

STATE OF WISCONSIN
Department of Health Services
Division of Long Term Care

DLTC Numbered Memo Series 2009 - 07
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Index Title: New Preadmission Requirements
Use of COP/COP-W/CIP II in CBRFS

Supersedes DSL Memo Series
2002-25, in part. (*The First of
The Five Conditions for Use of
Funds in CBRFs is Repealed.*)

To: Listserv

For: Aging and Disability Resource Center Directors
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County Department of Human Services Directors
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From: Fredi-Ellen Bove
Interim Administrator

Subject: Use of COP/COP-W/CIP II Funding in Community Based Residential Facilities
(CBRFs)

Document Summary

2007 Wisconsin Act 20 (the 2007 – 2009 state budget bill) included significant changes to the pre-admission requirements for the use of COP, CIP II and COP-W in Community Based Residential Facilities. The changes include the repeal of the first of the “five conditions” that must be met prior to CBRF admission in order to use COP, CIP II or COP-W funds (Chapters 46.27 (7) (cj) 3 (a) and 46.277(5) (e) (1n. a.) The budget bill also amended Chapter 50 directing the Department to establish requirements for facility operators, mandating the referral of prospective residents to the appropriate local county waiver agency or ADRC (Chapter 50.02(2) (d) 1.), as applicable. The legislation further required that the Department provide direction as to the agency response to the referral from the CBRF. This memo will address the changes made to the CBRF preadmission requirements as they apply to COP, CIP II and COP-Waiver agencies and local ADRCs. The memo outlines the new requirements and timelines that must be followed as a result of these statutory changes. The changes discussed below do not apply to the Family Care, IRIS, CIP 1A/1B or BIW programs.

This memo focuses on local agency responsibilities under the revised statutes. More specific instructions for CBRF operators as to the new requirements under Chapter 50 will be communicated to facility operators by the Division of Quality Assurance. Aging and Disability Resource Centers will receive additional direction via an upcoming Resource Centered bulletin from the Office for Resource Center Development.

A. Previous Statutory Conditions for the Use of COP, CIP II or COP-W in CBRFs

Criteria established in 1997 and included in s. 46.27 (7) (cj) 3. (a.) outlined five conditions to be met prior to the use of COP, CIP II or COP-W funds for CBRF admissions. It was the intent of these provisions to assure that the Community Options Program and Medicaid Waiver funds were primarily employed to support and maintain persons in their own homes. The criteria sought to assure that prospective CBRF residents were fully informed of all community based services available prior to making a decision to enter a CBRF.

The previous criteria included the following five conditions:

1. A pre-admission assessment or consultation has been completed prior to the person's admission to the CBRF, regardless of the individual's ability to pay;
2. The option of in-home services has been thoroughly explored and determined to be infeasible;
3. The CBRF is the person's preferred residence;
4. The CBRF provides a quality environment and quality care services
5. The CBRF is cost effective compared to other options

While the intent of the law was to assure all other feasible options were explored prior to a decision to move to a CBRF, the preadmission assessment/consultation (PAC) requirement had the practical effect of negatively impacting residents who may not have received the consultation. Persons who independently chose to move to a CBRF and who had not received the PAC were subsequently ineligible to receive COP or waiver funds in their chosen living arrangement.

B. New Statutory Requirements

The 2007 – 2009 state budget bill (2007 Wisconsin Act 20), repealed the first of the five conditions requiring the PAC. The repeal means that the PAC is no longer required before COP, CIP II or COP-W funding may be used. However, the other four conditions remain. This means that the waiver agencies must continue to document that those four criteria have been met before COP, CIP II or COP-W funding for CBRF services may be used.

In addition, the legislation amended Chapter 50 introducing new requirements to the admission practices of the affected CBRFs and also amended Chapter 46 impacting the operations of county waiver agencies and ADRCs, as applicable. Further, the legislation directed the Department to establish requirements for CBRF operators to meet in the referral of prospective residents to local agencies/ADRCs, as well as time frames within which the local agencies must respond to such referrals.

CBRF Operator Responsibilities: The new conditions require that when CBRF operators first provide written information about the facility to a prospective resident who is at least 65 years of age or has a developmental or physical disability and whose

disability or condition is expected to last at least 90 days, the facility operator is required to make a **referral** to the county human service agency that administers the COP/waiver programs or to the appropriate ADRC. (See s. 50.035 (4n).) While requiring the referral of most prospective residents, the statute **exempts** certain individuals. Persons who are seeking admission for respite and persons who are members of a care management organization are not required to be referred. All other prospective residents should be referred to the county waiver agency/ADRC.

To meet the new requirements, CBRF operators must make a **referral** using the DQA F-62493 form (See Attachment 1 below) to the local county waiver agency or to the ADRC, located in or serving the person's county of residence, as applicable. The form contains facility information and individual contact information. The form also offers the opportunity for the prospective resident to "opt out" of any agency or ADRC follow-up contacts. This means that while facilities must make a referral and designated agencies must accept and respond, prospective residents may choose to decline a follow up contact from the agency/ADRC. In cases where the prospective resident has indicated they wish to "opt out" of the agency/ADRC follow up contact, the CBRF must still send the referral.

In counties with operating ADRCs, the facility operator should also include ADRC contact **information** in the facility information provided to prospective residents (See Attachment 2 below.) Finally, facilities are required to establish and maintain a record of all PAC referral forms completed.

