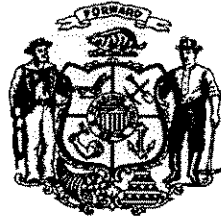


THE STATE OF WISCONSIN

A

SENATE CHAIR
BRIAN BURKE

316-S Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: (608) 266-8535



ASSEMBLY CHAIR
JOHN GARD

315-N Capitol
P.O. Box 8952
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JOINT COMMITTEE ON FINANCE

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Brian Burke
Representative John Gard

Date: January 3, 2001

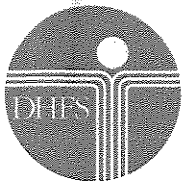
Re: Reports from UW, DHFS and ETF

Attached are copies of reports from the University of Wisconsin System providing information on management and staff positions, from the Department of Health and Family Services providing information on information systems under development, and from the Department of Employee Trust Funds providing information on the Private Employer Health Care Coverage Program.

These reports are being provided for your information. No formal action is required by the Committee. Please feel free to contact us if you have any questions.

Attachment

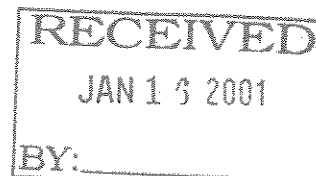
BB:JG:dh



State of Wisconsin
Department of Health and Family Services

Tommy G. Thompson, Governor
Joe Leean, Secretary

January 10, 2001



The Honorable Brian Burke
Senate Co-Chair, Joint Committee on Finance
Room 316 S, State Capitol
Madison, WI 53702

The Honorable John Gard
Assembly Co-Chair, Joint Committee on Finance
Room 315 North, State Capitol
Madison, WI 53702

Dear Senator Burke and Representative Gard:

As required by s.51.05 (3m) of the Wisconsin Statutes, I am enclosing the Department's annual report on the management of the program revenue deficit at the state Mental Health Institutes. The Department projects that it will meet the statutory requirement to reduce the deficit by \$500,000 in FY 01.

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe Leean".

Joe Leean
Secretary

DEPARTMENT OF HEALTH AND FAMILY SERVICES REPORT ON MENTAL HEALTH INSTITUTES REVENUES AND EXPENDITURES

Section 51.05(3m) of the Wisconsin Statutes requires the Department of Health and Family Services to report annually to the Joint Committee on Finance to identify the change, during the previous fiscal year, in the amount by which the accumulated expenditures of the Mental Health Institutes (MHIs) exceed the accumulated revenues. The statute also requires the Department to describe the actions taken by the Department during the previous and current fiscal years to reduce the amount of the accumulated deficit and to assure that the revenues at the MHIs exceed expenditures by at least \$500,000 each fiscal year until the accumulated deficit is eliminated.

For SFY00, the MHIs began the fiscal year with an accumulated deficit of (\$2,077,070) and ended the year with an accumulated surplus of \$527,620. Revenues exceeded expenditures by \$2,604,690. (These are preliminary amounts, subject to verification by the Legislative Audit Bureau, which will complete its annual audit in Spring, 2001.) Some of the specific actions taken by the Department that contributed to the deficit elimination are:

- An increase in the private care billing rates on October 1, 1999 of 1.5% at each Mental Health Institute.
- A contract with a consultant firm to increase the amount of revenues the MHIs receive from Medicare, both currently and retroactively.
- A new billings and collections system that has allowed the Department to bill the appropriate agencies for the care of patients and to provide better accounts receivable information.

The MHIs budgets have reached a level where revenues exceed expenditures by more than \$500,000 per year and will continue to maintain that level.

MENTAL HEALTH INSTITUTES
 PRO REVENUE/EXPENDITURE SUMMARY

15-Dec-00

Fiscal Year: 1999 - 2000
 Quarter: Fourth
 Appr. 226, 227, and 229

	MENDOTA	WINNEBAGO	TOTAL
REVENUE			
Beginning Cash Balance, July 1, 1999	(6,532,411)	(7,486,862)	(14,019,273)
Current FY Revenue Actual	13,270,275	14,509,422	27,779,697
MA/Medicare Settlements and Augmentation Funds Received			0
Total Projected Revenues	6,737,864	7,022,560	13,760,424
EXPENDITURES			
Salary and Fringe YTD	11,466,102	14,007,162	25,473,264
Non-Salary YTD	2,383,654	2,789,755	5,173,409
C.O. YTD (Included above)	0	0	0
Subtotal YTD	13,849,756	16,796,917	30,646,673
Salary & Fringe Balance of Year Projected	0	0	0
Non-Salary Balance of Year Projected	0	0	0
C.O. Balance of Year Proj. (Interest/Deprn/Overhead reflected in re	0	0	0
Subtotal Balance of Year Projected	0	0	0
Total Projected Expenditures	13,849,756	16,796,917	30,646,673
Estimated Ending Cash Balance 6/30/00 (Exp less Rev)	(7,111,892)	(9,774,357)	(16,886,249)
Plus Estimated Accts Rec on June 30, 2000	6,302,635	10,476,571	16,779,206
Plus Consumable Supplies Inventories on June 30, 2000	190,397	444,266	634,663
Estimated Ending Accrued Balance 6/30/00	(618,860)	1,146,480	527,620
FY99 Ending Accrued Balance 6/30/99	451,488	(2,528,558)	(2,077,070)
FY00 Annual Gain/Loss	(1,070,348)	3,675,038	2,604,690
POPULATIONS			
Actual ADP	85.80	126.41	212.21
Balance of Year Projected ADP	0.00	0.00	0.00
Total ADP	85.80	126.41	212.21
ADP Utilized for Rate Purposes	70.00	117.00	187.00

THE STATE OF WISCONSIN

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JOINT COMMITTEE ON FINANCE

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Brian Burke
Representative John Gard

Re: Dept. of Health and Family Services Annual Report and
Public Defender Quarterly Report

Date: January 17, 2001

Attached is a copy of the annual report from the Department of Health and Family Services, pursuant to s. 51.05 (3m), Stats., providing information on the program revenue deficit at the Mental Health Institutes.

Also attached is a copy of the quarterly report from the Office of the State Public Defender, pursuant to s. 977.085, Stats., providing information on the private bar appropriation.

The reports are being provided for your information only. No formal action is required by the Committee. Please feel free to contact us if you have any questions.

Attachment

BB:JG:dh

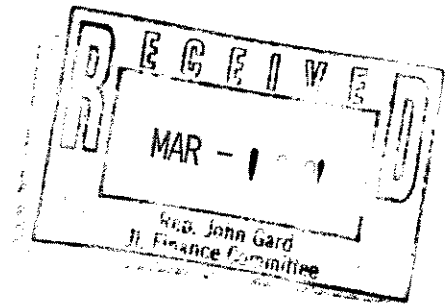


State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor

February 22, 2001

Representative John Gard
Joint Finance Committee Co-Chairman
Wisconsin State Assembly
P.O. Box 8952
Madison, WI 53708



Dear Representative Gard:

We are submitting an interim progress report on the status of the Quality Care for Foster Children Pilot Program as required in the 1999 – 2001 Biennial Budget. This initiative was designed to address the issues of access to quality health care and behavioral health care for children who are in out-of-home care in Wisconsin.

A Task Force of stakeholders, including the statewide and Milwaukee Foster Care Associations, advocates, Bureau of Milwaukee Child Welfare, schools, County Human Services Representatives, physicians, public health and interdepartmental staff from Department of Health and Family Services has met since June of 2000 to address the complexities of the issues surrounding health care for children in out-of-home placement. While the Task Force has completed making their recommendations, the delay in final passage of the 1999-01 state budget, and the complexity of issues, led the Task Force to miss the January 2001 report deadline.

