



Legislative Fiscal Bureau

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February 10, 2016

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Senate Bill 687 and Assembly Bill 856: Long-Term Care Districts and Care Management Organizations

Senate Bill 687 and Assembly Bill 856 are identical bills that would modify the statutes governing long-term care districts and care management organizations (managed care organizations, or MCOs). Senate Bill 687 was introduced on February 1, 2016, and referred to the Joint Committee on Finance on February 3, 2016. Assembly Bill 856 was introduced on February 3, 2016, and referred to the Joint Committee on Finance.

The bills would make several statutory changes to long-term care districts and MCOs, including allowing a long-term care district to operate an MCO outside of the geographic boundaries of the counties, tribes, or bands that created the district, permitting a long-term care district or governmental entity operating an MCO to create a nonstock, nonprofit corporation or a service insurance corporation, specifying how property and assets would be treated upon dissolution of a long-term care district, and requiring the Department of Health Services to include in a waiver request to modify the state's long-term care programs provisions to allow long-term care districts to operate integrated health agencies under the new program.

BACKGROUND

Managed Care Organizations. The state currently provides long-term care services to eligible elderly individuals and individuals with physical or intellectual disabilities through a number of long-term care programs. The largest of these programs is the Family Care program, which is currently available in 64 counties, and served 18,627 enrollees as of October 1, 2015. In addition, 2015 Wisconsin Act 127 requires DHS to make the Family Care benefit available to residents of Rock County by July 1, 2016.

Under the Family Care program, the Department of Health Services (DHS) contracts with managed care organizations (MCOs) to provide services to program enrollees, and pays MCOs a capitated rate for each enrollee. There are currently seven MCOs providing services under the

Family Care program, including Care Wisconsin, Community Care, Inc., Community Care Connections of Wisconsin, ContinuUs, Lakeland Care District, My Choice Family Care (Milwaukee County Department of Family Care), and Western Wisconsin Cares. The attachment shows the Family Care geographic service regions (GSRs), and the MCOs that offer the Family Care benefit in each region.

Long-Term Care Districts. Under current law, private organizations, counties, governing bodies of tribes or bands, and long-term care districts may all operate MCOs. A long-term care district is defined in statute as a special-purpose district created by a county, tribe, or band, or a combination of counties, tribes, and/or bands, for the purposes of operating an aging and disability resource center (ADRC) under contract with the Department, operating a program of all-inclusive care for the elderly (PACE) or Partnership program, or operating an MCO that provides Family Care services under contract with the Department. The statutes authorize a long-term care district to do the following: (a) adopt and alter an official seal; (b) adopt bylaws, policies, and procedures; (c) sue and be sued; (d) negotiate and enter into leases or contracts; (e) enter into a contract with DHS to operate a PACE or Partnership program; (f) provide services under the Family Care benefit; (g) acquire, construct, equip, maintain, improve, or manage an ADRC or MCO, but not both; (h) employ any agent, employee, or special adviser, and compensate those individuals, including through providing employee benefits; (i) mortgage, pledge, or otherwise encumber property or funds; (j) buy, sell, or lease property, and maintain or dispose of the property; (k) invest funds not immediately required for disbursement in certain interest-bearing accounts, time deposits, bonds, or securities; (l) create a risk reserve; (m) accept aid, including loans, from any local, state, or federal agency, and accept gifts, loans, grants, or bequests from individuals or entities; and (n) operate a health maintenance organization. A long-term care district is not permitted to issue bonds or levy a tax or assessment. Additionally, the long-term care district's jurisdiction is statutorily limited to the geographic area of the county, counties, or tribe or band that created the long-term care district.

There are currently six long-term care districts, four of which are Family Care MCOs, one of which operates an ADRC, and one of which has no contracts with DHS. [The district that has no contracts with DHS is currently in receivership, but has not yet been legally dissolved.] The Department has generally extended contracts to long-term care districts to provide services outside of the geographic boundaries of the counties, bands, or tribes that created the districts. Table 1 shows the MCOs providing services in GSRs outside of their jurisdiction, as well as the GSRs in which those MCOs provide services.

