



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-4264/1
TJD&SWB:amn

2015 ASSEMBLY BILL 856

February 3, 2016 - Introduced by Representatives KRUG, NOVAK, BERNIER, EDMING, KNODL, MURSAU, A. OTT, PETRYK, QUINN, ROHRKASTE, TAUCHEN, TITTL, TRANEL, VANDERMEER and KNUDSON, cosponsored by Senators MARKLEIN, COWLES, LASEE, LASSA, PETROWSKI, ROTH, VUKMIR and OLSEN. Referred to Joint Committee on Finance.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 46.2895 (2); *to amend* 46.2895 (3) (b) 5. and
2 46.2895 (13); and *to create* 46.284 (2) (br), 46.284 (4m), 46.2895 (2) (b), 46.2895
3 (2) (c), 46.2895 (3) (e), 46.2895 (4) (o), 46.2895 (4) (p), 46.2895 (4) (q), 46.2895
4 (4) (r), 46.2895 (4r) and 46.2895 (6) (cm) of the statutes; **relating to:** long-term
5 care districts and care management organizations.

Analysis by the Legislative Reference Bureau

This bill allows the Department of Health Services to contract with a county or long-term care district to operate a care management organization outside the geographic area of that county or long-term care district and specifies a different disposition of property and assets upon dissolution of a long-term care district. The bill also allows a long-term care district or a governmental entity that has a contract to operate a care management organization to create a nonstock, nonprofit corporation or a service insurance corporation and to assign certain contracts, permits, and certifications to the corporation with approval of DHS and the Office of the Commissioner of Insurance.

Currently, a care management organization, under a contract with DHS, enrolls individuals in the Family Care program and administers the Family Care benefit, which provides financial assistance for long-term care to a frail elder or a person with a physical or developmental disability. DHS may contract with a county, a long-term care district, a governing body of a tribe or band or the Great Lakes Inter-Tribal Council, a joint association of those entities, or a private organization

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to be a care management organization. A county, tribe or band, or a combination of counties or tribes or bands may create a long-term care district, which is a special purpose district that is a local unit of government. Currently, the jurisdiction of a long-term care district is the geographic area of the county or counties that created the district or the geographic area of the reservation of, or land held in trust for, any tribe or band that created the district. This bill allows DHS to contract with a county or long-term care district to operate a care management organization outside the geographic area of that county or long-term care district. The bill specifies that DHS may award contracts to one or more certified entities to operate a care management organization within a county or geographic area. If DHS awards a contract to a long-term care district to operate a care management organization outside the geographic area of the counties that created the long-term care district, the bill allows any county that is newly served by that care management organization to join the existing long-term care district under certain circumstances at the discretion of the long-term care district's board. The bill also specifies that upon dissolution of a long-term care district the property and the assets of the corporation transfer to DHS instead of the entity that created the long-term care district.

The bill also allows a long-term care district or a governmental entity that has a contract to operate a care management organization to create a nonstock, nonprofit corporation or a service insurance corporation. Before creating the corporation that provides the Family Care benefit, the long-term care district or governmental entity must submit the proposed articles of incorporation to DHS for review and approval. With approval of DHS and OCI, the long-term care district or governmental entity may then assign to the corporation the district's assets and liabilities, a contract with DHS to operate a care management organization, a permit issued by OCI to operate as a care management organization, or a care management organization certification by DHS. DHS must then notify enrollees of the transfer of the contract to the corporation and inform enrollees of their rights and responsibilities in accordance with any federal requirements.

The 2015-17 budget act specifies that the Family Care program will be expanded statewide and requires DHS to request a waiver to make certain changes to the long-term care program, including the creation of integrated health agencies. DHS must include in its waiver request provisions to allow a long-term care district to operate an integrated health agency, including operating an integrated health agency outside its geographic area.

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.** 46.284 (2) (br) of the statutes is created to read:

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1 46.284 (2) (br) 1. The department may contract with a county or long-term care
2 district to operate a care management organization outside the geographic area of
3 that county or long-term care district.

4 2. The department may award contracts under this paragraph to one or more
5 entities certified under sub. (3) to operate a care management organization within
6 a county or geographic area.

