



## Legislative Fiscal Bureau

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May 8, 2007

Joint Committee on Finance

Paper #436

### **Quality Home Care Commission (DHFS – Disability and Elder Services)**

#### *Bill Agency*

[LFB 2007-09 Budget Summary: Page 328, #3]

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#### **CURRENT LAW**

In September, 2006, the Department of Health and Family Services (DHFS) and the Dane County Executive entered into an intergovernmental cooperation agreement to create the Quality Home Care Commission (QHCC). The stated purpose of the agreement was to create and empower the Commission to improve the quality and accessibility of supportive home care and personal care services, and to serve certain employer functions for persons employed to provide in-home care to recipients of medical assistance (MA) waiver services (including the community integration program and the community options program).

#### **GOVERNOR**

Provide \$167,000 GPR annually and require DHFS to distribute at least \$167,000 annually to an organization to provide services to consumers and providers of supportive home care and personal care services. (Although not named in the bill, DHFS would use these funds to support the QHCC.)

#### **DISCUSSION POINTS**

1. Counties may use several approaches to ensure that individuals who participate in the MA community long-term care programs have access to personal care services. A county may contract with an agency to provide services to the individual, or may issue a payment directly to an agency that the individual receiving services prefers, without contracting with the agency directly. If

the consumer chooses to hire and direct their own personal care workers independently, the county is responsible for acting as a fiscal agent, ensuring that state and federal taxes are withheld from the personal care worker's salary, and that workman's compensation insurance is paid on behalf of the personal care worker. Dane County currently contracts with an accounting and payroll firm for these services. Under this arrangement, personal care workers who are hired directly by the consumer are considered to be employees of the individual consumer, rather than of the county.

2. The QHCC proposes to support consumers who chose to hire their own personal care workers independently by maintaining a statewide registry of personal care workers that consumers can access to locate assistance; to develop recruitment and retention programs to expand the pool of available personal care workers; and to provide training opportunities for personal care workers. Further, in addition to assuming the responsibilities of the fiscal agent, the QHCC would serve as a co-employer of record for personal care workers, and provide or contract for services (such as withholding and payroll) currently contracted for by the county.

3. Under the intergovernmental agreement, the QHCC is to be governed by a board, the majority of whom are receiving supportive home care or who are advocates for consumers of supportive home care and personal care services. The QHCC is directed to support the ability of the consumers to select, direct, and remove personal care workers, and to support the workers themselves by encouraging competence, quality services, and improved worker retention through job satisfaction.

4. Duties of the QHCC include, but are not limited to: (a) facilitating the consistent provision of supportive home care and personal care services for consumers who elect to jointly employ providers with the QHCC; (b) supporting the joint employment by consumers of providers selected by consumers, consistent with the right to select, direct, and remove providers; (c) assisting consumers in making decisions about personal care workers and services as long as the provider meets certain requirements; (d) providing employer-related services, including payroll, determining and negotiation of wages and benefits, social security (FICA), worker's compensation and unemployment insurance; (e) coordinating an orientation process and developing recruitment and retention programs to expand the personal care provider pool; (f) establishing and maintaining one or more registries of providers for consumer use, including the development of criteria for qualifying for or removing providers from the list; (g) developing a pool of back-up providers, with the ability to provide on-call service 24 hours per day; (h) encouraging private and public sector involvement, support, and financing for the Commission; (i) supporting providers by addressing barriers to employment, including referrals and access to supportive services (such as childcare and transportation); and (j) facilitating ongoing training and mentoring opportunities for both providers and consumers.

The agreement states that QHCC would not be considered part of DHFS, another public agency, or the state, or a political subdivision of those entities. The agreement directs QHCC to appoint a board of directors, and specifies who is to be on the board, how often the board is to meet, and the voting procedures and responsibilities of the board, including hiring a program director.

5. The QHCC has begun meeting, and has elected a chair for the board. The QHCC has issued a request for services (RFS) to retain a consultant to provide executive management and support for QHCC, including assistance in analyzing options and implementing steps to become a legal entity, analyzing options for executing the duties specified, and to engage other experts to meet the Commission's needs.

A provider registry that is currently operated and supported by staff funded through the Wisconsin Regional Training Partnership (WRTP) and the Service Employees International Union (SEIU) is expected to be incorporated into the QHCC.