The draft legislative report was shared with the Foster Care Task Force during their November meeting, and Task Force members had additional suggestions to be incorporated in the report. The recommendations made by the Task Force will now receive final review at their February 2001 meeting. To date, the Task Force has enthusiastically supported the recommendation in the draft report designed to improve the quality of health care for children out-of-home care. Following this meeting, we will send the Task Force's final report to you in March 2001. At this time, however, the Joint Finance Committee does not need to take any action.

The goal of the Task Force was to learn about the current health care system for children in out-of-home care, identify the deficiencies and gaps in health care, explore models of services delivery for this population, and make recommendations that enhance health care for children in out-of-home care. Several steps have been taken to meet these goals and to ensure that stakeholders have adequate input into the process of developing the managed care model for the foster children pilot program. Department staff will continue to meet regularly with stakeholders.

Highlights of the work performed to date by the Foster Care Task Force include:

- Development of a conceptual framework of a managed care model for foster care children that is responsive to parents, caregivers, caseworkers and providers.
- Development of guidelines for a quality improvement process necessary to evaluate the managed care model for foster care children.

Representative John Gard
Joint Finance Committee Co-Chairman
February 22, 2001
Page 5

- Development of a process for advocacy by or for caregivers, birthparents, foster care children and providers.
- Consensus on the key features a new system must include to address shortcomings and problems in the current system and to meet unique health care needs of children in out-of-home placement.
- Preliminary development of costs for sustaining the foster care managed care program in Milwaukee County and statewide.
- Development of supporting recommendations for general contract provisions and standards for implementation of the new system.

Additional work is necessary to finalize the foster care managed care pilot including:

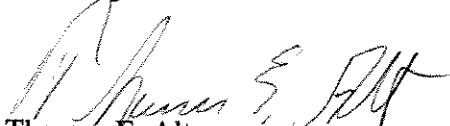
- Development of a health care tracking system for children in foster care to prevent fragmentation of care.
- Development of a standardized comprehensive health assessment form.
- Selection and development of health care quality performance indicators.
- Draft the request for proposal (RFP) and the contract for the selected managed care organization.

The Department intends to continue working with small committees comprised of both stakeholders and interdepartmental personnel to further define the model for the foster care managed care program. We anticipate this framework for the foster care managed care program will evolve slowly over the next few months. We anticipate that we will submit a waiver application to Health Care Financing Administration (HCFA) in September 2001. Prior to submitting the waiver, we will seek Joint Finance approval as required in the 1999-01 Biennial Budget language. We further anticipate that the foster care children pilot program will be ready for implementation in February 2002.

Based on the comprehensive and complex health care needs of children in foster care, it is clear that a fee-for-service model of health care delivery cannot meet the critical medical and behavioral health care needs of children in out-of-home placement. We look forward to our working with you in the upcoming months.

If there are any questions, please contact Susan Dreyfus at (608) 267-3905.

Sincerely,



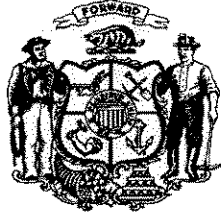
Thomas E. Alt
Deputy Secretary

cc: George Lightbourn, Secretary, DOA
Robert Lang, Legislative Fiscal Bureau

THE STATE OF WISCONSIN

SENATE CHAIR
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JOINT COMMITTEE ON FINANCE

MEMORANDUM

To: Members
Joint Committee on Finance

From: Senator Brian Burke
Representative John Gard

Date: March 2, 2001

Re: DHFS Report on the Quality Care for Foster Children Pilot
Program

Attached please find a copy of a progress report from the Department of Health and Family Services on the status of the Quality Care for Foster Children Pilot Program.

No action is required by the Committee. The report is for your information only. Please feel free to contact us should you have any questions.

Attachment

BB:JG:dh

STATE OF WISCONSIN

SENATE CHAIR
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JOINT COMMITTEE ON FINANCE

April 24, 2001

Ms. Phyllis Dubé, Secretary
Department of Health and Family Services
650, 1 West Wilson Street
Madison, WI 53707-7850

Dear Secretary Dubé,

We would like to thank the Department of Health and Family Services and the Statewide Trauma Advisory Council for their work in preparing the joint report on the development and implementation of a statewide trauma care system. We appreciate the time, effort and contributions from the many individuals that participated in producing the report.

Under 1997 Wisconsin Act 154, the Department cannot promulgate rules to implement the statewide trauma system until the Joint Committee on Finance approves the report under section 13.10 of the statutes. At the time this legislation was passed, it was not known what level of funding or additional statutory changes would be needed to implement the recommendations included in the report. The plan developed by your Department and the Statewide Trauma Advisory Council includes funding and statutory changes that the report indicates would be necessary to implement the system.

We would suggest that your office proceed to have the plan drafted as separate legislation so that the funding and statutory changes recommended in the report can be considered by the full Legislature.

Sincerely,

Handwritten signature of Brian Burke in black ink.

BRIAN BURKE
Senate Chair

Handwritten signature of John G. Gard in black ink.

JOHN GARD
Assembly Chair

BB:JG:js

cc: Members, Joint Finance Committee



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

July 27, 2001

The Honorable Brian Burke
Senate Co-Chair, Joint Committee on Finance
317 East, State Capitol
Madison, WI 53707-7882

The Honorable John Gard
Assembly Co-Chair, Joint Committee on Finance
308 East, State Capitol
Madison, WI 53708-8952

Dear Representative Gard and Senator Burke:

1997 Wisconsin Act 27 directs the Department of Health and Family Services to submit an annual report of the previous fiscal year's utilization of nursing home beds by Medical Assistance (MA) recipients to the Joint Committee on Finance. Statute 49.45 (6v)(c) requires that if the report shows a decrease in bed utilization by MA recipients, the Department propose a transfer of funds associated with that decrease from the MA budget to the Community Options Program only if such a transfer does not result in a deficit to the overall MA appropriation.

The number of nursing home patient days budgeted for FY 01 was 10,458,643. In FY 01, MA recipients utilized 9,970,590 nursing home patient days, 488,053 days less than budgeted. An analysis of patient days by level of care, the average daily cost for each care level, and the effect of Family Care indicated that the patient days under the budgeted amount represented a savings of approximately \$30,526,800 (approximately \$12.5 mn. GPR).

Although the actual nursing home bed utilization for FY 01 was less than the budgeted amount, the Department does not propose a transfer of any MA funds to the Community Options Program for FY 01. Overall spending in the MA program for FY 01 exceeded the budgeted level. Nursing home expenditures, excluding expenditures for the Veterans' Home at King, were above the budgeted level due to, among other things, increasing patient acuity and nursing home downsizing agreements. Several other MA services were also over the budgeted amount, the largest items being pharmacy (\$22.6 mn. GPR), hospitals (\$7.7 mn. GPR) and physician and clinic services (\$4.1 mn. GPR).

Transferring MA funds from the MA appropriation to COP would create a deficit in the overall MA appropriation.

Thank you for your attention to this report.

