



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5494/1
SWB:amn&emw

2023 SENATE BILL 919

January 19, 2024 - Introduced by Senators COWLES and TAYLOR, cosponsored by Representatives RODRIGUEZ, DITTRICH, MAGNAFICI, MURSAU, SAPIK and SINICKI. Referred to Committee on Health.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT to create** 50.032 (5m) and 50.033 (5m) of the statutes; **relating to:**
2 closure or change of services and relocation of residents in adult family homes.

Analysis by the Legislative Reference Bureau

This bill establishes specific procedures and requirements for the Department of Health Services and adult family homes to follow when a licensed or certified adult family home is closing, intends to close, or is changing its type or level of services or the means of reimbursement the adult family home will accept. An “adult family home” is a residential care facility, generally housing three or four residents. Current law provides that a licensed adult family home is one in which three or four adults who are not related to the operator reside and receive care, treatment, or services that are above the level of room and board, including up to seven hours per week of nursing care per resident. Under current law, a certified adult family home, in general, provides care and maintenance for three or four adults, each with a developmental disability, above the level of room and board but not including nursing care.

Current DHS administrative rules require 30 days’ written notification of the closure of an adult family home. The bill provides that an adult family home must provide to each resident, to the resident’s guardian, if any, and to a member of the resident’s family who is not the resident’s guardian, if any, unless the resident requests that notice to a family other than a guardian be withheld, written notification of closure or a change in the type or level of service or means of reimbursement accepted at least 30 days prior to the closure or change. The bill establishes specific requirements for the notification to be provided by an adult

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family home, as well as other requirements and procedures for the adult family home, including specific requirements relating to planning for the relocation of residents. The bill requires the adult family home to notify DHS of its intention to close or to change the type or level of services or means of reimbursement accepted and to provide DHS with a preliminary plan that DHS must approve. The bill provides that, within 30 days following notice under the provisions of the bill, a resident may request a hearing regarding the adult family home's compliance with the procedures and requirements required under the bill.

The bill also requires that, in the circumstance of an adult family home closing, intending to close, or changing its type or level of service or means of reimbursement accepted, DHS must provide, direct, or arrange for relocation planning, placement, and implementation assistance.

For further information see the state 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.** 50.032 (5m) of the statutes is created to read:

2 **50.032 (5m) CLOSURE OR SERVICE CHANGES AND RELOCATION OF RESIDENTS.** (a) If
3 an adult family home is closing, intends to close, or is changing its type or level of
4 services or means of reimbursement accepted, the department shall provide, direct,
5 or arrange for relocation planning, placement, and implementation assistance in
6 accordance with this subsection in order to minimize the trauma associated with the
7 relocation of residents and to ensure the orderly relocation of residents.

8 (b) The department and the relevant care management organization, if any,
9 shall participate in the development and implementation of individual relocation
10 plans under this subsection.

11 (c) In any of the circumstances described under par. (a) that may result in the
12 relocation of one or more residents, the adult family home shall do all of the following:

13 1. Provide, at least 30 days prior to closure or a change in type or level of service
14 or means of reimbursement accepted, written notice to each resident, to the

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1 resident's guardian, if any, and to a member of the resident's family who is not the
2 resident's guardian, if any, unless the resident requests that notice to a family
3 member other than a guardian be withheld. Notice shall include all of the following:

4 a. A statement setting forth the reason and justification for the closure or
5 change in type or level of service or means of reimbursement accepted.

6 b. A statement that the resident or the resident's legal representative may
7 participate in the planning conference under subd. 5.

8 c. A statement that the resident or the resident's legal representative may
9 request relocation assistance pursuant to par. (g), including the name and address
10 of the department's regional office director.

11 d. The name, address, and telephone number of the regional office of the board
12 on aging and long-term care's ombudsman program. For residents with a
13 developmental disability or mental illness, the notice shall include the name,
14 address, and telephone number of the protection and advocacy agency designated
15 under s. 51.62 (2) (a).

16 2. Attempt to resolve complaints from residents under this subsection.

17 3. In the circumstance of closure, prior to the closure, identify and, to the
18 greatest extent practicable, work with a care management organization to attempt
19 to secure an appropriate alternative placement for each resident. In the
20 circumstance of a change in type or level of service or means of reimbursement
21 accepted, upon request of a resident or the resident's guardian, if any, identify and,
22 to the greatest extent practicable, attempt to secure an appropriate alternative
23 placement for that resident.