TABLE 1

Long-Term Care Districts Operating Outside of Jurisdiction

<u>MCO</u>	<u>Counties Comprising Initial District</u>	<u>Areas Served Outside of Jurisdiction</u>
Community Care Connections of Wisconsin	GSR 4 – Lincoln, Langlade, Marathon, Wood, Portage	GSR 7 - Douglas, Bayfield, Ashland, Iron, Burnett, Washburn, Sawyer, Price, Polk, Barron and Rusk
ContinuUs	GSR 3 – Juneau, Sauk, Richland, Crawford, Grant, Iowa, LaFayette, Green	GSR 1 - Dunn, Chippewa, St. Croix, Pierce, Eau Claire GSR 5 - Waushara, Marquette, Green Lake, Columbia, Dodge, Jefferson, Washington, Waukesha
Lakeland Care District	GSR 9 – Fond du Lac, Manitowoc, Winnebago	GSR 10 - Calumet, Outagamie, Waupaca GSR 13 - Door, Kewaunee, Brown, Marinette, Oconto, Menominee, Shawano
My Choice Family Care [Milwaukee County Department of Family Care]*	GSR 8 – Milwaukee	GSR 6 – Walworth, Waukesha, Washington, Ozaukee, Sheboygan GSR 11 – Racine, Kenosha

*My Choice Family Care [Milwaukee County Department of Family Care] is not a long-term care district, but a governmental entity operating beyond the county's jurisdiction.

In August, 2015, in response to questions regarding the jurisdiction of long-term care districts and the membership of district boards, the Attorney General issued an opinion indicating that, under s. 46.2995(2) of the statutes, a long-term care district does not have jurisdiction beyond the counties, tribes, or bands that created the district. The opinion concludes that, if a long-term care district seeks to provide services in a county that is not a member of the long-term care district, the county must become a member of the district. The Attorney General's opinion further concludes that, in the absence of a statutory directive regarding how counties join an existing long-term care district, the procedures for creating a new long-term care district apply to those counties seeking to join an existing district. These procedures include requiring the county, tribe, or band seeking membership in the district to adopt an enabling resolution, to be filed with the secretaries of the Departments of Administration, Health Services, and Revenue. The existing county, tribe, or band members of the long-term care district may also need to adopt enabling resolutions if it is believed that a new county joining changes the primary purpose of the long-term care district. Finally, the district's board could need to be reconfigured if the district's membership is changed.

Changes Enacted Under 2015 Wisconsin Act 55. Under 2015 Wisconsin Act 55 (the 2015-17 biennial budget act), the Department is required to make several changes to the state's long-term

care programs. First, the Department is required to expand the Family Care and IRIS programs statewide by January 1, 2017, or a date determined by the Department, whichever is later. Second, the Department is required to submit to the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) proposed modifications to the waiver agreements under which Family Care and IRIS operate. The act specifies that these modifications include integrating primary, acute, and long-term care services under an integrated health agency (IHA), requiring that the IHA offer the self-directed services option currently available under the IRIS program, and increasing the size of the regions in which services would be provided. Under the act, DHS is required to submit a concept plan summarizing the proposed changes to the Joint Committee on Finance for approval no later than April 1, 2016. Following approval of the concept plan by the Committee, the Department must submit a waiver to CMS for approval and implementation by January 1, 2017, or a date determined by DHS, whichever is later.

SUMMARY OF BILL

SB 687 and AB 856 make several changes to the jurisdiction of long-term care districts. First, the Department would be authorized to contract with a county or long-term care district to operate an MCO outside of the geographic area of the county or long-term care district. In addition, the Department would be permitted to award contracts to operate an MCO to one or more certified entities within a county or geographic area. A long-term care district operating an MCO would be permitted to apply to DHS to provide MCO services outside of the geographic boundary of the counties that created the district, and, if such a contract would be awarded, any county that is served by an MCO operated by a long-term care district to which the county is not a member may join the long-term care district at the discretion of the district's board if the county adopts a resolution authorizing the county to join the district. The bill specifies that it would be the long-term care district's board's responsibility to determine whether to authorize the long-term care district director to apply to DHS for a contract to operate an MCO outside of the district's geographic boundaries. Under the bill, a county that is served by an MCO operated by a district to which the county is not a member would be required cooperate with the MCO and would not be permitted to impede the MCO's operations.