Sincerely,

A handwritten signature in black ink, appearing to read 'Phyllis J. Dubé'.

for Phyllis J. Dubé
Secretary

Attachment

Budgeted and Actual Nursing Home Patient Days, SFY 01

	SNF	ICF 1/2	ICF 3/4	ICF-MR	IMD<21	IMD>65	Subtotal w/o DD Center & King
1. SFY01 Budgeted Patient Days*	8,388,546	1,362,143	22,865	665,978		19,111	10,458,643
2. SFY 01 Actual Patient Days**	8,165,323	1,092,327	365	696,451		16,124	9,970,590
3. SFY 01 Actual Minus Budgeted Patient Days	(223,223)	(269,816)	(22,500)	30,473		(2,987)	(488,053)
4. SFY 01 Actual Average Cost per Patient Day ***	\$83.80	\$64.08	\$55.30	\$129.96		\$91.60	\$84.87
5. Payments over / (under) budget	(\$18,705,402)	(\$17,291,043)	(\$1,244,237)	\$3,960,432	\$0	(\$273,594)	(\$41,422,853)
6. Family Care Transfer****							10,896,059
7. Total payments over/ (under) budget	(\$18,705,402)	(\$17,291,043)	(\$1,244,237)	\$3,960,432	\$0	(\$273,594)	(\$30,526,794)

* From the LFB MA Spreadsheet for the 99-01 budget

** From the Nursing Home Accommodation (MEDS) report

*** From the MEDS report and 703Q Budget Monitoring report

**** From FY 01 MA Base Reestimate



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

July 30, 2001

The Honorable Brian Burke
Joint Committee on Finance, Co-Chair
Room 317 East Capitol
Madison, WI 53702

Dear Senator Burke:

In my letter to you of July 10, 2001 I informed you of the recent federal survey of the Mendota Mental Health Institute (MMHI) and indicated that I would keep you informed of developments related to this issue. MMHI received the written findings of the federal Centers for Medicare and Medicaid Services (CMS) survey on Thursday, July 26. The federal survey found MMHI deficient primarily in the area of staffing.

My staff has prepared a plan of correction to respond to the federal survey findings. Consistent with the plan of correction, the Department has prepared the attached request which I am forwarding to the Department of Administration (DOA) today for its review. The Department is requesting additional resources for both mental health institutes, MMHI and Winnebago Mental Health Institute (WMHI), because we expect CMS will also survey WMHI within the next six months. The Joint Finance Committee will receive the s. 16.505/515 request when DOA has completed its review.

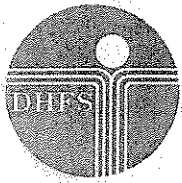
In its July 26 letter, the federal CMS confirmed that the decertification of Mendota will become effective on September 20, 2001 if corrective action has not been taken by that time.

Sincerely,

Phyllis J. Dubé
Secretary

For

Cc: Bob Lang
Charlie Morgan
Dave Schmiedicke
Jennifer Kraus



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

July 30, 2001

Mr. David Schmiedicke
State Budget Office
10th Floor, 101 East Wilson Street
Madison, WI 53702

Dear Mr. Schmiedicke:

Under the provisions of s.16.505 and s.16.515, the Department requests 29.66 permanent PR FTE and permanent expenditure authority of \$1,497,100 PR in FY 02 and 29.57 permanent PR FTE and permanent expenditure authority of \$1,510,100 PR in FY 03 for the Division of Care and Treatment Facilities in appropriation s.20.435 (2) (gk) [229]. The positions and expenditure authority are requested to address deficiencies recently cited by the federal government in its certification survey of Mendota Mental Health Institute (MMHI) and to avoid a decertification notice at Winnebago Mental Health Institute (WMHI).

The Source of Revenue

The source of revenue deposited in the appropriation under s.20.435 (2) (gk) is rates charged to counties for the cost of care of individuals who are committed under civil admissions statutes to the Mental Health Institutes (MHIs) and Medical Assistance funding. Currently the Department projects there will be sufficient county revenue in this appropriation in FY 02 to fund the county-funded portion of the requested staff increases. This revenue is the result of anticipated increased placements during FY 02 and one-time enhanced collections. The Medical Assistance (MA) revenue is funded by both GPR and FED in the DHFS MA appropriations. The Department will be submitting a s.13.10 request in September to identify the source of GPR funding for these additional MA costs.

In addition, the Department has recalculated the funding split at the MHIs based on new population projections for FY 02 and FY 03 and determined that there will be GPR available as a result of population changes. Funding for indirect costs at the MHIs is split between GPR and PR, according to the number of patients who are GPR state-supported (forensic patients) and the number who are supported by PR third-party payments (civil commitments). Total funding for indirect costs is determined by the percentages each

Mr. Schmiedicke
July 30, 2001
Page 2

segment of the population makes up of the total population at the institutes. As populations change, the percentage of each funding source changes as well. In FY 02 and FY 03, the Department projects an increase in the number of civil patients at Mendota and a slight increase in forensic patients at Winnebago. The net effect will be to increase the relative percentage of PR funding at the MHIs. The Department estimates that, because of these population changes, \$527,700 GPR in FY 02 and \$540,700 GPR in FY 03 will become available to fund direct care rather than indirect costs.

Background

The Department's Mental Health Institutes are mental health hospitals that provide mental health services to Wisconsin residents of all ages. The MHIs cannot refuse to treat patients who have been denied care in other facilities. Patients who are admitted as civil commitment patients are referred by community mental health boards and funded by their county of residence through program revenue (PR). Forensic patients are referred directly by the courts, are state (GPR) funded and include individuals being evaluated for competency to stand trial and individuals charged with a crime who have been found either incompetent to stand trial or not guilty of a crime by reason of mental defect or disease.

The Department has experienced a significant growth in population at the MHIs since 1998. Reasons for this growth include increases in court-ordered inpatient competency evaluations for forensic patients, growth in adult civil populations and a decrease in the number of facilities that are available to treat mentally ill individuals. In addition, changes in the federal regulations governing restraint and seclusion have resulted in a need for higher staff-to-patient ratios at federally certified mental health institutions.

During the last two years, the Department has requested and received additional resources that has enabled DHFS to respond to both the changes in federal restraint and seclusion regulations and the increase in populations at the MHIs. In July 2000 the Legislature approved 41.85 permanent FTE to meet the new restraint and seclusion regulations. In June 2001, the Legislature approved, through the s.16.505/515 process, an additional 34.5 PR FTE to manage the increased populations at Mendota and Winnebago.

Federal certification surveys are undertaken periodically but are unscheduled and institutions are not advised ahead of time of the date of a review. A federal survey was conducted at Mendota from June 18 to June 22. Prior to the recent survey in June, the last surveys at MMHI and WMHI were in 1995. In the past, federal officials have conducted surveys of both MHIs within one to six months of each other. Based on this experience, the Department expects a survey to be conducted at Winnebago before the end of 2001.

Federal surveyors can investigate institutions in three areas: staffing, medical records and patient rights. At Mendota's exit conference on June 22, federal officials cited primarily staffing deficiencies. Medical records were found to be generally in compliance,

Mr. Schmiedicke
July 30, 2001
Page 3

although some deficiencies were cited. Patient rights were not specifically reviewed during this survey.

The Department has 90 days from the exit conference to correct deficiencies, resulting in a deadline of September 20, 2001. After the surveyors' report is reviewed by the Department of Health and Human Services' Chicago Regional Office, a formal statement of deficiencies will be sent to MMHI. The Department will have 10 days from the receipt of this letter to submit its plan of correction to the federal government.

At the exit interview, surveyors cited the following staffing problems: inadequate nursing staff on the night shift; high forced overtime, vacancy rates and unanticipated staff illnesses, resulting in a shortage of direct care staff on several units; high acuity levels; inadequate and inconsistently provided therapeutic activities; and, inadequate and insufficient intensive treatment programming, particularly in the forensic program.

The decertification of either MHI would result in the loss of all federal funding received by that institution. The MHIs receive federal funding for Medicaid and Medicare-eligible patients. The annual amount of federal funding is estimated at approximately \$9.4 million at Mendota and \$11.7 million at Winnebago. In addition, a federal decertification of either institution would raise questions about the quality of care at the facility and probably result in more intense scrutiny by advocacy groups.

Proposal

In response to the survey findings, the Department has already taken several steps to improve staffing levels and treatment programs at Mendota. The Department received approval from the Department of Employee Relations to engage in continuous recruitment for critical positions at Mendota; through this process it is possible to hire staff more quickly and efficiently. DHFS has requested and received permission to pool code critical positions. The Department has also used the 28.0 FTE, which were received in June in response to the s.16.505/515 request, to increase staffing across MMHI units where the need, as identified by the federal survey, is most critical. Those 28.0 FTE were originally approved and intended to address census pressures across the institutes by using them to open a new civil secure unit at MMHI.

