



2003 ASSEMBLY BILL 920

March 2, 2004 - Introduced by Representatives POPE-ROBERTS, KRUSICK, BOYLE, MILLER, BERCEAU, YOUNG and VRUWINK, cosponsored by Senators HANSEN and JAUCH. Referred to Joint Committee on Finance.

1 **AN ACT** *to renumber* 46.277 (1m) (a); *to amend* 46.277 (1), 46.277 (2) (intro.),
2 46.277 (3) (a), 46.277 (3) (b) 1., 46.277 (3) (b) 2., 46.277 (4) (a), 46.277 (4) (b),
3 46.277 (5) (g) and 46.277 (5g) (a); and *to create* 46.277 (1m) (ag) and 46.277 (4)
4 (c) of the statutes; **relating to:** provision of home and community-based
5 services under a community integration program to persons relocated from
6 facilities, during the period of the relocation.

Analysis by the Legislative Reference Bureau

Currently, the Department of Health and Family Services (DHFS) administers a Community Integration Program (commonly known as "CIP II"), under which Medical Assistance (MA) moneys are paid to counties to provide home and community-based services, under a waiver of federal Medicaid laws, to elderly and physically disabled persons who meet the level of care requirements for MA-reimbursed nursing home care or are relocated from facilities. DHFS must establish a uniform daily rate for CIP II and reimburse counties up to that rate for each person enrolled in CIP II. Under 2003 Wisconsin Act 33 (the biennial budget act), DHFS may provide enhanced reimbursement for CIP II services for a person who is relocated to the community from a nursing home by a county after July 16, 2003, if the nursing home bed used by the person is delicensed upon the person's relocation.

This bill authorizes DHFS to provide CIP II funding for home and community-based services to an MA-eligible person who relocates from a facility to

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the community. Reimbursement is not conditioned on delicensure of a nursing home bed upon the person's relocation. The funding begins on the date of the relocation and ends on the date that the person discontinues program participation or no longer meets the level of care requirements for MA reimbursement in a nursing home. Funding in the aggregate for these relocated persons may not exceed the total MA costs for the persons if served in nursing homes. DHFS may provide an enhanced reimbursement rate for the services. The total number of persons who may participate in this particular aspect of CIP II is not restricted by limitations on numbers participating in the remainder of CIP II.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 46.277 (1) of the statutes is amended to read:

2 46.277 (1) LEGISLATIVE INTENT. The intent of the program under this section is
3 to provide home or community-based care to serve in a noninstitutional community
4 setting a person who meets eligibility requirements under 42 USC 1396n (c) and is
5 relocated from an institution other than a state center for the developmentally
6 disabled or meets the level of care requirements for medical assistance
7 reimbursement in a skilled nursing facility or an intermediate care facility, except
8 that the number of persons who receive home or community-based care under this
9 section is not intended, other than under sub. (4) (c), to exceed the number of nursing
10 home beds that are delicensed as part of a plan submitted by the facility and
11 approved by the department. The intent of the program is also that counties use all
12 existing services for providing care under this section, including those services
13 currently provided by counties.

14 **SECTION 2.** 46.277 (1m) (a) of the statutes is renumbered 46.277 (1m) (ak).

15 **SECTION 3.** 46.277 (1m) (ag) of the statutes is created to read:

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1 46.277 (1m) (ag) “Delicensed” means deducted from the number of beds stated
2 on a facility’s license, as specified under s. 50.03 (4) (e).

3 **SECTION 4.** 46.277 (2) (intro.) of the statutes is amended to read:

4 46.277 (2) DEPARTMENTAL POWERS AND DUTIES. (intro.) The department may
5 request a waiver from the secretary of the federal department of health and human
6 services, under 42 USC 1396n (c), authorizing the department to serve medical
7 assistance recipients, who meet the level of care requirements for medical assistance
8 reimbursement in a skilled nursing facility or an intermediate care facility, in their
9 communities by providing home or community-based services as part of medical
10 assistance. The Except under sub. (4) (c), the number of persons for whom the waiver
11 is requested may not exceed the number of nursing home beds that are delicensed
12 as part of a plan submitted by the facility and approved by the department. If the
13 department requests a waiver, it shall include all assurances required under 42 USC
14 1396n (c) (2) in its request. If the department receives this waiver, it may request
15 one or more 3-year extensions of the waiver under 42 USC 1396n (c) and shall
16 perform the following duties:

17 **SECTION 5.** 46.277 (3) (a) of the statutes is amended to read:

