

THE WISCONSIN ELDERS ACT

*A Proposal to Strengthen
the Organization and Delivery of
Programs and Services
to
Wisconsin's Elderly Citizens*

February 1991

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Executive Summary

The current network of services and programs for the elderly in Wisconsin has grown out of a 25-year federal commitment to build a comprehensive coordinated community services system of public and private effort for the elderly envisioned in the principles of the Older Americans Act. Wisconsin has adapted this vision to a county-based planning and service delivery system, and an impressive aging network which includes the State Bureau on Aging located in the Department of Health and Social Services, six Area Agencies on Aging covering the entire state and county and tribal aging units serving all counties and tribes in Wisconsin. The roles of the Bureau on Aging and Area Agencies on Aging are clearly defined in the Federal Older Americans Act and regulations. The roles of county and tribal aging units are not clearly defined and, in some cases, have become blurred by reorganization of human service agencies at the county level.

The lack of clear definitions is further compounded by the lack of adequate resources to meet the needs of a growing aging population which, 25 years ago, primarily needed economic assistance and acute health care services. Today, the elderly population primarily needs services focused on long-term care and chronic health conditions. While there has been an impressive commitment of state resources in the 1980s to providing a wide variety of necessary in-home care services through the Community Options Program (COP), in a majority of counties less than one-half of the funds provide long-term care services to the elderly and serious structural problems have been identified which need to be repaired to make the program more responsive to the long-term care needs of the elderly. And recently the gap between resources for institutional care and community-based services has grown alarmingly wider.

A patchwork of other state programs (e.g. Benefit Specialist program, nutrition and volunteer programs) has filled some other gaps in services but expansion of these programs has either been eroded by inflation or has been relatively small. Meanwhile, federal funding for aging programs has declined.

As the population of Wisconsin ages, with dramatic increases in the groups over age 75 and 85, it is becoming increasingly evident that there is too little information and too much confusion about what is available for older persons and their concerned family members who are coping with increased frailty, isolation and disability. Many counties are unable to meet requirements to adequately serve the elderly under COP due to a lack of service providers. Others cannot recruit and retain sufficient volunteers. Resources are being drawn off to meet the demands of various mandates. Organizational confusion is preventing adequate coordination with hospitals and other health providers.

As a first step toward rationalizing a policy and service delivery system for the elderly of Wisconsin, there is a need for a clarity of state purpose comparable to the Older Americans Act which reiterates the current commitments of state and county government to elderly citizens. The "51 system" of community programs for developmental disabilities, mental health and alcohol and other drug abuse already has a clear statutory basis of responsibility. Most aspects of child welfare are similarly codified. Wisconsin's elderly, their families and their elected representatives will benefit from a law which clarifies the various responsibilities, programs, rules and resources now scattered throughout the statutes and administrative policies of Wisconsin government.

The major focus of the act is to strengthen the organization and delivery of programs and services to older persons and their families at the county level. As proposed by advocates for the elderly, the Wisconsin Elders Act would require each county to establish, if the county chooses to administer Older Americans Act funds, a county aging unit whose purposes are: (1) to assure that older persons in the county have the same opportunity as other citizens to realize their full potential and to participate in all areas of community and family life; and (2) to advocate for older persons in order that they may be able to meet their basic human needs.

The proposed Wisconsin Elders Act would specify the powers and duties of county aging units, all of which are now included in state policies and guidelines. The act would not impose new mandates for county government, new responsibilities for state government, or new public costs. The aging unit could be organized as a department of county government, or a separate organizational unit within a county social service or human services department, or a private non-profit agency.

Twenty-five years ago, this country passed the Older Americans Act to focus attention on the social and economic needs of a whole class of citizens. A Wisconsin Elders Act is now needed to focus attention on a rapidly growing and changing elderly population.

