Issue: Family Care
"Any Willing Provider"/ "Consumer Choice"

This provision should not only be protected and maintained, it should be expanded. One proposed changes to Family Care 2.0 that generated a great deal of concern and opposition by Wisconsin's assisted living profession and consumer advocates was the ability of the Department of Health Services to repeal Wis. Stat. §46.284(2)(c), commonly known as the "any willing provider" or "consumer choice" provision. The proposal would allow DHS the ability to repeal the provision three-years after CMS approval and implantation of either the Waiver or a state plan amendment.

The "any willing provider" \ "consumer choice" statute was intended to maximize consumer choice and protect their right to access-approved care and services. It also ensured that frail elderly and disabled Family Care enrollees were not forced from their homes simply based on whether the provider was in the MCO network. The statute permitted all qualified long-term care providers to participate and provide services through a Family Care-affiliated managed care organization (MCO) on the condition the provider accepts the MCO's established fee schedule and meets its quality standards.

As we are all aware, the future of Family Care \ IRIS 2.0 implementation is uncertain. And, according to DHS staff presenting at the July 2016 meeting of the Wisconsin Long-Term Care Advisory Council, the proposed reforms could instead come incrementally.

The goal is to protect our most vulnerable population, our elderly and persons with disabilities – from being forcibly removed from the residential setting they call home.

Not only should the "any willing provider" \ "consumer choice" provision be protected and maintained in any long-term care system, it should expanded to include Adult Family Homes and strengthened to prevent unintended loopholes\ambiguities. Further, the "any willing provider" \ "consumer choice" provision should be extended to all future and legacy Medicaid waivers.

Under current law, this provision is only extended to the following provider types: community-based residential facility, residential care apartment complex, nursing home, intermediate care facility for persons with an intellectual disability, community rehabilitation program, home health agency, provider of day services, or provider of personal care.

(see back for current statute language)

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§46.284(2)(c) *The department shall require, as a term of any contract with a care management organization under this section, that the care management organization contract for the provision of services that are covered under the family care benefit with any community-based residential facility under s. 50.01 (1g), residential care apartment complex under s. 50.01 (6d), nursing home under s. 50.01 (3), intermediate care facility for persons with an intellectual disability under s. 50.14 (1) (b), community rehabilitation program, home health agency under s. 50.49 (1) (a), provider of day services, or provider of personal care, as defined in s. 50.01 (4o), that agrees to accept the reimbursement rate that the care management organization pays under contract to similar providers for the same service and that satisfies any applicable quality of care, utilization, or other criteria that the care management organization requires of other providers with which it contracts to provide the same service.*