Under the bills, any governmental entity, defined as a political subdivision such as a city, village, town, or county, or a subunit of that political subdivision, that has a contract to operate an MCO would be permitted to do the following: (a) create a nonstock, nonprofit corporation or a service insurance corporation, including submitting to the Department proposed articles of incorporation for review and approval, which would be considered approved if not disapproved of within 30 days, and which the Department, if disapproving, would be required to provide specific reasons for the disapproval and recommendations regarding potential remedies to the specified reasons; (b) with the approval of the Department and the Office of the Commissioner of Insurance (OCI), assign the entity's assets and liabilities relating to providing the Family Care benefit, including operating capital, risk reserves, solvency funds, and other special reserve funds, a contract with DHS to operate an MCO, a permit issued by OCI to operate an MCO, and certification of the entity by the Department as an MCO, to a corporation created by the entity; and (c) upon approval of DHS and OCI, DHS would be required to notify the MCO's enrollees of the transfer of contract from the MCO to the corporation created under these provisions, and would

also be required to inform enrollees of their rights and responsibilities in accordance with any requirements of the federal Department of Health and Human Services.

The bills would also modify the membership of a long-term care district's board. In particular, individuals who reside within the area served by a long-term care district would be permitted to serve as members of the district's board. Additionally, if a long-term care district would receive a contract to operate an MCO outside of the geographic boundaries of the counties that created the district, the district board would be permitted to add members to represent the new areas being served, so long as the district files notice of the change in the board's composition with the secretaries of the Departments of Administration, Health Services, and Revenue.

In addition, the bills would specify the procedures to be followed upon dissolution of a long-term care district. The bills would allow a long-term care district to be dissolved through joint action of the district's board and the counties, tribes, or bands that created the district and have not withdrawn or been removed from the district, subject to initial approval by the DHS Secretary and the performance of the contractual obligations of the district. Under the bills, if a long-term care district would be dissolved, the property and assets of the district would be transferred to DHS, rather than to the county or tribe that created the district, as provided under current law. Additionally, if the district operates an MCO, disposition of remaining funds in the MCO's risk reserve would be subject to the terms of the contract with DHS, rather than to the county or tribe that created the district, as provided under current law. The current MCO contract specifies that, upon termination of the contract, the OCI Commissioner would release assessed funds to DHS to be disbursed from the solvency account, with priority given to satisfying outstanding state or federal claims. Table 2 shows the final, audited working capital, restricted reserves, and solvency funds for each of the long-term care districts and Milwaukee County as of December 31, 2014.

TABLE 2

**Working Capital, Restricted Reserves, and Solvency
Funds for Selected MCOs, December 31, 2014**

<u>MCO</u>	<u>Working Capital</u>	<u>Restricted Reserves</u>	<u>Solvency Funds</u>
Community Care Connections of Wisconsin	\$4,622,024	\$2,940,616	\$750,000
ContinuUs	6,535,853	2,755,301	750,000
Lakeland Care District	11,562,216	1,983,249	750,000
My Choice Family Care (Milwaukee County Department of Family Care)	27,858,092	3,619,913	750,000
Western Wisconsin Cares	7,532,427	2,301,568	750,000

Finally, the bills would require DHS to include, in its waiver request specifying the changes to the state's long-term care programs that were enacted under Act 55, provisions that would allow a long-term care district to operate an IHA, including operating an IHA outside of the geographic area of the counties that created the long-term care district.