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1 4. Notify the resident's physician on the closure or change in type or level of
2 services or means of reimbursement accepted and any proposed relocation's effect on
3 the resident's health.

4 5. For any resident that requires relocation, hold a planning conference at
5 which an individual relocation plan will be developed with the resident, with the
6 resident's guardian, if any, and, if practicable, with a member of the resident's family
7 who is not the resident's guardian, unless the resident requests that a family member
8 other than a guardian not be present. A copy of the plan shall immediately be
9 submitted to the department.

10 6. Implement the individual relocation plan developed under subd. 5.

11 7. Provide at least 30 days' written notice to the department of its intention to
12 close or change the type or level of services or means of reimbursement accepted. The
13 notice shall state the facts requiring the closure or change and the proposed date of
14 closing or changing of the type or level of services or means of reimbursement
15 accepted.

16 8. At the time the adult family home notifies the department under subd. 7.,
17 submit to the department a preliminary plan that includes all of the following:

18 a. The proposed timetable for planning and implementation of relocations and
19 the resources, policies, and procedures that the adult family home will provide or
20 arrange in order to plan and implement the relocations.

21 b. A list of the residents to be relocated and their current levels of care and a
22 brief description of any special needs or conditions.

23 c. An indication of which residents have guardians and the names and
24 addresses of the guardians.

25 d. A list of which residents have been protectively placed under ch. 55.

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1 e. A list of residents who the adult family home believes meet the requirements
2 of s. 54.10 (3).

3 (d) The department shall notify the adult family home within 10 days after
4 receiving the preliminary plan under par. (c) 8. if it disapproves the plan. If the
5 department disapproves the preliminary plan, it shall, within 10 days of notifying
6 the adult family home, begin working with the adult family home to modify the
7 disapproved plan. No resident may be relocated until the department approves the
8 preliminary plan or until a modified plan is agreed upon. If a plan is not approved
9 or agreed upon within 30 days of receipt of the notice of relocation, the department
10 may impose a plan that the adult family home shall carry out.

11 (e) Upon approval of, agreement to, or imposition of a plan for relocation, the
12 adult family home shall establish a date of closing or changing of the type or level of
13 services or means of reimbursement accepted and shall notify the department of the
14 date. The date may not be earlier than 30 days from the date of approval, agreement,
15 or imposition.

16 (f) Within 30 days following notice to a resident under par. (c), the resident may
17 send a written request for a hearing to the department to protest the adult family
18 home's compliance with this subsection. The department shall hold the hearing
19 within 10 days of receipt of this request. At the hearing, the burden of proving
20 compliance under this subsection shall rest on the adult family home. If a resident
21 prevails after hearing and requests assistance, the department shall assist the
22 resident in securing an alternative placement.

23 (g) The department shall offer relocation assistance to residents impacted by
24 a closure or change in type or level of service or means of reimbursement accepted
25 under this subsection, including information on available alternative placements.

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1 Residents, and the resident's guardian, if any, shall be involved in planning the
2 relocation and shall choose among the available alternative placements, except that
3 if an emergency situation makes prior resident involvement impossible, the
4 department may make a temporary placement until a final relocation can be
5 arranged. Residents, and the resident's guardian, if any, may choose their final
6 alternative placement and shall be given assistance in transferring to such place.
7 If the department makes or participates in making the relocation decision,
8 consideration shall be given to proximity to residents' relatives and friends.

9 **SECTION 2.** 50.033 (5m) of the statutes is created to read:

10 **50.033 (5m) CLOSURE OR SERVICE CHANGES AND RELOCATION OF RESIDENTS.** (a) If
11 an adult family home is closing, intends to close, or is changing its type or level of
12 services or means of reimbursement accepted, the department shall provide, direct,
13 or arrange for relocation planning, placement, and implementation assistance in
14 accordance with this subsection in order to minimize the trauma associated with the
15 relocation of residents and to ensure the orderly relocation of residents.

16 (b) The department and the relevant care management organization, if any,
17 shall participate in the development and implementation of individual relocation
18 plans under this subsection.

19 (c) In any of the circumstances described under par. (a) that may result in the
20 relocation of one or more residents, the adult family home shall do all of the following:

21 1. Provide, at least 30 days prior to closure or a change in type or level of service
22 or means of reimbursement accepted, written notice to each resident, to the
23 resident's guardian, if any, and to a member of the resident's family who is not the
24 resident's guardian, if any, unless the resident requests that notice to a family
25 member other than a guardian be withheld. Notice shall include all of the following:

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1 a. A statement setting forth the reason and justification for the closure or
2 change in type or level of service or means of reimbursement accepted.

