



State of Wisconsin  
2021 - 2022 LEGISLATURE

LRB-5797/1  
JPC&TJD:amn/klm/cjs

## 2021 ASSEMBLY BILL 1030

February 17, 2022 - Introduced by LAW REVISION COMMITTEE. Referred to Committee on Rules.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

1     **AN ACT to amend** 46.96 (1) (am), 49.43 (6m) and 49.45 (8) (a) 4. of the statutes;  
2             **relating to:** Medical Assistance program coverage of home health services and  
3             durable medical equipment; definition of institution for mental diseases under  
4             the Medical Assistance program; and independent living core services  
5             (suggested as remedial legislation by the Department of Health Services).

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### *Analysis by the Legislative Reference Bureau*

#### ***Home health services***

Under current law, the Department of Health Services establishes certain limits on the reimbursement of home health services or products under the Medical Assistance program, including that home health products or services must be provided in the patient's home to be reimbursable. This bill eliminates the requirement that home health services and products be provided in the patient's home to be reimbursable. The Medical Assistance program is a joint state and federal program that provides health services to individuals with limited financial resources.

#### ***Institution for mental diseases***

The bill corrects the cross-reference to the federal definition of "institution for mental diseases" for the purposes of the Medical Assistance program. "Institution for mental diseases" is defined under federal law to mean "a hospital, nursing facility, or other institution of more than 16 beds that is primarily engaged in providing

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diagnosis, treatment or care of persons with mental diseases, including medical attention, nursing care and related services. Whether an institution is an institution for mental diseases is determined by its overall character as that of a facility established and maintained primarily for the care and treatment of individuals with mental diseases, whether or not it is licensed as such. An institution for Individuals with Intellectual Disabilities is not an institution for mental diseases.”

***Independent living centers***

Currently, DHS is required to award grants to independent living centers to provide nonresidential services to individuals who have severe disabilities. Among those services that the centers provide are known as independent living core services. Current law defines “independent living core services” as information and referral services, independent living skills training, peer counseling, and individual and systems advocacy. The bill changes the definition of “independent living core services” to align with the federal law definition by adding the following to the list of services under current law: services that facilitate the transition of individuals with significant disabilities from institutions to home and community-based residences with supports and services, services that provide assistance to individuals with significant disabilities who are at risk of entering institutions, and services that facilitate the transition to postsecondary life of youth who have significant disabilities, who were eligible for certain individualized education programs, and who have completed their secondary education.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Health Services and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes changes to statutes or session laws that the Law Revision Committee determined to be in need of revision.

- 1           **SECTION 1.** 46.96 (1) (am) of the statutes is amended to read:
- 2           46.96 (1) (am) “Independent living core services” ~~means information and~~
- 3 ~~referral services, independent living skills training, peer counseling and individual~~
- 4 ~~and systems advocacy~~ has the meaning given in 29 USC 705 (17).

NOTE: The SECTION aligns the state definition of “independent living core services” with the federal law definition.

- 5           **SECTION 2.** 49.43 (6m) of the statutes is amended to read:

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1           49.43 **(6m)** “Institution for mental diseases” has the meaning specified in 42  
2           CFR 435.1009 435.1010.

          NOTE: This SECTION corrects a cross-reference to the federal law definition of  
          “institution for mental diseases.”

3           **SECTION 3.** 49.45 (8) (a) 4. of the statutes is amended to read:

4           49.45 **(8)** (a) 4. “Patient care visit” means a personal contact with a patient in  
5           ~~a patient’s home~~ that is made by a registered nurse, licensed practical nurse, nurse  
6           aide, physical therapist, occupational therapist, or speech-language pathologist who  
7           is on the staff of or under contract or arrangement with a home health agency, or by  
8           a registered nurse or licensed practical nurse practicing independently, to provide a  
9           service that is covered under s. 49.46, 49.47, or 49.471. “Patient care visit” does not  
10          include time spent by a nurse, therapist, or nurse aide on case management, care  
11          coordination, travel, record keeping, or supervision that is related to the patient care  
12          visit.

          NOTE: The SECTION eliminates a requirement that home health services must be  
          provided within a patient’s home to be reimbursable under the Medical Assistance  
          program. The change makes state law consistent with a federal Center for Medicare and  
          Medicaid Services (CMS) rule clarifying that states may not deny home health services  
          or durable medical equipment/durable medical services when they are supplied for use  
          outside the home.

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(END)