18 46.277 (3) (a) Sections 46.27 (3) (b) and 46.275 (3) (a) and (c) to (e) apply to
19 county participation in this program, except that services provided in the program
20 shall substitute for care provided a person in a skilled nursing facility or
21 intermediate care facility who meets the level of care requirements for medical
22 assistance reimbursement to that facility rather than for care provided at a state
23 center for the developmentally disabled. The Except in sub. (4) (c), the number of
24 persons who receive services provided by the program under this paragraph may not
25 exceed the number of nursing home beds, other than beds specified in sub. (5g) (b),

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1 that are delicensed as part of a plan submitted by the facility and approved by the
2 department.

3 **SECTION 6.** 46.277 (3) (b) 1. of the statutes is amended to read:

4 46.277 (3) (b) 1. If Except under sub. (4) (c), if the provision of services under
5 this section results in a decrease in the statewide nursing home bed limit under s.
6 150.31 (3), the facility affected by the decrease shall submit a plan for delicensing all
7 or part of the facility that is approved by the department.

8 **SECTION 7.** 46.277 (3) (b) 2. of the statutes is amended to read:

9 46.277 (3) (b) 2. Each county department participating in the program shall
10 provide home or community-based care to persons eligible under this section, except
11 that the number of persons who receive home or community-based care under this
12 section may not exceed, other than under sub. (4) (c), the number of nursing home
13 beds, other than beds specified in sub. (5g) (b), that are delicensed as part of a plan
14 submitted by the facility and approved by the department.

15 **SECTION 8.** 46.277 (4) (a) of the statutes is amended to read:

16 46.277 (4) (a) Any medical assistance recipient who meets the level of care
17 requirements for medical assistance reimbursement in a skilled nursing facility or
18 intermediate care facility is eligible to participate in the program, except that the
19 number of participants may not exceed, other than under par. (c), the number of
20 nursing home beds, other than beds specified in sub. (5g) (b), that are delicensed as
21 part of a plan submitted by the facility and approved by the department. Such a
22 recipient may apply, or any person may apply on behalf of such a recipient, for
23 participation in the program. Section 46.275 (4) (b) applies to participation in the
24 program.

25 **SECTION 9.** 46.277 (4) (b) of the statutes is amended to read:

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1 46.277 (4) (b) To the extent authorized under 42 USC 1396n and except under
2 par. (c), if a person discontinues participation in the program, a medical assistance
3 recipient may participate in the program in place of the participant who discontinues
4 if that recipient meets the level of care requirements for medical assistance
5 reimbursement in a skilled nursing facility or intermediate care facility, except that
6 the number of participants may not exceed the number of nursing home beds, other
7 than beds specified in sub. (5g) (b), that are delicensed as part of a plan submitted
8 by the facility and approved by the department.

9 **SECTION 10.** 46.277 (4) (c) of the statutes is created to read:

10 46.277 (4) (c) The department may, under this paragraph, provide funding
11 under this section for services for a medical assistance recipient who relocates from
12 a facility to the community, beginning on the date of the relocation and ending on the
13 date that the individual discontinues participation in the program or no longer meets
14 the level of care requirements for medical assistance reimbursement in a skilled
15 nursing facility or an intermediate care facility. Funding for medical assistance costs
16 for individuals relocated under this paragraph may not exceed, in the aggregate,
17 total medical assistance costs for the individuals if served in facilities. The total
18 number of individuals who may participate in the program under this paragraph is
19 not restricted by any otherwise applicable limitation on the number of individuals
20 who may participate in the program under this section.

21 **SECTION 11.** 46.277 (5) (g) of the statutes, as created by 2003 Wisconsin Act 33,
22 is amended to read:

23 46.277 (5) (g) The department may provide enhanced reimbursement for
24 services provided under this section to an individual who is relocated to the
25 community from a nursing home by a county department on or after July 26, 2003,

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1 if the nursing home bed that was used by the individual is delicensed upon relocation
2 of the individual or if the individual is relocated under sub. (4) (c). The department
3 shall develop and utilize a formula to determine the enhanced reimbursement rate.

4 **SECTION 12.** 46.277 (5g) (a) of the statutes is amended to read:

5 46.277 **(5g)** (a) ~~The Except under sub. (4) (c), the~~ number of persons served
6 under this section may not exceed the number of nursing home beds that are
7 delicensed as part of a plan submitted by the facility and approved by the
8 department.

9 (END)