As of February 1, 1991, The Wisconsin Elders Act has been endorsed by the following organizations:

Coalition of Wisconsin Aging Groups
AARP - State Legislative Committee
Wisconsin Retired Teachers Association
Center for Public Representation
Board on Aging and Long Term Care
Wisconsin Association of Aging Unit Directors
Wisconsin Association of Area Agencies on Aging
Wisconsin Association of Nutrition Directors
Wisconsin Association of Senior Centers
Northern Area Agency on Aging
Western Wisconsin Area Agency on Aging
New Ventures of Wisconsin Area Agency on Aging
Wisconsin Benefit Specialist Association
Wisconsin RSVP Staff Association
State Advisory Council to the Bureau on Aging

THE WISCONSIN ELDERS ACT

A. Purpose

The Wisconsin Elders Act is intended to improve the public's understanding of and access to information about the functions of Wisconsin's Aging Network and the comprehensive array of services available to older people across the state. It will consolidate a number of current statutory references requiring or authorizing elderly services and expand some of them to include requirements that are in state and federal rules and policies but not explicit in statute. It would clarify Wisconsin's service system for older persons, imposing no new mandates on counties, no new responsibilities for state government and no new public costs. It will reduce the fragmentation and confusion in development of policies and programs affecting the elderly.

B. Current State Statutes Related to Aging Programs

1. State Level

Statutory references related to aging programs are scattered throughout Wisconsin law. The primary references are contained in Chapter 46 which covers the responsibilities of the Department of Health and Social Services (DHSS) and Chapter 16 related to the powers and duties of the Board on Aging and Long-Term Care (BOALTC). Several other state departments are required to work with DHSS in carrying out its responsibilities to older persons and to administer various other programs, such as specialized transportation programs, the property tax deferral program and senior citizen recreation cards.

Statutory responsibilities of DHSS include the following:

- ◆ Coordination of policies, plans and activities with regard to the aging population.
- ◆ Accepting and administering gifts, grants and federal and state funding for services for older persons, including preparation of the state plan under the federal Older Americans Act.
- ◆ Administration of the Community Aids Program which is the largest state funding for human services, including the elderly, administered by counties.
- ◆ Administration of specific aging programs including:
 - Congregate and home-delivered nutrition programs
 - Benefit Specialist Program
 - Senior Companion and Retired Senior Volunteer Programs
 - Alzheimer's Training and Information grants
 - Alzheimer's Family and Caregiver Support Program
 - Senior Community Services Program
 - Elder Abuse reporting system
 - The Community Options Program and related Medicaid waiver programs of long-term support

Powers and duties of the Board on Aging and Long Term Care include the following:

- ◆ Gathering and presenting information to the Governor and Legislature about issues, activities and programs of concern to elderly people.
- ◆ Operating the Long Term Care Ombudsman Program.
- ◆ Providing insurance counseling to consumers through the Medigap Hotline.
- ◆ Surveying physicians and reporting to the legislature regarding Medicare assignment issues in Wisconsin.

2. Local Level

Current statutes (primarily Chapter 59) authorize County Boards of Supervisors to do the following:

- ◆ Appropriate funds for promoting and assisting county commissions on aging and private senior clubs/organizations in their organization and activities.
- ◆ Create a county commission on aging, which may include county board members and non-members, and to pay expenses and per diem.
- ◆ Appropriate money to pay for homemaking services for elderly and disabled persons under certain conditions.
- ◆ Operate specialized transportation services for elderly and disabled persons.
- ◆ Operate the Alzheimer's Family Caregiver Support Program.

Wisconsin law (Chapter 46) requires counties to establish and operate the following:

- ◆ A social services or human services department that provides aging (and other) services.
- ◆ An elder abuse reporting system for victims of physical abuse, material abuse, neglect and self-neglect.
- ◆ A Community Options Program to provide community-based long-term care alternatives for elderly and disabled persons.

C. Proposed New Statutory Provisions

It is proposed that the following existing federal and state laws, regulations and guidelines be added to state statutes and consolidated, to the extent possible, in Chapter 46.

1. DHSS Duties Would Include:

- ✓ Federal requirements to designate planning and service areas of the state, an area agency on aging (AAA) for each of them to provide regional and local planning and administration of Older Americans Act programs, and to serve as an independent and visible advocate for older consumers.
- ✓ To contract with the AAAs and to establish funding formulae which direct the area agencies on aging to award funds to counties and tribes which meet Federal and state requirements for purposes established in their approved aging plans, to monitor county and tribal programs and to provide technical assistance and training.
- ✓ Assure that AAAs carry out the provisions of Sections 305 and 306 of the Older Americans Act which spell out the responsibilities of the designated state agency and AAAs.
- ✓ Federal requirement to establish directly or by contract a long term care ombudsman program and authorization to contract with Board on Aging and Long Term Care to operate it.
- ✓ Explicit authorization to operate the Foster Grandparent Program.
- ✓ Explicit authorization to operate the Senior Community Services Employment program (Title V).