Outpatient Competency Evaluations to Address Continuing Census Pressures

With the redeployment of the FTE that were intended to be used to open a new unit, the need continues for creating mechanisms to effectively address census pressures. The Department proposes to do this by expanding its outpatient competency program for forensic patients, currently operating in several counties, to the entire state. The Department has the authority under statute to conduct competency-to-stand-trial examinations on either an inpatient or outpatient basis. Inpatient examinations must be conducted at either MHI; outpatient examinations must be conducted in a jail or locked unit of a facility. Currently the Department contracts with Milwaukee County to provide

Mr. Schmiedicke
July 30, 2001
Page 4

outpatient competency examinations to individuals awaiting trial in Milwaukee, Waukesha, Racine and Kenosha counties. The Department has also piloted an expanded program in 10 other counties.

Outpatient examinations average \$1700/patient, as opposed to an average cost of \$11,600/person for an inpatient examination. The number of court-ordered evaluations has grown by over 10% annually for several years and this trend is expected to continue. The growth in the number of evaluations has contributed to the overall increase in the forensic populations at the MHIs. If this trend continues it may be necessary to open additional units for this expanded population.

As an alternative to increasing inpatient capacity, the Department proposes to expand this program throughout the state by establishing a statewide system for conducting outpatient competency examinations. Under this proposal, the Department would contract for these examinations with agencies that currently provide comprehensive mental health services to the individuals who have been found Not Guilty by Reason of Mental Disease or Defect (NGI) and placed in the community on conditional release.

The cost to the state for expanding outpatient competency examinations statewide is estimated at \$257,900 GPR in FY 02 and \$270,900 GPR in FY 03. The Department proposes to use GPR funds freed up by the recalculation of the MHI funding split to pay for the costs of this statewide system. The GPR will be available for this program through the split recalculation and no additional GPR resources will need to be requested. By expanding outpatient competency examinations, the Department expects to reduce the demand for additional inpatient resources at the MHIs.

Mendota Staffing

The Department proposes to use \$269,800 GPR in FY 02 and \$269,800 GPR in FY 03 from the split to fund 7.50 GPR FTE at Mendota. The 7.50 GPR FTE, together with the 28.0 FTE recently provided to Mendota, will be used to address the deficiencies cited by federal surveyors. The staff will be distributed as follows:

- 4.0 FTE Registered Nurses to provide additional coverage on two units on the night shift. This will address the issue of inadequate night nursing staff.
- 15.0 FTE Resident Care Technicians to provide sufficient coverage on all shifts and to provide a float pool to cover for absent workers. This will address the issue of excess forced overtime due to staff illnesses.
- 1.0 FTE Treatment Specialist and 3.5 FTE Certified Occupational Therapists to provide consistent therapeutic activities on the alcohol and drug abuse unit, an adult assessment unit and forensic units. These staff will provide active treatment programs as required by federal standards.

Mr. Schmiedicke

July 30, 2001

Page 5

- 2.0 FTE Social Workers and 1.0 FTE Forensic Services Supervisor to ensure adequate medical records are kept, to plan for patients' aftercare needs and to ensure that treatment programs are initiated and maintained, particularly in the forensic program.
- 3.0 FTE Vocational Therapists to assist in maintaining Mendota's treatment programs in adult units.
- 1.0 FTE Program Assistant to provide assistance in medical record keeping and 1.0 FTE Custodian to answer a citation related to lack of cleanliness.
- 4.0 FTE will be reallocated to Winnebago, as explained below.

Winnebago Staffing

No survey has been conducted as yet at Winnebago, but, based on past experience, the Department expects that one will occur before the end of the year. Winnebago's nursing staff-to-patient ratios are lower than those at Mendota and, in light of Mendota's experience, the Department believes that it is likely that WMHI will not pass a federal certification review with the current level of staffing.

The Department believes that good public management requires a proactive approach to issues that federal surveyors are likely to raise by improving staffing at Winnebago as soon as possible. To respond to the anticipated federal citation, the Department requests 21.9 PR FTE and \$969,400 PR at WMHI and the reallocation of 4.0 PR FTE from Mendota in each year of the biennium, to be allocated as follows:

- 8.0 FTE Registered Nurses to provide adequate medical record keeping and ensure that treatment objectives are met on the high admission/high acuity units.
- 13.2 FTE RCTs for the Adolescent units. Current staffing is not adequate to provide weekend and afternoon coverage when children are not in school.
- 0.7 FTE physician, 2.0 FTE Psychologists and 1.0 FTE Social Worker. Non-nursing staffing is not adequate to provide assessment, treatment activities and medical record documentation as required by federal and professional organization standards. Current staff have been shifted to high volume units, thereby leaving other units without adequate coverage.
- 1.0 FTE Nursing Supervisor for morning shifts on the weekends.

The Department has sufficient revenue from the county payments for civilly-committed patients to cover the costs of this request. No rate increase would be required at this time to fund this request. Due to the magnitude of the Medical Assistance appropriation, it will be possible to fund the MA share of this request until the September s.13.10 meeting, at

Mr. Schmiedicke

July 30, 2001

Page 6

which time the Department will identify the source of GPR funding for reallocation to the MA appropriation for the increased MA costs.

We would appreciate your prompt consideration of this request. The Department must have adequate staff in place to address federal survey findings by September 20, 2001 or face the threat of decertification proceedings.

Thank you for considering this request. If you have any questions, please call Ellen Hadidian at 266-8155.

Sincerely,



Phyllis J. Dubé
Secretary

Resources Requested due to Survey

Mendota Mental Health Institute

<u>Classification</u>	<u>FTE</u>	<u>Appropriation</u>	<u>Hourly Salary</u>	<u>Annual Salary</u>	<u>Fringe</u>	<u>Total</u>
Occupational Therapy Assistant-Entry	0.50	201	\$10.931	\$11,368	\$4,373	\$15,742
Therapist	1.00	201	\$15.933	\$33,141	\$12,749	\$45,890
Therapist	1.00	201	\$15.933	\$33,141	\$12,749	\$45,890
Therapist	1.00	201	\$15.933	\$33,141	\$12,749	\$45,890
Resident Care Technician 1	1.00	201	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	1.00	201	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	1.00	201	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	<u>1.00</u>	201	\$10.105	<u>\$21,018</u>	<u>\$8,086</u>	<u>\$29,104</u>
	7.50			\$194,864	\$74,964	\$269,828

Winnebago Mental Health Institute

<u>Classification</u>	<u>FTE</u>	<u>Appropriation</u>	<u>Hourly Salary</u>	<u>Annual Salary</u>	<u>Fringe</u>	<u>Total</u>
Nurse Clinician 2	1.00	229	\$19.248	\$40,036	\$15,402	\$55,438
Nurse Clinician 2	1.00	229	\$19.248	\$40,036	\$15,402	\$55,438
Nurse Clinician 2	1.00	229	\$19.248	\$40,036	\$15,402	\$55,438
Nurse Clinician 2	1.00	229	\$19.248	\$40,036	\$15,402	\$55,438
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Resident Care Technician 1	1.00	229	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	1.00	229	\$10.105	\$21,018	\$8,086	\$29,104
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Resident Care Technician 1	1.00	229	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	1.00	229	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	1.00	229	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	0.20	229	\$10.105	\$4,204	\$1,617	\$5,821
Nursing Supervisor	1.00	229	\$18.470	\$38,418	\$14,779	\$53,197
Physician	0.70	229	\$55.000	\$80,080	\$30,807	\$110,887
Social Worker	1.00	229	\$14.408	\$29,969	\$11,529	\$41,498
Psychologist	1.00	229	\$18.261	\$37,983	\$14,612	\$52,595
Psychologist	<u>1.00</u>	229	\$18.261	<u>\$37,983</u>	<u>\$14,612</u>	<u>\$52,595</u>
	25.90			\$822,162	\$301,674	\$1,085,852

MMHI Offset

Resident Care Technician 1	1.00	229	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	1.00	229	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	1.00	229	\$10.105	\$21,018	\$8,086	\$29,104
Resident Care Technician 1	<u>1.00</u>	229	\$10.105	<u>\$21,018</u>	<u>\$8,086</u>	<u>\$29,104</u>
	4.00			\$84,074	\$32,343	\$116,417

PR Request 21.90 \$738,088 \$269,330 \$969,436

Cc: Jim Johnston
Jennifer Kraus
Sue Jablonsky

Sen. Brian Burke
317E.