7 **SECTION 2.** 46.284 (4m) of the statutes is created to read:

8 46.284 (4m) CREATING CORPORATION. (a) In this subsection, “governmental
9 entity” means a political subdivision, as defined in s. 16.99 (3d), or a subunit of a
10 political subdivision.

11 (b) A governmental entity that has a contract under sub. (2) may do all of the
12 following:

13 1. Create a nonstock, nonprofit corporation under ch. 181 or a service insurance
14 corporation under ch. 613. Before creating a nonstock, nonprofit corporation or a
15 service insurance corporation that will provide services under the family care
16 benefit, the governmental entity shall submit to the department the proposed
17 articles of incorporation for review and approval. If the department does not
18 disapprove the articles of incorporation within 30 days of the date of submission to
19 the department, the articles of incorporation are considered approved. If the
20 department disapproves the articles of incorporation, the department shall provide
21 specific reasons for the disapproval and recommendations regarding how the articles
22 may be amended to cure the defect.

23 2. With approval of the department and office of the commissioner of insurance,
24 assign any of the following to a corporation created under subd. 1.:

ASSEMBLY BILL 856**SECTION 2**

1 a. The governmental entity's assets and liabilities relating to providing the
2 family care benefit, including operating capital funds, risk reserve funds, solvency
3 funds, or other special reserve funds required by the department or the office of the
4 commissioner of insurance.

5 b. A contract with the department as described in sub. (2).

6 c. A permit issued by the office of the commissioner of insurance under ch. 648.

7 d. A certification by the department under sub. (3).

8 (c) Upon approval of the department and the commissioner of insurance under
9 par. (b) 2., the department shall notify enrollees of the care management
10 organization regarding the transfer of the contract to the corporation created under
11 par. (b) 1. and shall inform enrollees of their rights and responsibilities in accordance
12 with any requirements of the federal department of health and human services.

13 **SECTION 3.** 46.2895 (2) of the statutes is renumbered 46.2895 (2) (a) and
14 amended to read:

15 46.2895 (2) (a) ~~A~~ Except as provided in par. (b) or (c), a long-term care district's
16 jurisdiction is the geographical area of the county or counties that created the
17 long-term care district and the geographic area of the reservation of, or lands held
18 in trust for, any tribe or band that created the long-term care district.

19 **SECTION 4.** 46.2895 (2) (b) of the statutes is created to read:

20 46.2895 (2) (b) A long-term care district may apply to the department for a
21 contract to operate a care management organization under s. 46.284 in an area
22 outside the geographic boundary of the county or counties that created the long-term
23 care district.

24 **SECTION 5.** 46.2895 (2) (c) of the statutes is created to read:

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1 46.2895 (2) (c) If the department awards a contract to a long-term care district
2 to operate a care management organization outside the geographic area of the
3 counties that created the long-term care district, any county that is newly served by
4 the care management organization and is outside the geographic area of the counties
5 that created the long-term care district may join the existing long-term care district
6 at the discretion of the long-term care district's board, provided the newly served
7 county adopts a resolution that authorizes the county to join the long-term care
8 district. A county served by a care management organization operated by a
9 long-term care district to which the county does not belong shall cooperate with and
10 may not impede the operation of the care management organization.

11 **SECTION 6.** 46.2895 (3) (b) 5. of the statutes is amended to read:

12 46.2895 (3) (b) 5. Only individuals who reside within the ~~jurisdiction of~~ area
13 served by a long-term care district may serve as members of the long-term care
14 district board.

15 **SECTION 7.** 46.2895 (3) (e) of the statutes is created to read:

16 46.2895 (3) (e) Notwithstanding sub. (1) (a) 1. c., if a long-term care district is
17 awarded a contract with the department to operate a care management organization
18 outside the geographic area of the county or counties that created the long-term care
19 district, the long-term care district board may add members to the long-term care
20 district board to represent the counties or areas newly served by the long-term care
21 district. The long-term care district board shall file notice of the change of the
22 long-term care district board's composition with the secretary of administration, the
23 secretary of health services, and the secretary of revenue.

24 **SECTION 8.** 46.2895 (4) (o) of the statutes is created to read:

ASSEMBLY BILL 856**SECTION 8**

1 46.2895 (4) (o) If awarded a contract by the department as described in sub. (2)
2 (b) or (c), operate a care management organization outside the geographic boundary
3 of the long-term care district.