2. Responsibilities of County Boards of Supervisors Would Include:

- ✓ Federal requirements to assure non-discrimination on the basis of age in all programs and services operated by county agencies and by private agencies under contract with a county agency. This would include social services, mental health and substance abuse services and services for persons with developmental disabilities.
- ✓ Authorization to coordinate specialized transportation services for elderly and disabled citizens of the county, including those services funded through state aid under s. 85.21, the Older Americans Act, the Medical Assistance program and other public funds administered by the county.

- ✓ Requirement to designate, if the county chooses to administer Older Americans Act funded programs, a county aging unit whose purposes are (1) to assure that older persons in the county have the same opportunity as other citizens to realize their full potential and to participate in all areas of community and family life and (2) to advocate for older persons in order that they may be able to meet their basic human needs.

The county aging unit would be defined as consisting of:

- a. A county commission, committee or department on aging, appointed by the county board or county executive, to act as a planning and policy development body for programs in the county funded by the federal Older Americans Act and state supplemental funding. The county also may designate a non-profit organization to serve as the aging unit. If the commission, committee or organization designated by the county does not include a majority of older citizens and non-elected persons, then the aging unit shall include an active advisory committee consisting of a majority of older persons and a majority of non-elected officials.
- b. A full-time aging director knowledgeable about aging programs and sufficient trained staff to carry out the functions of the aging unit which may be located in any of the following:
 - ✓ A department of county government whose primary purpose is to administer programs for the elderly.
 - ✓ A separate organizational unit within a county department of social services or human services whose primary purpose is to administer programs for the elderly.
 - ✓ A private non-profit agency.

3. Powers and Duties of County Aging Units Would Include:

- ✓ Provide a visible and accessible point of contact for citizens to obtain accurate and comprehensive information about public and private resources available in the community which can meet the needs of older persons, with specific reference to programs specified in state statute (such as the property tax deferral program and senior citizen recreation cards).
- ✓ Provide personal assistance to individual older persons and their families, both in seeking help and in making use of available opportunities, and providing effective referral which can result in meeting the needs of the older person or resolving their problems.

- ✓ Assure the involvement of older citizens in preparation of a comprehensive plan for aging resources in the county. The plan serves as the application to area agencies on aging for funding for Older Americans Act programs and state supplemental funding for them, and shall identify needs of the older population, as well as goals, services, activities and resources within the county.
- ✓ Organize and administer congregate programs which must include a nutrition program and may include senior centers, adult daycare and/or respite programs which enable older persons and their families to secure nutrition, daytime care, health promotion, meaningful educational or volunteer opportunities, job preparation, consumer and citizenship knowledge.
- ✓ Provide to individual older persons accurate and current information on public benefits and legal rights and actively assist them in securing their benefits and rights through the use of trained Benefit Specialists in each county and legal assistance provided through AAAs.
- ✓ Assure that all older persons, regardless of income, have access to information, services and opportunities available through the county aging unit; that older persons have the opportunity to contribute to the cost of services and that services and resources are designed to reach those in greatest social and economic need.
- ✓ Comply with all relevant provisions of the Older Americans Act, state statute and any other relevant law or regulation governing funds or programs administered by the aging unit, as specified by the Department of Health and Social Services and implemented through AAAs.
- ✓ Assure that programs for older persons are available to the home bound, disabled, racial minorities and non-English speaking persons in the county.
- ✓ Work cooperatively with other organizations to help their service programs function more effectively for older persons.
- ✓ Identify gaps in services needed by the older population, provide the leadership to generate public or private resources and recruit, train, place and recognize older volunteers to meet those needs.
- ✓ Work to secure a coordinated system of transportation throughout the county in order to meet basic needs and to make community programs and opportunities accessible to older persons.

- ✓ Represent elderly needs, views and concerns in county human services planning, as well as in other local decisions that affect older people.
- ✓ Provide education, training and information to older persons to assist them in expressing their views to officials and to people who provide services.
- ✓ Provide information to the public about the aging experience and about resources for and within the aging population.
- ✓ Plan for, receive and administer Federal and state funds allocated to the county under the state and area plan on aging and any other funds directed to the aging unit by state statute or the County Board.
- ✓ May administer the Community Option Program and Federal Home and Community Care waivers, elder abuse reporting, Alzheimer's Family Caregiver Support Program and the Elderly and Handicapped Transportation Program.

