



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

November 5, 2001

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health and Family Services: Release of Funds for the Westside Healthcare Association -- Agenda Item V

On June 14, 2001, the Department of Health and Family Services (DHFS) submitted a request to the Committee for the release of \$500,000 GPR to award a grant to the Westside Healthcare Association (WHA), pursuant to s. 9123(k) of 1999 Wisconsin Act 9. On July 3, 2001, the Committee notified DHFS that the request had not been approved and that a meeting would be scheduled to discuss the request. Subsequently, the Committee passed a motion at its September 5, 2001, s. 13.10 meeting to transfer the \$500,000 GPR that had been reserved for this purpose from the Committee's supplemental appropriation in 2000-01 to a continuing DHFS gifts and grants appropriation so that the funds would not lapse at the end of the 2000-01 fiscal year. The motion prohibited DHFS from releasing the funds until the Committee approved the release under s. 13.10.

This item addresses the proposed release of the \$500,000 PR in 2001-02 for DHFS to award a grant to the WHA.

BACKGROUND

1999 Wisconsin Act 9 provided \$1,000,000 GPR in the Committee's supplemental appropriation for DHFS to distribute as a grant to a community health center that is located in a first class city and that emphasizes the health care needs of minority group members, high-risk pregnant women, infants, children and the elderly. The funding was provided to support a one-time payment to the successor of Rainbow Clinic in Milwaukee, which had ceased operations. The Act 9 provision required DHFS to seek transfer of the funds from the Committee's appropriation to DHFS under a 14-day passive review process once DHFS submitted a report that detailed the amount of the grant and the services that would be provided under the grant by the community health center.

DHFS submitted a request for the release of \$1,000,000 on December 7, 1999, to award a grant to the Westside Healthcare Association (WHA). WHA is a nonprofit organization created in April, 1999, as a successor to the Rainbow Clinic, to provide primary health care services to residents in the western area of Milwaukee's inner city. The clinic's address is 3522 W. Lisbon Avenue. The Committee met on the request on March 2, 2000, and approved the release of \$500,000 of the \$1,000,000 that had been reserved for the grant.

As noted above, DHFS submitted a request for release of the remaining \$500,000 on June 14, 2001, to provide a grant to WHA to purchase its building, buy capital equipment and install a computer network.

ANALYSIS

WHA served 1,123 patients in calendar year 2000. These patients made 5,559 visits to the clinic. The clinic provides immunizations, pre- and post-natal care, deliveries, pediatric care, gynecology, diabetes management, hypertension management, podiatric care, health education and other primary care services to patients.

WHA defines its service area as consisting of 36 census tracts on the city's west side, which WHA estimates to include approximately 70,000 residents, of whom 47% live in households with income below the federal poverty level. WHA indicates that once its infrastructure is in place, the clinic will be able to provide services to approximately 4,500 patients annually. However, unless additional one-time funding is provided to support infrastructure needs, including building repairs and renovations, computer networks, equipment and furniture, WHA indicates that the clinic will be unable to meet the health needs of this target population.

The attachment to this memorandum provides a list of items that WHA has funded and plans to fund with the amount provided in Act 9. As shown in the attachment, WHA has identified items totaling \$1,000,000 that would be funded with moneys earmarked for the WHA. The attachment shows that, as of September 30, 2001, \$525,044 had been either expended or encumbered.

At the time the Committee reviewed the initial request for the release of these funds, there was uncertainty as to how WHA would be able to support the clinic's operations after March 31, 2001, based on the organization's projected revenues and expenditures. In addition, WHA was seeking designation as a federally qualified health center (FQHC) to qualify for federal funding, but it was not known whether the clinic would receive this designation.

In August, 2000, WHA was awarded a grant under the federal Public Health Services Act and was designated as an FQHC, beginning September 1, 2000. WHA has received \$531,700 under the federal grant program, and has received notification of an additional \$800,000 for April 1, 2001 to March 31, 2002. This designation will also make WHA eligible for state grants DHFS

distributes to community, migrant and homeless health centers to support these centers' operations. WHA has been allocated \$66,060 of the \$3,000,000 GPR budgeted in 2001-02 to fund these grants.

