



2013 ASSEMBLY BILL 862

March 11, 2014 - Introduced by Representatives C. TAYLOR, JOHNSON, ZAMARRIPA, BERCEAU, OHNSTAD, PASCH, RINGHAND, SARGENT, SHANKLAND, WACHS and JORGENSEN, cosponsored by Senators HARRIS and MILLER. Referred to Committee on Children and Families.

1 **AN ACT to repeal** 49.155 (6d) (a) 3.; **to amend** 20.001 (2) (e), 20.437 (2) (me),
2 49.155 (6) (e) 3. (intro.), b., c. and e., 49.155 (6) (e) 3. d., 49.175 (1) (intro.), 49.197
3 (1m) and 49.197 (2) (b) 1.; and **to create** 13.94 (1) (fm), 13.94 (1s) (c) 9., 20.437
4 (2) (mf), 49.155 (6f) and 49.155 (7d) of the statutes; **relating to:** payments to
5 child care providers, preventing fraud in the child care subsidy program, and
6 making an appropriation.

Analysis by the Legislative Reference Bureau

The Wisconsin Works (W-2) program under current law provides work experience and benefits for low-income custodial parents who are at least 18 years old. Also, an individual who is the parent of a child under the age of 13 or, if the child is disabled, under the age of 19, who needs child care services to participate in various education or work activities, and who satisfies other eligibility criteria may receive a child care subsidy for child care services under W-2. This child care subsidy program is called Wisconsin Shares.

Under current law, the Department of Children and Families (DCF) sets the maximum payment rates for child care providers who provide services under Wisconsin Shares and may modify an individual child care provider's payment rate in the following manner on the basis of the child care provider's quality rating under the quality rating system known as Young Star: a provider who receives a one-star rating may be denied payment; a provider who receives a two-star rating may have

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the maximum payment rate reduced by up to 5 percent; a provider who receives a three-star rating may receive up to the maximum payment rate; a provider who receives a four-star rating may have the maximum payment rate increased by up to 10 percent; and a provider who receives a five-star rating may have the maximum payment rate increased by up to 25 percent. Under the bill, DCF is required to pay an individual child care provider on the basis of the child care provider's quality rating under Young Star, as follows: a provider who receives a one-star rating is denied payment; a provider who receives a two-star rating is paid the maximum payment rate; a provider who receives a three-star rating is paid the maximum payment rate plus 5 percent; a provider who receives a four-star rating is paid the maximum payment rate plus 10 percent, and a provider who receives a five-star rating is paid the maximum payment rate plus 25 percent.

For purposes of reducing the cost of Wisconsin Shares, current law allows DCF to adjust the amount paid to child care providers under the program. Currently, DCF pays or reimburses licensed family child care providers based on a child's actual attendance, while DCF pays licensed group child care providers based on a child's enrollment with the provider. Under the bill, DCF must base the payment for a child receiving care from a licensed family child care provider on the child's enrollment and may not base the payment to a licensed family child care provider on a child's actual attendance. Additionally, the bill eliminates DCF's authority to adjust the amount paid to child care providers for purposes of reducing costs in Wisconsin Shares.

Under current law, DCF must establish a program to investigate fraudulent activity by participants in W-2, which includes Wisconsin Shares, and establish an incentive program to provide rewards to local agencies administering Wisconsin Shares for identifying fraud in the program. The bill requires DCF to establish policies and procedures to prevent fraud in Wisconsin Shares and requires the Legislative Audit Bureau to annually audit such policies and procedures. Finally, the bill requires that any money recovered from overpayments in Wisconsin Shares be used to pay for direct child care services under Wisconsin Shares or to reduce fraud in Wisconsin Shares.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 13.94 (1) (fm) of the statutes is created to read:

2 13.94 (1) (fm) Annually, conduct a financial and performance evaluation audit
3 of the policies and procedures established by the department of children and families
4 under s. 49.155 (7d). The legislative audit bureau shall file a copy of the report of the
5 audit under this paragraph with the distributees specified in par. (b).