County Waiver Agency/ADRC Responsibilities: In counties where there is a County Department of Human Services or another county department providing COP and Medicaid waiver services and there is **no operating ADRC**, the county waiver agency is responsible for accepting and responding to the CBRF pre-admission referrals. In counties where **both** an existing waiver agency providing COP, CIP II or COP-Waiver services and an ADRC are concurrently operating, the county waiver agency and the ADRC must **designate** which agency will accept and respond to the required CBRF referrals. It is a local decision as to which agency is most appropriate to respond to facility referrals and provide the required counseling. The designated agency must inform all facilities within its service area of this designation and supply written local contact information (e.g., a pamphlet, fact sheet, etc.) to facility operators to provide to prospective residents.

Note: In counties where managed care is available, the ADRC is responsible for accepting and responding to the CBRF referrals.

Agencies are reminded that while CBRFs must refer most prospective residents, these persons have the option to request that they not receive a follow up contact. If the prospective resident **does not** "opt out" of the agency/ADRC follow up, the designated agency must contact the prospective resident **within five business days**. The initial follow up contact must be direct, by telephone or in person and may not solely consist of a letter or e-mail sent to the prospective resident. The content of this contact shall include an offer of *counseling*, as required under s. 46.27(5) (j) or Article IV (D) (3), ADRC contract, respectively. The counseling provided shall consist of Long-Term Care Options Counseling, the content of which will inform and advise the person concerning all of the following:

1. The availability of any long-term care options open to the individual, including home care, community services, case management services, residential care and nursing home options.
2. Sources and methods of both private and public payment for long-term care services including COP, CIP II/COP-W and, where available, managed care, and the IRIS waiver program.
3. Factors to consider when choosing among available programs, services and benefits, including cost, quality, outcomes, estate recovery and compatibility with the person's preferred lifestyle and residential setting.
4. Advantages and disadvantages of the various options in light of the individual's situation, values, capacities, knowledge and resources and the urgency of the individual's situation.
5. Opportunities and methods for maximizing independence and self-reliance, including the utilization of supports from family, friends and the community.

While the designated county waiver agency or ADRC must make the offer of options counseling within the prescribed five business day time frame, when contacted, the prospective resident may decline the offer. If the offer of options counseling is accepted, the agency should then meet with the person, at a location preferred by and at a time convenient to the prospective resident within **ten business days**. The ten day time line may be extended if the prospective resident requests such a delay.

In the event the designated agency is unable to make a direct contact with the prospective resident within the initial five working day time frame, the agency must send a written offer of options counseling to the person. If there is no response to the agency's written offer after 20 calendar days, the county waiver agency/ADRC should document the post-referral contact attempt. Documentation of all referrals received and all contacts made/attempted in response to CBRF referrals should be maintained by the agency.

Current Program Participants and Repeat Referrals:

If the prospective resident referred by the facility operator is currently a waiver program participant and the waiver agency is not assisting in the admission, the local waiver agency should contact the participant and address his/her decision to explore CBRF admission. Should such an admission be pursued, the agency is reminded that it must assure that the preadmission criteria under s. 46.27(cj) are met before COP, CIP II or COP-W funds may be used.

There may be persons who contact more than one facility over a period of time which may trigger multiple referrals to the designated agency. If the prospective resident referred by a CBRF has been referred to the designated agency/ADRC for counseling at any time in the previous six months and the appropriate, required follow up has occurred, the agency need not make another follow up contact unless the prospective resident requests it.

C. Summarizing the New Preadmission Requirements:

While significant changes to the law were made as a result of the passage of the 2007-2009 Budget Bill, the overall intent remains unchanged. By establishing conditions that must be met prior to CBRF admission, the legislature has reaffirmed that the community-based long-term care programs are intended to provide funding for services for persons to remain in their own homes. The conditions placed on CBRFs requiring notice to local

waiver agencies or ADRCs and the subsequent response required are intended to assure that prospective CBRF residents receive all of the information necessary to make an informed decision.

Changes to the preadmission and referral requirements – in brief:

- The first of the “five conditions” has been repealed.
- The remaining four conditions must continue to be met and documented before COP, CIP II or COP-W funds may be used for CBRF services.
- Local waiver agencies and ADRCs must designate which agency is to receive the preadmission referrals and notify CBRFs in their service area of the designation.
- CBRF operators must refer prospective residents who are not exempted to the designated local agency when they provide written information to these person(s).
- The designated local county waiver agency or ADRC must respond to the CBRF referral and **within five business days**, contact prospective residents who have not “opted out” to offer counseling.
- The prospective resident may decline the offer.
- If the offer of counseling is accepted, the agency/ADRC should meet with the prospective CBRF resident **within ten calendar days**.
- Agencies should maintain documentation of all referrals received and all follow up contacts made/attempted in response to facility referrals.

D. Medicaid Waiver Manual Update

Direction to waiver agencies to implement the policies described in this memo will be incorporated into the Medicaid Waiver Manual in 2009. See Chapter 5 of the manual for additional information and instruction as to the requirements related to the use of funds in substitute care settings.

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Attachment 1: DQA PAC Referral <http://dhs.wisconsin.gov/forms1/F6/F62493.doc>

Attachment 2: PAC Information Brochure [Generalinfo/PAC.htm](#)

cc: Area Agencies on Aging
Board on Aging and Long Term care
COP/LTS Statewide Advisory Committee
County/Tribal Aging Units
DQA Administrator
DQA Bureau of Assisted Living Director
DQA Regional Field Operations Supervisors
Disability Rights Wisconsin
Independent Living Centers
Residential Services Association of Wisconsin
The Management Group (TMG)
Wisconsin County Human Services Association (WCHSA)
Wisconsin Assisted Living Association (WALA)
Wisconsin Association of Homes for the Aging
Wisconsin Health Care Association