3 b. A statement that the resident or the resident's legal representative may
4 participate in the planning conference under subd. 5.

5 c. A statement that the resident or the resident's legal representative may
6 request relocation assistance pursuant to par. (g), including the name and address
7 of the department's regional office director.

8 d. The name, address, and telephone number of the regional office of the board
9 on aging and long-term care's ombudsman program. For residents with a
10 developmental disability or mental illness, the notice shall include the name,
11 address, and telephone number of the protection and advocacy agency designated
12 under s. 51.62 (2) (a).

13 2. Attempt to resolve complaints from residents under this subsection.

14 3. In the circumstance of closure, prior to the closure, identify and, to the
15 greatest extent practicable, work with a care management organization to attempt
16 to secure an appropriate alternative placement for each resident. In the
17 circumstance of a change in type or level of service or means of reimbursement
18 accepted, upon request of a resident or the resident's guardian, if any, identify and,
19 to the greatest extent practicable, attempt to secure an appropriate alternative
20 placement for that resident.

21 4. Notify the resident's physician on the closure or change in type or level of
22 services or means of reimbursement accepted and any proposed relocation's effect on
23 the resident's health.

24 5. For any resident that requires relocation, hold a planning conference at
25 which an individual relocation plan will be developed with the resident, with the

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1 resident's guardian, if any, and, if practicable, with a member of the resident's family
2 who is not the resident's guardian, unless the resident requests that a family member
3 other than a guardian not be present. A copy of the plan shall immediately be
4 submitted to the department.

5 6. Implement the individual relocation plan developed under subd. 5.

6 7. Provide at least 30 days' written notice to the department of its intention to
7 close or change the type or level of services or means of reimbursement accepted. The
8 notice shall state the facts requiring the closure or change and the proposed date of
9 closing or changing of the type or level of services or means of reimbursement
10 accepted.

11 8. At the time the adult family home notifies the department under subd. 7.,
12 submit to the department a preliminary plan that includes all of the following:

13 a. The proposed timetable for planning and implementation of relocations and
14 the resources, policies, and procedures that the adult family home will provide or
15 arrange in order to plan and implement the relocations.

16 b. A list of the residents to be relocated and their current levels of care and a
17 brief description of any special needs or conditions.

18 c. An indication of which residents have guardians and the names and
19 addresses of the guardians.

20 d. A list of which residents have been protectively placed under ch. 55.

21 e. A list of residents who the adult family home believes meet the requirements
22 of s. 54.10 (3).

23 (d) The department shall notify the adult family home within 10 days after
24 receiving the preliminary plan under par. (c) 8. if it disapproves the plan. If the
25 department disapproves the preliminary plan, it shall, within 10 days of notifying

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1 the adult family home, begin working with the adult family home to modify the
2 disapproved plan. No resident may be relocated until the department approves the
3 preliminary plan or until a modified plan is agreed upon. If a plan is not approved
4 or agreed upon within 30 days of receipt of the notice of relocation, the department
5 may impose a plan that the adult family home shall carry out.

6 (e) Upon approval of, agreement to, or imposition of a plan for relocation, the
7 adult family home shall establish a date of closing or changing of the type or level of
8 services or means of reimbursement accepted and shall notify the department of the
9 date. The date may not be earlier than 30 days from the date of approval, agreement,
10 or imposition.

11 (f) Within 30 days following notice to a resident under par. (c), the resident may
12 send a written request for a hearing to the department to protest the adult family
13 home's compliance with this subsection. The department shall hold the hearing
14 within 10 days of receipt of this request. At the hearing, the burden of proving
15 compliance under this subsection shall rest on the adult family home. If a resident
16 prevails after hearing and requests assistance, the department shall assist the
17 resident in securing an alternative placement.

18 (g) The department shall offer relocation assistance to residents impacted by
19 a closure or change in type or level of service or means of reimbursement accepted
20 under this subsection, including information on available alternative placements.
21 Residents, and the resident's guardian, if any, shall be involved in planning the
22 relocation and shall choose among the available alternative placements, except that
23 if an emergency situation makes prior resident involvement impossible, the
24 department may make a temporary placement until a final relocation can be
25 arranged. Residents, and the resident's guardian, if any, may choose their final

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SECTION 2

1 alternative placement and shall be given assistance in transferring to such place.

2 If the department makes or participates in making the relocation decision,

3 consideration shall be given to proximity to residents' relatives and friends.

4 (END)