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1 **SECTION 2.** 13.94 (1s) (c) 9. of the statutes is created to read:

2 13.94 (1s) (c) 9. The department of children and families for the cost of an audit
3 performed under sub. (1) (fm).

4 **SECTION 3.** 20.001 (2) (e) of the statutes is amended to read:

5 20.001 (2) (e) *Federal revenues*. “Federal revenues” consist of moneys received
6 from the federal government, except that under s. 20.437 (2) (md) “federal revenues”
7 also include moneys treated as refunds of expenditures, and under s. 20.437 (2) (me)
8 and (mf) “federal revenues” consist only of moneys treated as received from the
9 federal government. Federal revenues may be deposited as program revenues in the
10 general fund or as segregated revenues in a segregated fund. In either case they are
11 indicated in s. 20.005 by the addition of “-F” after the abbreviation assigned under
12 pars. (b) and (d).

13 **SECTION 4.** 20.437 (2) (me) of the statutes is amended to read:

14 20.437 (2) (me) *Child care and temporary assistance overpayment recovery*. ~~All~~
15 Except as provided in par. (mf), all moneys received from the recovery of
16 overpayments, and incorrect or disallowed payments, and voluntary repayments of
17 federal Child Care and Development Fund block grant funds, of federal Temporary
18 Assistance for Needy Families block grant funds, and of state moneys paid from other
19 appropriations to meet maintenance-of-effort requirements under the federal
20 Temporary Assistance for Needy Families block grant program under 42 USC 601
21 to 619 and the federal Child Care and Development Fund block grant program under
22 42 USC 9858 that the department elects to treat as federal revenue, for costs related
23 to recovering the overpayments and incorrect or disallowed payments, for activities
24 to reduce errors under the Wisconsin Works program under ss. 49.141 to 49.161, and
25 for any of the purposes specified under s. 49.175 (1).

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1 **SECTION 5.** 20.437 (2) (mf) of the statutes is created to read:

2 20.437 (2) (mf) *Wisconsin Shares overpayment recovery.* All moneys received
3 from the recovery of overpayments made under s. 49.155 that the department elects
4 to treat as federal revenue, for activities to investigate and reduce fraud in the
5 program under s. 49.155 and for direct child care services under s. 49.155.

6 **SECTION 6.** 49.155 (6) (e) 3. (intro.), b., c. and e. of the statutes, as affected by
7 2013 Wisconsin Act 20, are amended to read:

8 49.155 (6) (e) 3. (intro.) The department ~~may~~ shall modify a child care
9 provider's payment rate under subd. 2. on the basis of the provider's quality rating,
10 as described in the quality rating plan, in the following manner:

11 b. For a child care provider who receives a 2-star rating, the department ~~may~~
12 ~~reduce~~ shall pay the maximum payment rate ~~by up to 5 percent.~~

13 c. For a child care provider who receives a 3-star rating, the department ~~may~~
14 ~~pay up to~~ shall increase the maximum payment rate by 5 percent.

15 e. For a child care provider who receives a 5-star rating, the department ~~may~~
16 shall increase the maximum payment rate for such a child care provider by ~~up to 25~~
17 percent.

18 **SECTION 7.** 49.155 (6) (e) 3. d. of the statutes, as affected by 2013 Wisconsin Act
19 20, section 1006, is amended to read:

20 49.155 (6) (e) 3. d. For a child care provider who receives a 4-star rating, the
21 department ~~may~~ shall increase the maximum payment rate by ~~up to 10 percent.~~

22 **SECTION 8.** 49.155 (6d) (a) 3. of the statutes, as affected by 2013 Wisconsin Act
23 20, is repealed.