4. Clarify that the Governing Bodies of the Eleven American Indian Tribes in Wisconsin may:

- ✓ Create Tribal Aging Units with a similar configuration and requirements as County Aging Units, in order to administer programs funded under the Older Americans Act and related supplemental state funding.

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AARP - State Legislative Committee
Wisconsin Retired Teachers Association
Center for Public Representation
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Wisconsin Association of Aging Unit Directors
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New Ventures of Wisconsin Area Agency on Aging
Wisconsin Benefit Specialist Association
Wisconsin RSVP Staff Association
State Advisory Council to the Bureau on Aging

Excerpt from
Wisconsin Elders Act
1991 Wisconsin Act 235
April 23, 1992

46.82 Aging unit.

(1) DEFINITIONS. In this section:

- (a) "Aging unit" means an aging unit director and necessary personnel, directed by a county or tribal commission on aging and organized as one of the following:
 - 1. An agency of county or tribal government with the primary purpose of administering programs of services for older individuals of the county or tribe.
 - 2. A unit, within a county department under s.46.215, 46.22 or 46.23 with the primary purpose of administering programs of services for older individuals of the county.
 - 3. A private, nonprofit corporation that is organized under ch. 181.
- (b) "Area agency on aging" means an agency designated as specified in 42 USC 3025 (a)(2)(A).
- (c) "Older individual" means an individual who is 60 years of age or older.

(2) AGING UNIT; CREATION

A county board of supervisors of a county, the county boards of supervisors of 2 or more contiguous counties or an elected tribal governing body of a federally recognized American Indian tribe or band in this state may choose to administer, at the county or tribal level, programs for older individuals that are funded under 42 USC 3001 to 3057n, 42 USC 5001 and 42 USC 5011(b). If this is done, the county board or boards of supervisors or tribal governing body shall establish by resolution a county or tribal aging unit to provide the services required under this section. If a county board of supervisors or a tribal governing body chooses, or the county boards of supervisors of 2 or more contiguous counties choose, not to administer the programs for older individuals, the department shall direct the area agency on aging that serves the relevant area to contract with a private, nonprofit corporation to provide for the county, tribe or counties the services required under this section.

(3) AGING UNIT; POWERS AND DUTIES.

In accordance with state statutes, rules promulgated by the department and relevant provisions of 42 USC 3001 to 3057n and as directed by the county or tribal commission on aging, an aging unit:

(a) **Duties.** Shall do all of the following:

1. Work to ensure that all older individuals, regardless of income, have access to information, services and opportunities available through the county or tribal aging unit and have the opportunity to contribute to the cost of services and that the services and resources of the county or tribal aging unit are designed to reach those in greatest social and economic need.
2. Plan for, receive and administer federal, state and county, city, town, or village funds allocated under the state and area plan on aging to the county or tribal aging unit and any gifts, grants or payments received by the county or tribal aging unit, for the purposes for which allocated or made.
3. Provide a visible and accessible point of contact for individuals to obtain accurate and comprehensive information about public and private resources available in the community which can meet the needs of older individuals.
4. Consistent with s.46.81, provide older individuals with services of benefit specialists or appropriate referrals for assistance.
5. Organize and administer congregate programs, which shall include a nutrition program and may include one or more senior centers or adult day care or respite care programs, that enable older individuals and their families to secure a variety of services, including nutrition, daytime care, educational or volunteer opportunities, job skills preparation and information on health promotion, consumer affairs and civic participation.
6. Work to secure a countywide or tribal transportation system that makes community programs and opportunities accessible to, and meets the basic needs of, older individuals.
7. Work to ensure that programs and services for older individuals are available to homebound, disabled and non-English speaking persons, and to racial, ethnic and religious minorities.
8. Identify and publicize gaps in services needed by older individuals and provide leadership in developing services and programs, including recruitment and training of volunteers, that address those needs.
9. Work cooperatively with other organizations to enable their services to function effectively for older individuals.

10. Actively incorporate and promote the participation of older individuals in the preparation of a county or tribal comprehensive plan for aging resources that identifies needs, goals, activities and county or tribal resources for older individuals.
11. Provide information to the public about the aging experience and about resources for and within the aging population.
12. Assist in representing needs, views and concerns of older individuals in local decision making and assist older individuals in expressing their views to elected officials and providers of services.
13. If designated under s.46.27(3)(b) 6, administer the long-term support community options program.
14. If the department is so requested by the county board of supervisors, administer the pilot projects for home and community-based long-term support services under s.46.271.
15. If designated under s.46.90(2), administer the elder abuse reporting system under s.46.90.
16. If designated under s.46.87(3)(c), administer the Alzheimer's disease family and caregiver support program under s.46.87.
17. If designated by the county or in accordance with a contract with the department, operate the specialized transportation assistance program for a county under s.85.21.
18. Advocate on behalf of older individuals to assist in enabling them to meet their basic needs.

