State of Wisconsin
Department of Health and Family Services

Jim Doyle, Governor
Kevin R. Hayden, Secretary

January 22, 2008

TO: Assembly Committee on Aging and Long Term Care
FROM: Katie Plona, DHFS legislative liaison
RE: Assembly Bills 611, 612 and 616

Good afternoon. I'm Katie Plona, legislative liaison for the Department of Health and Family Services. Representative Townsend and committee members, thank you for the opportunity to testify in favor of three pieces of remedial legislation that DHFS requested to the Legislative Council Special Committee on Law Revision and that the committee approved unanimously.

AB 612

AB 612 corrects a statutory change made in previous legislation that appears to have been drafted in error and was not consistent with the intent of the legislation. The purpose of this bill is to correct that error. AB 612 requires that an inpatient facility treatment director and the county department director review and approve all placements of minors in inpatient facilities. Under previous statute, a minor could to be placed in an inpatient facility without the approval of the facility treatment director and the director of the county department. This has resulted in fewer protections and reviews that were in place.

AB 611

AB 611 will correct an oversight in 2004 Act 33, which authorized the ICF-MR Restructuring Initiative. ICF-MRs are Independent Care Facilities for the Mentally Retarded.

In current law, there are two exceptions to these statutes regarding admission of individuals with development disabilities to ICF-MRs and nursing homes that do not require a court to find that the facility is the most integrated setting prior to admission. One is for emergency placement and the other is for respite care when a ward lives with the guardian.

2003 Act 33 neglected to include an exception for 30-day post-hospitalization rehabilitation stays in a nursing home under the nursing home fee for serve requirements, which is an entitlement for all Medicaid eligible people.

AB 611 conforms the statutes to current DHFS policy and administrative practice.

AB 616

AB 616 creates a new section in statute to define and authorize the Program of All-Inclusive Care for the Elderly benefit as a Medicaid state plan service. PACE is a new Medicare/Medicaid managed care program that integrates all aspects of health and long-term care for the elderly and is available to eligible Wisconsin residents.

The federal Centers for Medicare and Medicaid Services has authorized states to provide PACE as a Medicaid State Plan service. Most Medicaid State Plan services are defined and authorized under Chapter 49 of the state statutes. The new PACE service is not.

The purpose of defining Medicaid services in statute and in rules is to provide the basis for decisions in legal challenges and appeals. Without a statutory definition for the PACE benefits, the Department may not have sufficient basis to defend the way the program has been implemented.