The table below identifies WHA's estimates of revenues and expenditures for the clinic for the period from April 1, 2001, to March 31, 2002.

**Westside Healthcare Association
Projected Operational Revenues and Expenditures
April 1, 2001 through March 30, 2002**

Revenues	
FQHC grant	\$800,000
State community health center program	66,060
Rent	14,400
Patient revenue	
Medicaid	555,456
Milwaukee general assistance-medical program (GAMP)	56,646
Self-pay	38,250
Medicare	29,376
Private insurance	47,150
Other Revenues	<u>101,940</u>
 Total	 \$1,709,278
 Expenses	
Salaries, fringe benefits and travel	\$690,009
Supplies	256,923
Utilities, telephone, dues, postage, etc.	160,800
Contracted services	
Physician	305,640
Laboratory	141,085
X-ray	17,253
Other	<u>137,568</u>
 Total	 \$1,709,278

As shown in the table, WHA projects that sufficient operating revenues will be generated to support the clinic's operations during this period. The \$500,000 state grant requested at this time is not included in the table because WHA plans to use the state funds for one-time expenses. While the projected revenues for the one-year period shown are significantly more than the \$552,182 generated in calendar year 2000, the clinic was not fully operational and did not have full-time

administrative leadership during 2000. In addition, the clinic had not received the full federal grant that year. The ability of the clinic to meet its future revenue goals will depend on its ability to increase the number of patients served.

The WHA clinic treats persons regardless of their ability to pay. According to WHA officials, the clinic will continue to be able to provide limited care to those who need it if the remaining funds are not released. However, without the additional infrastructure funds, WHA officials indicate that the clinic will not be able to expand primary care beyond its current patients.

If the Committee denies the request, there are two options. The Committee could deny the request and allow the funding to remain in the DHFS continuing appropriation for consideration for release for a grant to the WHA in the future. The Committee could also deny the request and direct that the funds be transferred back to the Committee's GPR supplemental appropriation.

ALTERNATIVES

1. Approve the release of \$500,000 PR in 2001-02 from the DHFS health care financing gifts and grants appropriation for DHFS to provide as a grant to the Westside Healthcare Association.

2. Deny the request, and direct that the \$500,000 in unallotted reserve in appropriation s. 20.435(4)(i) for a grant to the Westside Healthcare Association be transferred to the Committee's GPR supplemental appropriation.

3. Deny the request.

MO# Alt 1

2	BURKE	Y	N	A
	DECKER	Y	N	A
	MOORE	Y	N	A
	SHIBILSKI	Y	N	A
	PLACHE	Y	N	A
	WIRCH	Y	N	A
	DARLING	Y	N	A
	ROSENZWEIG	Y	N	A

Prepared by: Carri Jakel
Attachment

1	GARD	Y	N	A
	KAUFERT	Y	N	A
	ALBERS	Y	N	A
	DUFF	Y	N	A
	WARD	Y	N	A
	HUEBSCH	Y	N	A
	HUBER	Y	N	A
	COGGS	Y	N	A

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ATTACHMENT

Westside Healthcare Association, Inc.
Projected Use of State Funds for Infrastructure

<u>Expense</u>	<u>Cost</u>	<u>Paid or Encumbered as of September 30, 2001</u>
Marketing	\$40,000	\$40,000
Rent through April 2001	14,000	14,000
Professional services	130,000	130,000
Building purchases	304,500	304,500
Building repair and renovations	162,000	0
Demolition and beautification	15,000	0
Signage	30,000	0
Furniture	40,000	1,340
Copiers	22,000	9,616
Computers	14,800	5,988
Printers	4,000	900
Fax machine	1,700	1,700
Telephone system	17,000	17,000
Patient accounting computer network	175,000	0
General accounting and administrative network	<u>30,000</u>	<u>0</u>
Total	\$1,000,000	\$525,044

**13.10 Meeting
November 5, 2001
Agenda Item VI**

Issue: DHFS: Transfer funding to support positions at the Mental Health Institutes

Comments:

Transfers funding from Division of Care and Treatment Facilities (DCTF) to the MA appropriation to fund projected increase in MA benefit costs associated with supporting positions previously approved by the Committee.

