SB 248 would create a definition for “care management organization” and clarify the application of “county of residence” as it pertains to Family Care, Family Care Partnership, and Program of All-Inclusive Care for the Elderly (PACE) members.

Currently, Wis. Stat § 51.40(2)(a) does not include a reference to Family Care or managed care organizations (MCOs). As such, current statute could be interpreted to mean that if a Family Care member had to be moved or was placed by an MCO in a different county for one reason or another, the location of their new placement would be their new “county of residence,” effectively shifting the cost obligations from one county to another. An unintended consequence of this potential interpretation is that counties would lose a safeguard against becoming financially responsible for higher cost members being moved into their jurisdiction without their input. An additional concern is some counties could also become “magnet counties,” particularly if they had a high level of residential resources such as: Community-Based Residential Facilities, Adult Family Homes, or Residential Care Apartment Complexes, which could attract a large number of out-of-county placements. For additional context, a 2020 DHS review of Family Care members revealed that approximately 7,000 MCO members were living outside of their initial “county of residence”

Recognizing the concerns regarding potential interpretations of Wis. Stat. § 51.40(2)(a) created an internal workgroup in 2020 to evaluate solutions to codify current DHS practice for “county of residence.” The rationale for wanting to codify the definition for “county of residence” for the Family Care programs is tied to the growth and evolution of Family Care in Wisconsin, and the realization that Wis. Stat. § 51.40(2)(a) did not mention Family Care. It was because of this omission that DHS could not definitively determine that Family Care-initiated moves did not change a member’s “county of residence.” Given the high volume of Family Care-initiated placements into other counties, the impact of having each of these placements potentially resulting in a new “county of residence” determination could be disruptive for Family Care members; create significant workload demands and confusion for Aging and Disability Resource Centers; and be disproportionately costly for county behavioral health, crisis, and adult protective services.

SB 248 as drafted would maintain and codify current practice regarding “county of residence,” and would have the least impact on the current long-term care system. Additionally, SB 248 would reduce the burden on counties and clarify any confusion surrounding “county of residence” determinations.

We thank the Committee for the opportunity to provide written testimony in support of SB 248 and we offer ourselves as a resource for Committee members for any follow up or additional information that may be needed.

MEMORANDUM

TO: Honorable Members of the Committee on Mental Health, Substance Abuse Prevention, Children and Families

FROM: Chelsea Shanks, WCA Government Affairs Associate

DATE: Thursday, September 21, 2023

SUBJECT: Support for Senate Bill 248: County of Residence for MCO Placements

The determination of “residency” or “county of residency” typically comes into play when discussing which county has fiscal and case plan responsibility for an individual in need of long-term care services. Wis. Stat. §51.40 provides statutory guidance with regard to the determination of residence for certain adults, as well as county of responsibility. The Wisconsin Department of Health Services (DHS) also plays a role in the determination of residency through the creation of numbered memos, as well as the creation of a Residency Manual. The Residency Manual is designed to solve residency disputes between “sending” counties and “receiving” counties.

Over the past several years, DHS has been working on a revision to its Residency Manual. An update to this manual is necessary as current language included in the manual does not reflect the reality that Managed Care Organizations (MCOs) currently place most individuals needing care outside of a sending county. MCOs have a contract with the state to deliver the Medicaid Family Care and Partnership benefits; the MCO places a person per their contracted obligations to deliver these Medicaid benefits. However, DHS does not believe that it can utilize current language/practice because it lacks statutory authority to mirror the residency determination protocol. The practical effect is that residency determinations without that guidance will result in inequitable impacts upon receiving counties that have a concentration of care facilities. Such impacts include: county responsibility for income maintenance services, adult protective services, Aging and Disability Resource Center (ADRC) services, and mental health crisis services.

Members of the Wisconsin Association of County Corporation Counsel (WACCC) reached out to the Wisconsin Counties Association (WCA) for assistance in securing a statutory change to maintain current practice regarding residency related to placements made by MCOs.

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This bill would amend Wis. Stat. §51.40(2)(a)2 to provide DHS with the statutory guidance needed to maintain current practice related to placements made by MCOs.

51.40(2)(a)2. Placement by a county or managed care organization. Except for the provision of emergency services under s. 51.15, 51.42(1)(b), 51.437(4)(c), or 51.45(11) and (12), emergency protective services under s. 55.13, or emergency protective placement under s. 55.135, if a county department or an agency of a county department, or a managed care organization places or makes arrangements for placement of the individual into a facility, the individual remains a resident of the county in which the individual resided immediately prior to the individual's initial placement. Any agency of the county department is deemed to be acting on behalf of the county department in placing or making arrangements for placement. Placement of an individual by a county department or an agency of a county department, or a managed care organization in a facility outside the jurisdiction of the county department or agency, or managed care organization, does not transfer the individual's legal residence to the county in which the facility is located. If a resident of a county is physically present in another county and is in need of immediate care, the county in which the individual is present may provide for his or her immediate needs under s. 51.15, 51.20, 51.42(1)(b), 51.437(4)(c), or 51.45(11) or (12), or ch. 54 or 55, without becoming the individual's county of residence.

WCA respectfully requests your support of SB 248 and will be available should any questions arise. Thank you for your consideration.