4 **SECTION 9.** 46.2895 (4) (p) of the statutes is created to read:

5 46.2895 (4) (p) If awarded a contract by the department to operate a care
6 management organization outside its geographic boundaries as described in sub. (2)
7 (b) or (c), determine whether to add new counties, tribes, or bands into the long-term
8 care district.

9 **SECTION 10.** 46.2895 (4) (q) of the statutes is created to read:

10 46.2895 (4) (q) Notwithstanding subs. (1) to (3), create a nonstock, nonprofit
11 corporation under ch. 181 or a service insurance corporation under ch. 613 that may
12 succeed the long-term care district and survive the district's dissolution under sub.
13 (13). Before creating a nonstock, nonprofit corporation or a service insurance
14 corporation that will provide services under the family care benefit, the long-term
15 care district shall submit to the department the proposed articles of incorporation for
16 review and approval. If the department does not disapprove the articles of
17 incorporation within 30 days of the date of submission to the department, the articles
18 of incorporation are considered approved. If the department disapproves the articles
19 of incorporation, the department shall provide specific reasons for the disapproval
20 and recommendations regarding how the articles may be amended to cure the defect.

21 **SECTION 11.** 46.2895 (4) (r) of the statutes is created to read:

22 46.2895 (4) (r) With approval of the department and office of the commissioner
23 of insurance, assign the following to a corporation created under par. (q):

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1 1. The long-term care district's assets and liabilities, including operating
2 capital funds, risk reserve funds, solvency funds, or other special reserve funds
3 required by the department or the office of the commissioner of insurance.

4 2. A contract with the department as described in sub. (2) (b) or (c).

5 3. A permit issued by the office of the commissioner of insurance under ch. 648.

6 4. A certification by the department under s. 46.284 (3).

7 **SECTION 12.** 46.2895 (4r) of the statutes is created to read:

8 46.2895 (4r) TRANSFER OF ENROLLEES. Upon approval of the department and the
9 commissioner of insurance under sub. (4) (r), the department shall notify enrollees
10 of the care management organization operated by the long-term care district
11 regarding the transfer of the contract to the corporation created under sub. (4) (q) and
12 shall inform enrollees of their rights and responsibilities in accordance with any
13 requirements of the federal department of health and human services.

14 **SECTION 13.** 46.2895 (6) (cm) of the statutes is created to read:

15 46.2895 (6) (cm) Determine whether to authorize the long-term care district
16 director to apply to the department for a contract to operate a care management
17 organization outside the geographic boundary of the long-term care district.

18 **SECTION 14.** 46.2895 (13) of the statutes is amended to read:

19 46.2895 (13) DISSOLUTION. Subject to the performance of the contractual
20 obligations of a long-term care district and if first approved by the secretary of the
21 department, the long-term care district may be dissolved by the joint action of the
22 long-term care district board and each county or tribe or band that created the
23 long-term care district and has not withdrawn or been removed from the district
24 under sub. (14). If a long-term care district that is created by one county or tribe or
25 band is dissolved, the property and assets of the district shall be transferred to the

ASSEMBLY BILL 856**SECTION 14**

1 ~~county or tribe or band that created it to the department.~~ If a long-term care district
2 is created by more than one county or tribe or band, all of the counties or tribes or
3 bands that created the district and that have not withdrawn or been removed from
4 the district under sub. (14) shall ~~agree on the apportioning of the long-term care~~
5 ~~district's property before the district may be dissolved~~ transfer the property and
6 assets of the district to the department. If the long-term care district operates a care
7 management organization under s. 46.284, disposition of any remaining funds in the
8 risk reserve under s. 46.284 (5) (e) shall be made under the terms of the district's
9 contract with the department.

SECTION 15. Nonstatutory provisions.

10 (1) The department of health services shall include in its waiver request under
11 2015 Wisconsin Act 55, section 9118 (9), provisions to allow a long-term care district
12 to operate an integrated health agency, including operating an integrated health
13 agency outside the geographic area of the county or counties that created the
14 long-term care district.
15

16 (END)