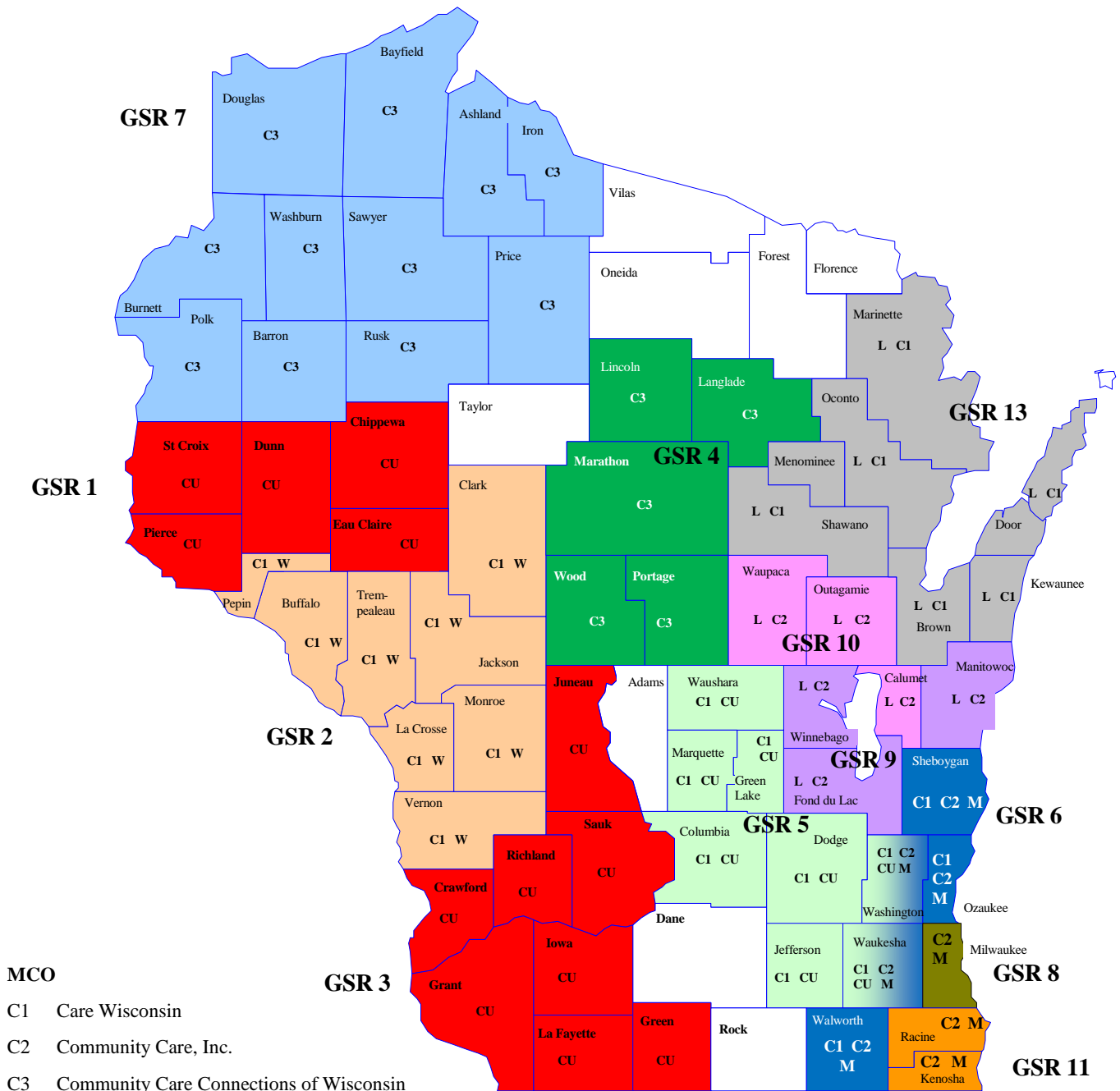
FISCAL EFFECT

SB 687 and AB 856 contain no appropriation changes. To date, the Department has not produced a fiscal estimate for the bills.

Prepared by: Stephanie Mabrey
Attachment

ATTACHMENT

Family Care Geographic Service Regions January, 2016



MCO

- C1 Care Wisconsin
- C2 Community Care, Inc.
- C3 Community Care Connections of Wisconsin
- CU ContinuUs
- L Lakeland Care District
- M Milwaukee County Department of Family Care
- W Western Wisconsin Cares