Also transfers 10 positions and associated funding from DCTF interagency and intra-agency programs to the institutional operations and charges appropriations beginning in the current fiscal year.

These transfers are necessary to address the staffing problems at the Mendota Mental Health Institute that were identified during a federal survey of this facility. We already approved the staffing changes under previous 16.505/515 requests. This request makes is an adjustment to fully fund and staff the previously approved requests.

Staff Recommendation:

Support the conclusion.

Prepared by: Cindy

16-0



Legislative Fiscal Bureau

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November 5, 2001

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health and Family Services: Section 13.10 Request to Transfer Funding to Support Positions at the Mental Health Institutes -- Agenda Item VI

The Department of Health and Family Services (DHFS) requests the transfer of \$39,400 GPR in 2001-02 and \$24,000 GPR in 2002-03 from the Division of Care and Treatment Facilities (DCTF) general program operations appropriation under s. 20.435(2)(a) to the medical assistance (MA) benefits appropriation under s. 20.435(4)(b). This transfer is intended to fund the net projected increase in MA benefit costs of supporting positions previously approved by the Committee under s. 16.505/515 of the statutes.

In addition, DHFS requests that the Division of Care and Treatment Facilities (DCTF) appropriation under s. 20.435(2)(gk) be increased by \$391,400 PR in 2001-02 and \$717,000 PR in 2002-03, and that 10.0 PR positions currently budgeted in the DCTF interagency and intra-agency programs appropriation under 20.435(2)(kx) be transferred to the institutional operations and charges appropriation under s. 20.435(2)(gk), beginning in 2001-02.

BACKGROUND

On June 19, 2001, the Committee approved a request DOA submitted under 16.505/515 of the statutes to provide \$134,600 PR and 34.5 PR positions in 2000-01 to address recent population increases and increases in patient acuity at the state MHIs. Funding to support the annualized cost of these positions in the 2001-02 and 2002-03 fiscal years (\$1,615,600 PR annually) was approved by the Committee on October 22, 2001, as part of the 30-day report that identifies continuing funding for certain PR-funded activities and positions under s. 16.517 of the statutes.

On September 26, 2001, the Committee approved a second request DOA submitted under s. 16.505/515 of the statutes to provide DHFS an additional \$1,344,800 PR and 27.96 PR positions in 2001-02 and \$1,357,800 PR and 27.87 PR positions in 2002-03 to increase staff at the MHIs. These positions were provided in response to a federal survey that was conducted at Mendota Mental Health Institute (MMHI) in June, 2001, that identified several staffing problems at the facility, including: (a) inadequate nursing staff on the night shift; (b) high levels of mandatory overtime worked by staff, high vacancy rates and a high rate of unanticipated staff illnesses that resulted in a shortage of direct care staff at several units; (c) inadequate therapeutic activities; and (d) inadequate and insufficient intensive treatment programming.

In its second s. 16.505/515 request, DHFS indicated that it had reallocated positions that were authorized in the first request to respond immediately to the federal survey of MMHI. Under the first request, DHFS had intended to use 28 of the requested positions to establish a new, 20-bed medium security unit at Goodland Hall. However, following the survey, DHFS reallocated these positions to increase staffing on existing units. DHFS now expects to open the 20-bed unit at Goodland Hall in January, 2002. In the meantime, it will operate a ten-bed "overflow" unit at MMHI to address the higher patient populations.

The request that is currently before the Committee is intended to make additional funding adjustments to enable DHFS to implement the proposals the Committee has already approved under the previous two 16.505/515 requests.

