

1989 Assembly Bill 539

Date of enactment: April 19, 1990
Date of publication: May 3, 1990

1989 Wisconsin Act 262

(Vetoed in Part)

AN ACT to renumber and amend 51.437 (16); to amend 46.23 (3) (am) 1, 51.423 (3) (a) 5, 51.437 (4m) (b) and (e) and 51.437 (16) (title); and to create 20.435 (7) (b), 51.437 (4m) (n) and (o) and (4p), 51.437 (14) (i) and (j), 51.437 (14), (14p) and (14) (a) 7 and 51.437 (16) (b) and (c) of the statutes, relating to establishing a reporting system and state planning requirement for developmental disabilities services, specifying a fixed point of information and referral for developmental disabilities services, granting rule-making authority and making an appropriation. **Vetoed in Part**

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

SECTION 1g. 20.005 (3) (schedule) of the statutes: at the appropriate place, insert the following amounts for the purposes indicated:

	1989-90	1990-91
20.435 Health and social services, Department of (7) COMMUNITY SERVICES; AIDS AND LOCAL ASSISTANCE (b.) Evaluations and assessments for developmentally disabled	0	192,700

Vetoed in Part

Vetoed in Part SECTION 1m. 20.435 (7) (b) of the statutes is created to read:

20.435 (7) (b). *Evaluation and assessments for developmentally disabled.* The amounts in the schedule for the provision of evaluations and assessments under s. 51.437 (4p).

SECTION 1q. 46.23 (3) (am) 1 of the statutes is amended to read:

46.23 (3) (am) 1. The county department of human services shall prepare a local plan for the delivery of human services which includes an inventory of all existing resources, identifies needed new resources and services and contains a plan for meeting the health,

mental health and social needs of individuals and families. The plan shall be based on an annual need survey of the prevalence and incidence of the various disabilities within the geographic boundaries of the county department of human services. The plan shall also include the establishment of long-range goals and intermediate-range plans, detailing priorities and estimated costs and providing for coordination of local services and continuity of care. The portion of the plan that relates to services for and the needs of individuals with developmental disabilities shall provide for the evaluation and assessment required under s. 51.437 (4p).

Vetoed in Part

Vetoed
in Part

~~SECTION 2. 51.42 (3) (ar) 5 of the statutes is amended to read:
51.42 (3) (ar) 5. Prepare a local plan which includes an inventory of all existing resources, identifies needed new resources and services and contains a plan for meeting the needs of the mentally ill, developmentally disabled, alcoholic, drug abusers and other psychiatric disabilities for citizens residing within the jurisdiction of the county department of community programs and for persons in need of emergency services found within the jurisdiction of the county department of community programs. The plan shall also include the establishment of long-range goals and intermediate-range plans, detailing priorities and estimated costs and providing for coordination of local services and continuity of care. The portion of the plan that relates to services for and the needs of individuals with developmental disabilities shall provide for the evaluation and assessment required under s. 51.437 (4p).~~

Vetoed
in Part

~~SECTION 3. 51.437 (4m) (b) and (e) of the statutes are amended to read:
51.437 (4m) (b) Develop, approve and modify on a continuing basis a single-county or multicounty plan for the delivery of services, including the construction of facilities, to those citizens affected by developmental disabilities. The purpose of the plan shall be to ensure the delivery of needed services and the prevention of unnecessary duplication, fragmentation of services and waste of resources. Plans shall include, to the fullest extent possible, participation by existing and planned agencies of the state, counties, municipalities, school districts and all other public and private agencies as are required to, or may agree to, participate in the delivery of services. The plan shall provide for the evaluation and assessment required under sub. (4p) and shall, to the fullest extent possible, be coordinated with and integrated into plans developed by regional comprehensive health planning agencies.
(e) Establish a fixed point of information and referral within the community for developmentally disabled persons individuals and their families. The fixed point of information and referral shall consist of a specific agency designated to provide information on the availability of services and the process by which the services may be obtained.~~

Vetoed
in Part

~~SECTION 4. 51.437 (4m) (n) and (o) and (4p) of the statutes are created to read:
51.437 (4m) (n) Provide for the evaluation and assessment required under sub. (4p).
(o) Annually, by the date specified by the department under sub. (14f) (d), report to the department any information specified under sub. (14f).
(4p) EVALUATION AND ASSESSMENT; DISPUTE RESOLUTION. (a) Evaluation and assessment. 1. Upon receiving a request for services, the county department of developmental disabilities services shall conduct or arrange for a diagnostic evaluation in order to determine whether the individual has a developmental disability.~~