24 **SECTION 9.** 49.155 (6f) of the statutes is created to read:

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1 49.155 **(6f)** BASIS FOR PAYMENTS TO LICENSED FAMILY CHILD CARE CENTERS. The
2 department may not calculate the payment under this section for a child receiving
3 care from a family child care center, as defined in s. 49.136 (1) (j), that is licensed
4 under s. 48.65 based on the actual attendance of the child. The department shall
5 calculate payment for a child who receives care from a licensed family child care
6 center based on the enrollment of the child at the licensed family child care center.

7 **SECTION 10.** 49.155 (7d) of the statutes is created to read:

8 49.155 **(7d)** FRAUD PREVENTION PROGRAM. The department shall establish
9 policies and procedures to prevent fraud in the program under this section.
10 Notwithstanding s. 227.10 (1), the department need not promulgate policies and
11 procedures under this section as rules under ch. 227.

12 **SECTION 11.** 49.175 (1) (intro.) of the statutes is amended to read:

13 49.175 **(1)** ALLOCATION OF FUNDS. (intro.) Except as provided in sub. (2), within
14 the limits of the appropriations under s. 20.437 (2) (a), (cm), (dz), (k), (kx), (L), (mc),
15 (md), (me), (mf), and (s), the department shall allocate the following amounts for the
16 following purposes:

17 **SECTION 12.** 49.197 (1m) of the statutes is amended to read:

18 49.197 **(1m)** FRAUD INVESTIGATION. From the appropriations under s. 20.437 (2)
19 (dz), (kx), (L), (mc), (md), (me), (mf), and (nL), the department shall establish a
20 program to investigate suspected fraudulent activity on the part of recipients of aid
21 to families with dependent children under s. 49.19, on the part of participants in the
22 Wisconsin Works program under ss. 49.141 to 49.161, and, if the department of
23 health services contracts with the department under sub. (5), on the part of
24 recipients of medical assistance under subch. IV, food stamp benefits under the food
25 stamp program under 7 USC 2011 to 2036, supplemental security income payments

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1 under s. 49.77, payments for the support of children of supplemental security income
2 recipients under s. 49.775, and health care benefits under the Badger Care health
3 care program under s. 49.665. The department's activities under this subsection may
4 include, but are not limited to, comparisons of information provided to the
5 department by an applicant and information provided by the applicant to other
6 federal, state, and local agencies, development of an advisory welfare investigation
7 prosecution standard, and provision of funds to county departments under ss.
8 46.215, 46.22, and 46.23 or multicounty consortia, as defined in s. 49.78 (1) (br), and
9 to Wisconsin Works agencies to encourage activities to detect fraud. The department
10 shall cooperate with district attorneys regarding fraud prosecutions.

11 **SECTION 13.** 49.197 (2) (b) 1. of the statutes is amended to read:

12 49.197 (2) (b) 1. Subject to subd. 2., the department shall by rule establish an
13 incentive program that, from the appropriation under s. 20.437 (2) (mf) and using
14 moneys from the allocation under s. 49.175 (1) (p), rewards county departments,
15 Wisconsin Works agencies, and tribal governing bodies that administer the subsidy
16 program for identifying fraud in the subsidy program. The rules shall specify that
17 a county department, Wisconsin Works agency, or tribal governing body shall
18 receive, for identifying fraudulent activity under the subsidy program on the part of
19 a child care provider, an amount equal to the average monthly subsidy payment per
20 child during the prior fiscal year, multiplied by the number of children participating
21 in the subsidy program for whom the provider provides care, multiplied by 1.5
22 months. A county department, Wisconsin Works agency, or tribal governing body
23 may use payments received under this subsection for any purpose for which moneys
24 under the Temporary Assistance for Needy Families block grant program may be
25 used under federal law.

ASSEMBLY BILL 862**1 SECTION 14. Initial applicability.**

2 (1) CHILD CARE PROVIDER PAYMENTS. The treatment of section 49.155 (6) (e) 3.
3 (intro.), b., c., d., and e. and (6f) of the statutes first applies to payment for child care
4 provided on the effective date of this subsection.

5 SECTION 15. Effective date.

6 (1) This act takes effect on the first day of the first month beginning after
7 publication.

8 (END)