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

Julie
I called Loria
this - don't need to
do anything with it
ding

August 10, 2001

The Honorable John Gard
Co-Chair Joint Committee on Finance
Wisconsin State Assembly
315 North, State Capitol
Madison, WI 53708-8952

The Honorable Brian Burke
Co-Chair Joint Committee on Finance
Wisconsin State Senate
316 South, Capitol
Madison, WI 53707-7882

Dear Representative Gard and Senator Burke:

In accordance with Wisconsin Statutes section 16.544, I am notifying you of the receipt of the attached disallowance from the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) and the actions proposed for resolution.

The DHFS believes these were appropriate claims.

We are appealing this decision to the Departmental Appeals Board.

If you have any questions, or require additional information, please contact Peggy B. Handrich, Administrator of the Division of Health Care Financing, at 266-8922.

Sincerely,

Phyllis J. Dubé
Secretary

Attachments

- cc: Representative Scott Jensen
- Senator Chuck Chvala
- Senator Mary Panzer
- Representative Spencer Black
- Bob Lang, Legislative Fiscal Bureau
- George Lightbourn, Department of Administration



Scott McCallum
Governor

Phyllis J. Dubé
Secretary

State of Wisconsin
Department of Health and Family Services

DIVISION OF HEALTH CARE FINANCING

1 WEST WILSON STREET
P O BOX 309
MADISON WI 53701-0309

Telephone: 608-266-8922
FAX: 608-266-1096
TTY: 608-261-7798
www.dhfs.state.wi.us

August 10, 2001

U.S. Department of Health and Human Services
Departmental Appeals Board, Appellate Division
Hubert H. Humphrey Building, Room 637-D
200 Independence Avenue, SW
Washington, DC 20201

Re: Notice of Appeal, Disallowance of Federal Financial Participation
Regional Control Number WI/2001/001/MAP

Dear Sir or Madam:

This letter constitutes notice of the State of Wisconsin's intent to appeal the Final Decision of the Regional Administrator, Region V, Center for Medicare and Medicaid Services, which disallows a portion of the State's claim for Federal financial participation (FFP) under Title XIX (Medicaid) for State Fiscal Year 2000 (SFY00).

The Final Decision disallows an amount of eighty-three million, one hundred eighty-three thousand, seventy-seven dollars (\$83,183,077.00) of claimed Federal financial participation funds. The State of Wisconsin disputes the entire amount of the disallowance.

The Final Decision was wrong in that it:

- incorrectly applied the State's methodology for claiming federal financial participation under Wisconsin's approved State Plan and misinterpreted the approved State Plan;
- inappropriately added a requirement that the State Plan set forth the specific methodology and basis used by Wisconsin in claiming federal Medical Assistance funds; and
- incorrectly surmised that the claim contained duplicative claims.

Wisconsin has used a substantially similar methodology in claiming federal financial participation in the State's medical assistance program under State Plans approved annually by the Department for over fifteen years.

U.S. Department of Health and Human Services
Departmental Appeals Board, Appellate Division
August 10, 2001
Page 2

Attached is a copy of the letter notifying the State of Wisconsin of the disallowance.

Sincerely,

Peggy B. Handrich

Peggy B. Handrich
Administrator

PBH:dd
DO08003.PAB

Attachment



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Region V
Centers for Medicare and
Medicaid Services

Refer to: DMCH:WI3

233 North Michigan Avenue
Suite 600
Chicago, Illinois 60601-5519

July 30, 2001

Ms. Peggy L. Bartels
Administrator
Division of Health Care Financing
Wisconsin Department of Health and Family Services
1 West Wilson Street, Room 350
P.O. Box 309
Madison, Wisconsin 53701-0309

Dear Ms. Bartels:

RE: Regional Control Number WI/2001/001/MAP

This letter constitutes your notice of a disallowance in the amount of \$83,183,077 in Federal financial participation (FFP) for nursing home claims submitted by the Wisconsin Department of Health and Family Services for facilities operated by local units of government for the State fiscal year (SFY) 2000.

The \$83,183,077 includes the following amounts:

- (1) \$21,690,053 in FFP claimed in the quarter ending December 31, 1999 and deferred in a letter issued to you on June 28, 2000;
- (2) \$9,699,488 in FFP claimed in the quarter ending March 31, 2000 and deferred in a letter issued to you on July 31, 2000;
- (3) \$50,158,536 in FFP claimed in the quarter ending June 30, 2000 and deferred in a letter issued to you on November 24, 2000; and
- (4) \$1,635,000 in FFP claimed in the quarter ending December 31, 1999 identified during the review of the additional documentation provided by the State.

These amounts represent the total FFP claimed in excess of the FFP for the allowed costs of \$37,100,00 in the State Plan.

As discussed in more detail below, these claims are being disallowed because:

- (1) Certain of the claims do not represent amounts that were actually "expended" for nursing homes operated by local units of government;
- (2) The claims are not supported by the approved State Plan; and/or
- (3) The claims are duplicate claims.

APPLICABLE LAW, REGULATIONS, AND STATE PLAN PROVISIONS

- Section 1903(a)(1) of the Social Security Act states that the Secretary shall pay to each State which has a plan approved under this title, for each quarter, "an amount equal to the Federal medical assistance percentage...of the total amount expended during each quarter as **medical assistance under the State plan.**"

- Section 1902(a)(13)(A) of the Social Security Act states that a state plan for medical assistance must provide: "for a public process for determination of rates of payment under the plan for...nursing facility services, and services of intermediate care facilities for the mentally retarded under which... (iii) final rates, the methodologies underlying the establishment of such rates, and justifications for such final rates are published..."
- Section 1902(a)(30) of the Social Security Act requires that payments for services be consistent with efficiency, economy and quality of care.
- Implementing regulations at 42 CFR 447.201(b) further provide that the plan must describe the policy and the methods to be used in setting payment rates for each type of service.
- In addition, 42 CFR 447.252(b) provides that the plan must specify comprehensively the methods and standards used by the agency to set payment rates in a manner consistent with Section 430.10 of this chapter.
- Finally, 42 CFR 430.10 provides that the State plan is a comprehensive written statement which contains all information necessary to serve as a basis for Federal financial participation (FFP) in the State program.

The law and regulations clearly establish that FFP is provided on the basis of expenditures made in accordance with the State's approved Plan. Expenditures that are not made in accordance with the approved State Plan are not medical assistance under 1903 (a) (1) and are considered overpayments that should be returned under Section 1903 (d) of the Act.

The State's Title XIX Plan in effect during the period covered by this disallowance provides, in Attachment 4.19-D, Section 3.775, for "special allowances for facilities operated by local units of government." This Section provides that nursing homes operated by local units of government will be paid special allowances up to their unreimbursed expenses (losses) for services to Medicaid patients, up to an overall limit of \$37,100,000 for SFY 2000. The losses are determined as the difference between the nursing homes' expenses and payments under the regular rate setting methodology of the Plan. If the total losses of these local government-operated facilities are less than the limit, then each facility receives its losses. The Plan includes provisions for allocating the limit among the eligible nursing homes in the event that the total losses of the nursing homes exceeded the limit.