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~~2. If the individual is diagnosed as having a developmental disability, the county department of developmental disabilities services shall conduct a needs assessment. To the extent possible, the county department of developmental disabilities services shall consider the opinions of the developmentally disabled individual and his or her parent or guardian, if any, when developing the individual's needs assessment. The needs assessment shall include at least all of the following:
a. A statement of the developmentally disabled individual's capabilities and service needs.
b. A statement of specific objectives for improving the capabilities and addressing the service needs of the developmentally disabled individual and a description of the type, amount and estimated cost of services necessary to achieve the objectives. The description of services shall identify informal support services and other community resources, if any, are available to meet the individual's service needs.
(bm) Nonduplication. A preexisting evaluation or assessment of the developmentally disabled individual may be used in meeting the requirements of par. (a) if no substantial change has occurred in the individual's condition since the preexisting evaluation or assessment was prepared.
(e) Dispute resolution. 1. Disputes concerning the diagnostic evaluation and the needs assessment are grievances subject to resolution under s. 51.61 (5).
2. If the dispute is not resolved under subd. 1, the service requester or recipient, his or her parent or guardian or his or her counsel or guardian ad litem may petition the department for review. Upon receipt of a petition, the department shall give the applicant or recipient reasonable notice and opportunity for a fair hearing. Notice of the hearing shall be given to the applicant and to the county department of developmental disabilities services. The county department of developmental disabilities services may be represented at such hearing. The department shall render its decision as soon as possible after the hearing and shall send a certified copy of its decision to the applicant or recipient and the county department of developmental disabilities services. The applicable procedures of ch. 227 shall apply to a hearing under this subdivision.
SECTION 5. 51.437 (14) (i) and (j) of the statutes are created to read:
51.437 (14) (i) Prepare a state plan under sub. (14p).
(j) Collect the information and prepare the annual report under sub. (14f).
SECTION 6. 51.437 (14f), (14p) and (14r) (a) 7 of the statutes are created to read:
51.437 (14f) DATA GATHERING; ANNUAL REPORT. (a) In this subsection, "county department" means a county department of developmental disabilities services, a county department of community programs under s. 51.42, a county department of human services~~

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under s. 46.23 or a county department of social services under s. 46.215 or 46.22.

(b) From each county department, the department of health and social services shall collect and compile specific factual information and prepare an annual report. The report shall set forth the information for each county department by specific service categories for the past year and the current year and shall contain estimates for the ensuing year. The information, by service category, shall include, but not be limited to:

1. The total number of individuals with developmental disabilities who receive complete and appropriate services from each county department.

2. The total number of individuals with developmental disabilities who requested services but did not receive services from each county department.

3. The total number of individuals with developmental disabilities who received services from each county department which were not as complete or appropriate as the services that each individual was assessed as needing.

4. The total dollar amount necessary for each county department to provide the necessary services under subds. 2 and 3.

5. The total dollar amount expended and budgeted by each county department in the calendar years covered by the report.

(c) The numbers under par. (a) 1 to 3 shall be unduplicated numbers, with an individual being counted only once in each category set forth therein.

(d) If requested by the department or the Wisconsin council on developmental disabilities, county departments shall provide to the department or the council any information specified in par. (b), using any forms prescribed by the department under sub. (16) (c) and by a date specified by the department.

(e) In developing the report under this subsection, the department shall seek any information available from the Wisconsin council on developmental disabilities.

(f) By March 1, 1991, and every March 1 thereafter, the department shall submit the report required by this subsection to the governor, the standing committees with jurisdiction over developmental disabilities issues in each house of the legislature and the joint committee on finance.

(14p) STATE PLAN. (a) *Requirement.* By December 1, 1991, and every 5 years thereafter, the department shall submit a state developmental disabilities services plan for the next 5 years. The plan shall be updated annually by December 1. The plan and plan updates shall be submitted to the governor, the standing committees with jurisdiction over developmental disabilities issues in each house of the legislature and the joint committee on finance.

(b) *Plan objectives.* The plan under this subsection shall be developed and implemented so as to achieve all of the following objectives:

1. To preserve, protect and affirm the legal and human rights, dignity, privacy and freedom of choice of individuals with developmental disabilities.

2. To promote access to a comprehensive array of support and treatment services appropriate to meet the needs of and to enhance the abilities of individuals with developmental disabilities and their families, regardless of the nature or severity of the individual's developmental disability.

3. To encourage and promote the development of innovative and cost-effective services which are responsive to the needs of individuals with all types of developmental disabilities, including multiple developmental disabilities, and which use methods of care and treatment which are as flexible, nonintrusive and supportive of individual dignity and choice as possible.

4. To promote the independence, productivity and social and physical integration into their communities of individuals with developmental disabilities, including providing opportunities to sustain family relationships and friendships with other community members and opportunities for meaningful employment.