Aside from the amount provided under the bill and the resources provided by WRTP and SEIU to support the registry, the Commission lacks a source of funding at this time. Further, it is uncertain whether WRTP and SEIU would continue to offer the same level of financial and in-kind support (such as staff resources and office space) for the operation and maintenance of the registry once the QHCC assumes its management. Under the bill, funding would be provided for a program director, a program assistant, rent, two computers, office supplies, and approximately 130 hours each year of contracted professional services (including management accounting, legal services, or accounting services). To date, no plan to seek funding from alternative sources has been advanced by Dane County, QHCC, or SEIU.

As the QHCC is not part of DHFS, another public agency, or the state, it may be argued that Dane County or the SEIU would be a more appropriate source of funding for the Commission, until such a time that the QHCC formulated a proposal to independently generate revenues for its own support.

6. In its resolution to authorize the agreement between the county and DHFS, the Dane County Board of Supervisors specified that the Board supported the funding of the Commission, provided that the source of the funding was from the Medicaid program, other federal and state programs, compensation for services of providers, or from sources other than county general purpose revenues. Until the QHCC is a fully operational legal entity, Dane County will continue to be responsible for assisting individuals being served under the community long-term care waivers with securing provider services.

7. The Committee could chose to support start-up costs for the QHCC by approving the Governor's recommendation, but specifying that the funding be provided on a one-time basis during the 2007-09 biennium only. This would provide sufficient resources to support the Commission's initial development, but would also encourage the Commission to fulfill its responsibility, as stated in the intergovernmental agreement, to encourage private and public sector involvement, support, and financing for the Commission's activities, rather than relying entirely on state funding.

8. Currently, the county or its contracted intermediary provides fiscal management services, but the personal care workers are considered to be employees of the individual receiving the services. Under the intergovernmental agreement, a fully functioning QHCC will assume the

roll of co-employer of record. While the right of the consumer to hire and fire providers would remain protected, QHCC would be recognized as a single employer for participating personal care workers, facilitating the organization of personal care workers into a union. SEIU staff have indicated that the establishment of a QHCC with Dane County is only a first step, and that their goal would be to collaborate with other counties and expand statewide.

9. The SEIU has helped start similar QHCC organizations in Michigan, Illinois, Oregon, California, Maryland, and Washington State. The union has reported success in organizing personal care workers under the QHCC organizations in other states. Some SEIU members and state staff have attributed subsequent wage increases for personal care workers and increased benefits (including contributions to health care benefits) for the organized workers in these states to the formation of the union. SEIU representatives argue that better pay and benefits for home health care workers may decrease turnover, leading to greater consumer satisfaction through continuity of care and the availability of more experienced providers.

10. The continued expansion of Family Care, the ICF-MR relocation initiative, the nursing home diversion initiative, and other long-term care community program options is expected to continue to increase the demand for personal care workers statewide. Supporters of the QHCC argue that steps must be taken to ensure that adequate personal care staffing exists to serve this growing population of individuals in their homes and communities. DHFS has indicated that its support for the QHCC is based on the anticipation that the Commission will help ensure an adequate supply of qualified personal care workers is available to assist community-based long-term care consumers. From this perspective, it may be advantageous to support an organization whose focus is helping consumers find adequate assistance, while supporting the training of personal care workers. To the extent that the expansion of the QHCC could also facilitate the organization of personal care workers into a union, it may create an opportunity for this group of workers to seek better pay or benefits as a group for all personal care workers, potentially drawing additional individuals into the job market as personal care providers.

11. However, some advocates for consumers of these personal care services have expressed concern over the support of organizing personal care workers without assurances of additional funding to pay for their services. Funding for services under most MA long-term waivers has not been increased in recent biennia, requiring recipients to manage constant levels of funding to cover increasing costs over time. Generally, individuals with care plans requiring personal care receive a budget to pay for an approved package of services. Increasing the cost per hour of obtaining those services without increasing allotments to fund them may require waiver service recipients to reduce the number of hours of service contracted for in order to support the higher cost per hour charged by providers.

## **ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to provide \$167,000 GPR annually, and require DHFS to distribute at least \$167,000 annually to an organization to provide services to

consumers and providers of supportive home care and personal care services

<b>ALT 1</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	\$0	\$334,000

2. Modify the Governor's recommendation by providing this funding on a one-time basis in 2007-08 and 2008-09.

<b>ALT 2</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	\$0	\$334,000

3. Delete provision.

<b>ALT 3</b>	<b>Change to Bill Funding</b>	<b>Change to Base Funding</b>
GPR	-\$334,000	\$0

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