DISCUSSION

Federal financial participation is available only for Medicaid expenditures made in accordance with the approved State Plan. Existence of State or local funds to use as State share does not give rise to an authority to draw Federal funds. Federal matching funds are only available to match State funds in covering the cost of Medicaid expenditures.

(1) The Claims Are Not Allowable Because They Are Not Supported By Expenditures

We reviewed \$178,587,676 in total computable claims for which the FFP was \$104,998,446. Of these amounts, \$104,998,446 total computable and \$61,732,570 in FFP do not represent expenditures by either the State or local government. We further noted that these claims do not represent costs of the local government-operated nursing homes. Consequently, these claims are not allowable.

The remaining amount of \$73,589,230 total computable claims (for which the FFP was \$43,265,876) represents costs, of the local government operated facilities, which were not covered by the payments under the regular rate setting methodology of the Plan. Local governmental units in Wisconsin do not make and record Medicaid expenditures for payments to nursing homes for Medicaid services. Only the State's fiscal agent makes and records Medicaid expenditures for payments to nursing homes for Medicaid services. Only \$39,702,646 total computable (for which the FFP was \$23,345,204) was paid to the providers by the State. Consequently, of the \$73,589,230 total computable claims (\$43,265,876 in FFP), \$33,886,584 total computable claims (\$19,920,672 in FFP) are not allowable.

Of the \$39,702,646 total computable claims (\$23,345,204 in FFP), \$2,602,646 total computable claims (\$1,529,835 in FFP) represent overpayments. This overpayment resulted from the State including unallowable claims in calculating this additional payment to the providers. The \$2,602,646 also represents the amount by which the Federal funds claimed on these additional claims (\$104,998,446) exceeded \$102,395,800. If the claims were excluded, the Federal funds earned would not have exceeded the \$102,395,800; therefore, these are overpayments subject to recovery. The remaining \$37,100,000 total computable claims (\$21,815,369 FFP) are allowable pursuant to the State Plan provisions. Federal financial participation is available only for expenditures under the Plan.

In summary, the \$141,487,676 total computable claims, for which the FFP is \$83,183,077 are not allowable because, for the most part, they do not represent actual expenditures made by the State.

(2) The Claims Are Not Allowable Because They Were Not Made Pursuant to Provisions in the State Plan

The State claimed \$178,587,676 total computable (\$104,998,446 FFP) as expenditures for local government-operated nursing homes over and above the amount provided for under the regular per diem rate payment provisions in the State Plan. \$141,487,676 (with FFP of \$83,183,077) of that amount exceeded the \$37,100,000 limit provided for in the State Plan for aggregate expenses not reimbursed pursuant to the regular per diem rate payments (unreimbursed expenses or losses) for services to Medicaid patients by local government-operated facilities.

The State's response indicated that the deferrals for these claims were appropriate because they did not exceed the Upper Payment Limit (UPL). Pursuant to 42 CFR 447.272, aggregate payments to nursing facilities may not exceed the amount that can reasonably be estimated would have been paid under Medicare payment principles (referred to as the upper payment limit). However, the State Plan provides only for payments for aggregate expenditures up to \$37,100,000 in excess of the per diem rate payments, not for aggregate expenditures up to the UPL. In your letters responding to our deferrals, you acknowledged that the Plan does not contain a provision for

payments up to the LPL. Additionally, \$104,998,446 total computable claims (with FFP of \$61,732,570) of the amount claimed in excess of the \$37,100,000 was in fact for the unreimbursed costs of non-government operated nursing homes, not local government operated nursing homes. Since none of the \$141,487,676 (\$83,183,077 FFP) claims represent expenditures under any payment methodology in the Plan, they are not allowable.

(3) Claims That Are Duplicates, But Are Not Allowable

These questioned claims were described by the State as representing payments to nursing homes through the regular per diem rate payment methodology. However, claims for these payments and FFP were previously paid to the State. Since FFP was provided for these expenditures, the State's use of these additional Federal funds for these expenditures results in the use of Medicaid Federal funds as State funds. Pursuant to 42 CFR 433.51 (c), public funds may be considered as the State share of financial participation if the public funds are not Federal funds or are Federal funds authorized by Federal law to be used to match other Federal funds. Medicaid Federal funds are not authorized to be used as State share; consequently, these funds cannot be used for State match. The description to justify these claims simply identifies them as duplicate claims, which are not allowable.

CONCLUSION

This letter constitutes your notice of disallowance in the amount of \$83,183,077 in FFP. Please make a decreasing adjustment in that amount on Line 10b of your next quarterly Medicaid expenditure report (Form HCFA-64) and reference WI/2001/001/MAP.

This disallowance is my final decision. Under 45 CFR Part 16, you have the opportunity to appeal to the Departmental Appeals Board. This decision shall be the final decision of the Department unless, within 30 days after you receive this decision, you deliver or mail a written notice of appeal to the Departmental Appeals Board, U.S. Department of Health and Human Services, Room 637-D, Hubert H. Humphrey Building, 2nd and Independence Avenue, SW, Washington, D.C. 20201. You should use registered or certified mail to establish the date. You must attach a copy of this decision to the notice of appeal, note that you intend to appeal, state the amount in dispute, and briefly state why you think this decision is wrong. The Board will notify you of further procedures. Please send a copy of your appeal to me.

If the State appeals the disallowance under Section 1116(d) of the Social Security Act, Section 1903(d) provides the State the option of retaining the \$83,183,077 that was previously paid to the State pending a final administrative decision. If the final decision upholds the disallowance and the State elects to retain the \$83,183,077 during the appeals process, the proper amount of the disallowance plus interest computed pursuant to Section 1903(d)(5) of the Social Security Act will be offset in a subsequent grant award. Since your State is participating in the Annual Grant Award (AGA) Pilot Project, at that time, the State must adjust the State's letter-of-credit in accordance with the AGA Pilot Project Memorandum of Understanding (MOU) for the final disallowed amount plus any interest.

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Ms. Bartels

The State may exercise its option to retain the disputed \$83,183,077 by notifying the Regional Administrator in writing no later than 30 days after the date this letter is received. In the absence of notification that the State elects to retain the funds, the Secretary will consider this an election by the State to not retain the funds. If the State elects not to retain the disputed funds during the appeal, the State must adjust the State's letter-of-credit in accordance with the AGA Pilot Project MOU. Under the terms of the MOU, the State must adjust its Request for Funds for the disputed funds not retained. If the State does not make this adjustment, we will continue to charge the State interest in accordance with Section 1903(d)(5). If you agree with this disallowance action and do not choose to appeal it, you must adjust your State's letter-of-credit in accordance with the AGA Pilot Project Memorandum of Understanding (MOU). Under the terms of the MOU, you must adjust your request for funds for any disallowed expenditure not appealed. Please notify me when you adjust your request for funds, stating the amount and referencing the regional control number for the disallowance.

Should you require further details regarding this matter, please contact Cheryl Harris, Associate Regional Administrator, Division of Medicaid and Children's Health at (312) 353-2702.

Sincerely,



Dorothy Burk Collins
Regional Administrator

cc: Don Warnke (Warnkdn@dhfs.state.wi.us)



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

Background Paper

Wisconsin Intergovernmental Transfer Program Federal Disallowance and Future Claims

On July 30, 2001, Wisconsin received a notice of disallowance of \$83,183,077 in federal funds for claims submitted for state fiscal year 1999-00 under the intergovernmental transfer (IGT) program based on operating deficits in county and municipal nursing homes. In 1999-00, Wisconsin claimed a total of \$104,998,446 in federal funds in this manner.

The letter from the federal Department of Health and Human Services (DHHS) provides 30 days to appeal the decision to the Departmental Appeals Board. The amount disallowed is the difference between total federal funding claimed and the federal share of the specific distribution of \$37.1 million to county and municipal nursing homes in the State Plan.