(b) Powers. May perform any other general functions necessary to administer services for older individuals.

(4) COMMISSION ON AGING.

(a) Appointment.

HHS Board

1. Except as provided under subd. 2, the county board of supervisors in a county that has established a single-county aging unit, the county boards of supervisors in counties that have established a multicounty aging unit or the elected tribal governing body of a federally recognized American Indian tribe or band that has established a tribal aging unit shall, before qualification under this section, appoint a governing and policy-making body to be known as the commission on aging.

2. In any county that has a county executive or county administrator and that has established a single-county aging unit, the county executive or county administrator shall appoint, subject to confirmation by the county board of supervisors, the commission on aging. A member of a commission on aging appointed under this subdivision may be removed by the county executive or county administrator for cause.

(b) **Composition.** A commission on aging, appointed under par. (a) shall be one of the following:

1. For an aging unit that is described in sub. (1)(a) 1 or 2, organized as a committee of the county board of supervisors, composed of supervisors and, beginning January 1, 1993, advised by an advisory committee, appointed by the county board. Older individuals shall constitute at least 50% of the membership of the advisory committee and individuals who are elected to any office may not constitute 50% or more of the membership of the advisory committee.
2. For an aging unit that is described in sub. (1)(a) 1 or 2, composed of individuals of recognized ability and demonstrated interest in services for older individuals. Older individuals shall constitute at least 50% of the membership of this commission and individuals who are elected to any office may not constitute 50% or more of the membership of this commission.
3. For an aging unit that is described in sub. (1)(a) 3, the board of directors of the private, nonprofit corporation. Older individuals shall constitute at least 50% of the membership of this commission and individuals who are elected to any office may not constitute 50% or more of the membership of this commission.

(c) **Terms.** Members of a county or tribal commission on aging shall serve for terms of 3 years, so arranged that, as nearly as practicable, the terms of one-third of the members shall expire each year, and no member may serve more than 2 consecutive 3-year terms. Vacancies shall be filled in the same manner as the original appointments. A county or tribal commission on aging member appointed under par. (a) 1 may be removed from office for cause by a two-thirds vote of each county board of supervisors or tribal governing body participating in the appointment, on due notice in writing and hearing of the charges against the member.

(d) **Powers and duties.** A county or tribal commission on aging appointed under sub. (4)(a) shall, in addition to any other powers or duties established by state law, plan and develop administrative and program policies, in accordance with state law and within limits established by the department of health and social services, if any, for programs in the county or for the tribe or band that are funded by the federal or state government

for administration by the aging unit. Policy decisions not reserved by statute for the department of health and social services may be delegated by the secretary to the county or tribal commission on aging. The county or tribal commission on aging shall direct the aging unit with respect to the powers and duties of the aging unit under sub. (3).

(5) AGING UNIT DIRECTOR; APPOINTMENT.

A full-time aging unit director shall be appointed on the basis of recognized and demonstrated interest in and knowledge of problems of older individuals, with due regard to training, experience, executive and administrative ability and general qualification and fitness for the performance of his or her duties, by one of the following:

(a)

1. For an aging unit that is described in sub. (1)(a) 1, except as provided in subd. 2, a county or tribal commission on aging shall make the appointment, subject to the approval of and to the personnel policies and procedures established by each county board of supervisors or the tribal governing body that participated in the appointment of the county or tribal commission on aging.
2. In any county that has a county executive or county administrator and that has established a single-county aging unit, the county executive or county administrator shall make the appointment, subject to the approval of and to the personnel policies and procedures established by each county board of supervisors that participated in the appointment of the county commission on aging.

(b) For an aging unit that is described in sub. (1)(a) 2, the director of the county department under s.46.215, 46.22 or 46.23 of which the aging unit is a part shall make the appointment, subject to the personnel policies and procedures established by the county board of supervisors.

(c) For an aging unit that is described in sub. (1)(a) 3, the commission on aging under sub. (4)(a) 3 shall make the appointment, subject to ch. 181.