5. To integrate and coordinate assistance provided to individuals with developmental disabilities under state and federal laws and regulations so as to create a more responsive and efficient system of care.

6. To minimize the number of developmentally disabled individuals living in institutions by maximizing the development of alternative, noninstitutional community programs.

(c) *Plan content.* The plan required under this subsection shall include:

1. A statement of methods used to ensure intergovernmental coordination of state and local planning in the delivery of services.

2. A statement setting forth the relationship of the state plan to any other pertinent federal, state or locally financed services programs.

3. A description of existing publicly funded services for individuals with developmental disabilities within the state, and within each county of the state, including the numbers and types of individuals receiving services, the amount and sources of funding of services, the county departments responsible for administration of services and the effectiveness of services in helping developmentally disabled individuals live more independent, productive and normal lives.

4. A listing of recommended priorities for program and facility development or expansion to meet current and future needs. Such recommendations shall include statements of justification of need, specific objectives or programs to be developed, amount and sources of funding needed and the timing of and agencies responsible for implementation.

5. A listing of recommended priorities for program termination, modification or reduction, or reduction in or discontinuance of the use of facilities. The recommendations shall include statements of justifica-

tion for lack of need or evidence of program ineffectiveness, evidence of discrimination against individuals with developmental disabilities or evidence of unnecessarily high costs in relation to program results. Recommendations for program termination, modification or reduction shall also include a statement of the amount and source of funds to be saved or reallocated to other programs and the timing of and agencies responsible for implementing the termination, modification or reduction.

6. A description of the procedures that shall be used for evaluating all programs identified in the state plan, the costs and sources of funds for the evaluation and the agencies responsible for evaluation.

7. A description of the administrative responsibility of state agencies involved in implementing all aspects of the state plan and a description of the amount and sources of funds required for the administration.

8. A description of the amount of federal funds that shall be allocated to state and local agencies responsible for the provision of services.

(d) *Participation of council.* The department, in formulating the plan under this subsection, shall consider the comments and recommendations of the Wisconsin council on developmental disabilities.

(e) *Provision of information.* Upon request by the department for completion of the plan under this subsection, county departments, as defined in sub. (14f) (a), shall provide information to the department in addition to that provided under sub. (14f) (b).

Vetoed
in Part

(f) *Publication.* 1. Copies of the proposed state plan, and proposed annual updates to the plan, shall be made reasonably available to the public in order to allow sufficient time for public review and comments.

2. Copies of the final state plan and annual updates to the plan shall be submitted to the governor, the standing committees with jurisdiction over developmental disabilities issues in each house of the legislature and the joint committee on finance and shall be made available to the public.

Vetoed
in Part

(14f) (a) 7. Provide to the department any data collected by the council that may assist the department in the preparation of the annual report under sub. (14f).

SECTION 7. 51.437 (16) (title) of the statutes is amended to read:

~~51.437 (16) (title) RULE MAKING.
SECTION 8. 51.437 (16) of the statutes is renumbered 51.437 (16) (a) and amended to read:~~

Vetoed
in Part

~~51.437 (16) (a) Rules. In addition to rules promulgated under pars. (b) and (c), rules promulgated by the secretary under s. 51.42 (7) (b) shall apply to services provided through county departments of developmental disabilities services under this section.~~

~~SECTION 9. 51.437 (16) (b) and (c) of the statutes are created to read:~~

~~51.437 (16) (b) The department shall promulgate rules relating to the provision of evaluation and assessment and review of disputes under sub. (4p). In promulgating the rules, the department shall solicit and consider the comments of the Wisconsin council on developmental disabilities, county departments as defined in sub. (14f) (a), and development disability advocacy organizations.~~

~~(c) The department, in consultation with the Wisconsin council on developmental disabilities and representatives from any interested county departments of developmental disabilities services, shall promulgate rules setting forth the specific service categories which must be included in the report under sub. (14f) and shall prescribe the reporting form to be used by county departments of developmental disabilities services in submitting the information under this subsection.~~

~~SECTION 9m. Initial applicability. (1) DEVELOPMENTAL DISABILITIES EVALUATION, ASSESSMENT AND DISPUTE RESOLUTION. The treatment of section 51.437 (4p) of the statutes first applies to an initial request for services that is received on the effective date of this subsection or to a request for services that was received prior to the effective date of this subsection and with respect to which the requester was temporarily denied services and is on a waiting list.~~

~~SECTION 10. Effective dates. This act takes effect on the first day of the 13th month beginning after publication or March 1, 1991, whichever is earlier, except as follows:~~

~~(1) The treatment of section 51.437 (16) of the statutes and the creation of section 51.437 (14f) and (16) (b) and (c) of the statutes take effect on the day after publication.~~