The disallowance is based on DHHS' assertions that:

- ◆ Certain claims do not represent amounts actually "expended" for nursing homes by local units of government;
- ◆ Claims are not supported by the approved State Plan; and/or
- ◆ Claims are duplicate claims.

The DHHS letter does not recognize any supplemental payments with IGT funds provided through the Ourada amendment to county and municipal nursing homes, or any payments made through the nursing home formula to all nursing homes with IGT funds.

Federal Nursing Home Payment and IGT Provisions

State Medicaid payments to nursing facilities are subject to the Medicare upper limit. This limit restricts total state Medicaid payments for nursing home care to no more than the amount that would be paid for the same services using Medicare payment principles. Federal matching funds for Medicaid nursing home care may be claimed up to the Medicare upper limit, or to the amount of unreimbursed costs, in aggregate, whichever is lower.

Federal regulations allow states to claim federal funds based on an IGT between units of government. Under an IGT program, the state can certify allowable, unreimbursed Medicaid expenditures incurred by county/municipal nursing homes as the state share of Medicaid payments, and claim federal matching funds based on those expenditures. Alternatively, counties can transfer funds to the state, which are then used by the state as a Medicaid payment to the counties, with federal matching funds claimed on this Medicaid payment.

Under federal regulations, public funds are considered as the state's required match to claim federal Medicaid funds if the funds are:

Wisconsin.gov

- ◆ Appropriated directly to the state or local Medicaid agency;
- ◆ Certified by the contributing public agency as expenditures eligible for federal match; or
- ◆ Transferred from other public agencies to the state or local Medicaid agency and under its administrative control (e.g., via a wire transfer).

Federal law requires states to specify the manner in which all federal and state Medicaid funds are expended in its State Plan. **Federal law does not require a state to specify, either in its State Plan or elsewhere, its methodology or basis for claiming federal Medicaid funds.**

Wisconsin IGT

Since state fiscal year 1985, Wisconsin has claimed federal Medicaid funds through an IGT based on Medicaid-covered nursing home expenses not reimbursed by state payments under the Medicaid nursing home formula. Through 1999-00, Wisconsin used certified, unreimbursed expenditures that were Medicaid allowable costs of county and municipally operated nursing homes to claim federal funds under the IGT. These certified public expenditures were used as the non-federal share (41%) to claim federal matching funds (59%) under Medicaid. Beginning in 2000-01, the state used a wire transfer, in place of certified losses, to claim federal IGT funds.

Wisconsin uses IGT funds to support adequate Medicaid reimbursement to nursing homes. Federal funds are applied exclusively to the Medicaid budget and are used solely to reimburse all Medicaid-certified nursing homes for covered services provided to Medicaid nursing home residents. The state has assured DHHS that aggregate payments to nursing homes, including payments made with federal IGT funds, do not exceed the amount that would have been paid by Medicare.

Over the past 17 years Wisconsin has claimed in excess of \$1 billion in federal funding under the IGT. In the last five years federal funding through the IGT has totaled \$118.5 million in 1996-97, \$94.1 million in 1997-98, \$95.4 million in SFY 1998-99, \$105.0 million in 1999-00, and \$372.8 million in 2000-01.

Additional Issues and Considerations

- ***State Response to Federal Disallowance.*** On May 19, 2000, the federal Chicago Regional Medicaid auditor informed the State Medicaid Director that the federal agency (formerly the Health Care Financing Administration (HCFA), now Centers for Medicare and Medicaid Services) questioned Wisconsin's past IGT claims, and indicated a deferral notice would be issued shortly. Wisconsin received two deferral letters dated June 28 and July 31, 2000, to which we responded on September 8, 2000. Subsequently, HCFA sent follow-up questions on November 13, 2000, and a third deferral letter on November 24, 2000. A response to the follow-up questions was provided on November 28, 2000. For the first time with these letters, HCFA questioned costs for a program initially approved in 1985, and annually reviewed and approved by HCFA since that time.

In responding to HCFA, the Department has clearly stated that:

- ◆ Congress has prohibited the federal DHHS from limiting states' discretion in spending federal funds that are matched to local government expenditures. Wisconsin's long-standing use of certified, unreimbursed Medicaid expenditures since 1985 as a match for federal funds under the IGT, and the expenditure of these funds for all nursing homes in the state is legitimate.
 - ◆ Federal law does not require a state to specify its methodology or basis for claiming federal Medicaid funds. Thus, the Wisconsin State Plan contains no State Plan authority upon which the deferred claims are based.
 - ◆ As required by federal law, Wisconsin's State Plan specifies how all federal and state Medicaid funds are expended, including funds claimed under the IGT.
 - ◆ All funds derived from the deferred claims are expended for nursing home care. The claims are based on certified losses from county and municipal homes, are not duplicative, and are used to support payments to all nursing homes. These payments are reflected in the IGT supplemental payments to counties and municipalities, and in the nursing home formula payments to all nursing homes.
- **Budget Implications.** The disallowance will have no impact on the State's general fund balance or on the cash balance during the 2001-03 biennium. Any impact on the state budget would be unlikely to occur for several years.
- **Federal Approval of Wisconsin's Expanded IGT.** On May 9, 2001, HCFA approved Wisconsin's State Plan amendment to expand the IGT, and to convert federal claiming from certified expenditures to a wire transfer. With this approval, total federal funds claimed under Wisconsin's IGT wire rose to \$372.8 million in 2000-01, an increase of \$255 million over the prior certified expenditure methodology. Federal approval of the wire transfer:
- ◆ Provided the opportunity for Wisconsin to take advantage of recent federal changes that permit states greater flexibility in calculating the Medicare upper limit;
 - ◆ Allowed Wisconsin to continue to claim unreimbursed expenditures, up to the Medicare upper limit; and
 - ◆ Protected future IGT claims from any future disallowance based on the concerns raised by HCFA with the disallowance of 1999-00 IGT claims.

Although HCFA proposed a rule on April 3, 2001 to limit claiming to one year for IGT approvals granted in the new administration, the implementation of this regulation has not occurred. At least one state recently granted approval for an IGT is proceeding to file claims for an additional year.

None of the issues raised in the disallowance have an impact on Wisconsin's future IGT claiming. Activities needed to claim 2001-02 nursing home expenditures through an IGT wire transfer are in process.

Next Step

The next step is for the state to appeal the federal disallowance. To appeal, written notice must be provided to the U.S. DHHS Departmental Appeals Board within 30 days of the decision. The decision was received on July 30, 2001. The appeal must briefly state why the decision is wrong.

STATE OF WISCONSIN

SENATE CHAIR
BRIAN BURKE

317-E Capitol
P.O. Box 7882
Madison, WI 53707-7882
Phone: 266-8535



ASSEMBLY CHAIR
JOHN GARD

308-E Capitol
P.O. Box 8952
Madison, WI 53708-8952
Phone: 266-2343

JOINT COMMITTEE ON FINANCE

March 20, 2002

DHFS Secretary Dubé
1 West Wilson Street, Room 650
Madison, WI 53707

Dear Secretary Dubé

It is the understanding of the Joint Committee on Finance that the state expects to receive approximately \$19.3 million from the federal government to support a variety of bioterrorism preparedness activities. It is possible that these federal funds could be used to support some of the activities for which the Governor had proposed additional GPR funding as part of the 2001-03 budget reform bill (SS AB 1).

During its deliberations on the Governor's bill, the Committee reduced or eliminated GPR funding for several of these items and included provisions that would direct DHFS to include, in the plan DHFS is required to submit to the U.S. Department of Health and Human Services (DHHS), proposals to fund several items with these federal funds, to the extent that these items would be eligible for funding under the federal program, including:

- Up to \$3,600,000 for: (a) communications equipment; (b) safety or protective equipment for law enforcement officers, fire fighters, emergency medical technicians, first responders or local emergency response team members who respond to emergencies; (c) training related to investigation or prevention of, or response to, acts of terrorism that pose a threat to the environment; (d) information systems, software or computer equipment for investigating acts of terrorism that pose a threat to the environment; (e) training for specific special events where heightened security exists; (f) hazardous materials response teams; and (g) and volunteer emergency entities that are short-staffed or in need of additional training;
- 2.5 positions to perform surveillance of, and respond to, communicable and infectious diseases and biological and chemical potential threats to the state;

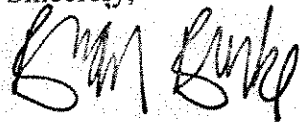
- Funding to support the development and implementation of the statewide trauma system; and

- 1.0 position for the state laboratory of hygiene and all bioterrorism related laboratory expenses.

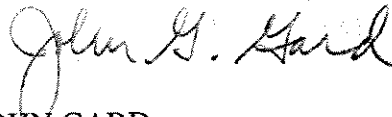
In addition, the Committee included a provision in the budget reform bill that would direct DHFS to submit its plan for the use of the federal bioterrorism funds to the Committee for review and approval before DHFS submits the plan to DHHS.

Although the budget reform bill may not be signed into law before the April 15, 2002 (the deadline for submittal of the plan to DHHS), the Committee requests that DHFS comply, with the intent expressed in these budget amendments.

Sincerely,



BRIAN BURKE
Senate Chair



JOHN GARD
Assembly Chair

BB:JG:dh

cc: Members, Joint Committee on Finance
Secretary George Lightbourn, DOA



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

March 29, 2002

The Honorable Brian Burke
Joint Committee on Finance, Co-Chair
Room 317 East Capitol
Madison, WI 53702

Dear Senator Burke:


Thank you for your letter of March 20, 2002 requesting the Department to submit its plan for the use of federal bioterrorism funds to the Joint Committee on Finance for review and approval before the plan is submitted to the federal Department of Health and Human Services.

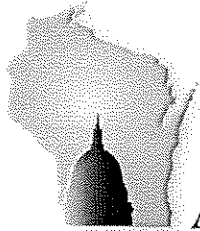
The Department has worked closely with the Governor and the Legislature on a variety of budget issues that we face and we will continue to do so. The Department fully understands the Committee's concern about the current state budgetary situation and the advantages of offsetting state GPR costs with federal bioterrorism grant monies. We have attempted to meet this goal to the degree that is possible within the restrictions of the federal grant. DHFS anticipates that GPR costs that could not be addressed within the limitations of the federal bioterrorism grants, may best be addressed by an upcoming federal FEMA grant application. I assure the Committee of our intent to fund several budget reform proposals with federal funds, to the extent that these items would be eligible under the federal provisions.

As you are aware the bioterrorism grant proposal must be submitted to the federal Department of Health and Human Services by April 15, 2002. The federal government provided a very short window of February 15 to April 15 to write this grant proposal. DHFS has utilized the maximum stakeholder input for the grant application through 14 workgroups with each containing 5 to 20 local health department representatives providing us a statewide perspective. In addition, numerous public and private organizations have been involved in the development of the grant. A first draft of the application will not be available for my review until sometime next week. Due to the extremely tight time frame imposed on us by the federal government, I do not feel that it would be feasible to complete a review by the Committee as well as the required Governor's review before the due date of the proposal.

When the grant proposal is completed and approved by the Department of Administration and the Governor's Office, I will send JFC a copy. We would be happy to meet with you and detail how DHFS will address the Committee's goal of funding a portion of the GPR costs of the budget reform proposals under the grant provisions.

Sincerely,


Phyllis J. Dubé
Secretary



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT McCALLUM
GOVERNOR
GEORGE LIGHTBOURN
SECRETARY

Office of the Secretary
Post Office Box 7864
Madison, WI 53707-7864
Voice (608) 266-1741
Fax (608) 267-3842
TTY (608) 267-9629

April 2, 2002

Senator Brian Burke
Joint Committee on Finance, Co-Chair
317 East, State Capitol
Madison, Wisconsin 53707-7882

Representative John Gard
Joint Committee on Finance, Co-Chair
308 East, State Capitol
Madison, Wisconsin 53707-8952

Dear Senator Burke and Representative Gard:

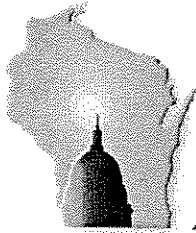
As required under s. 16.54 (12), I am notifying the Joint Committee on Finance that the Department of Health and Family Services (DHFS) intends to use \$2,088,600 in excess federal funds to support the Medical Assistance program as well as state efforts at reduced tobacco utilization by children. These revenues come from two sources. The department received \$24,246 from its close out of the Diabetes Control Program grant. The remaining \$2,064,354 in excess federal revenues are reallocations from plans approved in prior years.

Of these revenues, the department will dedicate \$2,002,550 towards its efforts to reduce the access of minors to tobacco products as required by the federal Synar regulation. The state is at risk of losing \$10 million from the Substance Abuse Prevention and Treatment Block Grant because of failure to meet performance targets in the 2001 federal fiscal year. Using these funds for prevention efforts ensures the state will maintain its full block grant. The department will use the remaining \$86,050 in excess federal revenue to repay the federal government for an erroneous prior claim of federal Medical Assistance funds.

Sincerely,


George Lightbourn,
Secretary

CC: Members, Joint Committee on Finance
Bob Lang, Legislative Fiscal Bureau



**WISCONSIN DEPARTMENT OF
ADMINISTRATION**

SCOTT McCALLUM
GOVERNOR
GEORGE LIGHTBOURN
SECRETARY

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April 3, 2002


Ms. Phyllis Dubé, Secretary
1 West Wilson Street
Madison, WI 53707

Dear Secretary Dubé:

I am writing to notify you that I have approved your plan for the use of excess federal funds in SFY02, which was submitted in a request dated March 22. The co-chairpersons of the Joint Committee on Finance have also been notified as directed under s. 16.54 (12)(d).

A part of this approval involved reviewing your plan to invest \$3,011,300 to increase compliance with federal Synar standards on the sale of tobacco to minors. In addition to using \$2,002,500 of excess federal funding, you also proposed using most of \$1,009,100 in identified salary and fringe benefits savings to meet the full federal requirement. We are approving the use of these funds for Synar compliance activities and have received assurances from your staff that no pay plan supplements will be requested for the appropriations from which the savings are generated.

Sincerely,


George Lightbourn,
Secretary

CC: Members, Joint Committee on Finance
Bob Lang, Legislative Fiscal Bureau



State of Wisconsin
Department of Health and Family Services

Scott McCallum, Governor
Phyllis J. Dubé, Secretary

June 26, 2002

The Honorable Brian B. Burke
Joint Committee on Finance, Co-Chair
State Capitol, Room 317-East
P.O. Box 7882
Madison, Wisconsin 53707-7882

Dear Senator Burke:

The attached report is submitted to the Legislature pursuant to s.46.27(11g) and s.46.277(5m) of the state statutes. The state statutes require the Department of Health and Family Services to submit an annual report for the Community Options Program (COP) and the Home and Community-Based Waivers (COP-W/CIP II). The attached report describes the persons served, program expenditures, and services delivered through the COP, COP-Waiver and CIP II programs in calendar year 2000.

The Community Options Program provides services to all target group populations, and is closely coordinated with all of Wisconsin's Medicaid Home and Community-Based Waivers. With the Department's oversight, county agencies are able to ensure that a comprehensive and individualized care plan is provided, while maintaining program flexibility and integrity, and maximizing federal matching funds.

Sincerely,

Phyllis J. Dubé
Secretary

Attachment

cc: Bob Lang, Legislative Fiscal Bureau

Wisconsin.gov