ANALYSIS

The MHIs are partially supported with funding that is budgeted initially in the MA benefits appropriation and then transferred to the DCTF institutional operations and charges appropriation as program revenue. Although the costs of providing services to children, patients over the age of 65 and certain other adult patients can be funded with MA, most adult civil patients at the MHIs cannot be funded from this source because MA does not fund institutional services for persons with mental illness who are between the ages of 21 and 65. Nevertheless, when additional PR funding authority is provided to the MHIs to fund services to both MA- and non MA-eligible patients, MA funding that supports the MHIs increases. Based on a review of patient billings at the MHIs, DHFS has determined that approximately 29% of the costs of the additional PR costs under the s. 16.505/515 requests should be supported with MA funds. For this reason, additional GPR funding must be transferred to the MA benefits appropriation to reflect that a portion of the PR funding increases provided to the MHIs will be supported with MA.

The requested GPR adjustment incorporates two cost saving measures to minimize the effect on the general fund of partially supporting these PR positions. First, on September 17, 2001, DHFS closed a children's unit at MMHI to reflect recent decreases in the number of children placed at that facility. This action is expected to reduce PR funding at the MHIs by \$572,000 PR in 2001-02 and \$762,700 PR in 2002-03. Because approximately 99% of the costs of supporting this unit are

funded from MA, MA benefit costs are projected to decrease by approximately \$566,100 (\$233,500 GPR and \$332,600 FED) in 2001-02 and by \$754,800 (\$311,400 GPR and \$443,400 FED) in 2002-03. These estimated MA cost-savings could be used to partially offset the estimated MA cost increase resulting from the PR increases approved in the previous 16.505/515 requests. Further, 18.0 PR positions that had staffed this unit will be reallocated to the new adult civil unit.

Second, DHFS intends to close one of the three units at the Mendota Juvenile Treatment Center (MJTC) in November, 2001, at the request of the Department of Corrections, to reflect declining juvenile correctional populations and to generate savings. Corrections must realize because of a Governor's partial veto in Act 16. Because of the Governor's partial veto, DHFS intends to staff the MJTC to serve 29, rather than 43, children for the remainder of the biennium, as assumed in the funding provided in Act 16. Although most of the savings of closing this unit will be realized by Corrections, funding for food and variable nonfood costs for children served by these units is funded from GPR budgeted in the DCTF general program operations appropriation. The estimated savings to DHFS due to reductions in food and nonvariable costs is estimated to be approximately \$82,900 GPR in 2001-02 and \$137,600 GPR in 2002-03. Of this amount, DHFS proposes to transfer \$39,400 GPR in 2001-02 and \$24,000 GPR in 2002-03 to the MA benefits appropriation to fund the anticipated increases in MA benefits costs. Further, 10.0 PR positions that are currently funded from PR revenue transferred from Corrections to support MJTC would be reallocated to the new adult civil units.

In summary, the projected increase in GPR MA costs associated with the positions approved under s. 16.505/515 (\$272,900 GPR in 2001-02 and \$335,400 GPR in 2002-03) would be offset by: (a) the projected MA savings of closing the children's unit at MMHI (\$233,500 GPR in 2001-02 and \$311,400 GPR in 2002-03); and (b) the transfer of funding budgeted in Act 16 for MJTC (\$39,400 GPR in 2001-02 and \$24,000 GPR in 2002-03).

Federal surveyors revisited MMHI in October, 2001, and, based on the staffing increases authorized by the Committee under the previous 16.505/515 requests and other actions DHFS took to address the cited deficiencies, indicated that MMHI will not be decertified as a Medicare provider. However, DHFS staff indicate that federal surveyors expressed concern about the continuing need for staff to provide care for the adult civil population at MMHI. The surveyors were told of the DHFS plans to create a temporary overflow unit and to open the additional adult unit.

The Committee has already approved all of the PR funding and position increases necessary to increase staffing at the MHIs but has not approved funding and position adjustments necessary to transfer the 10.0 PR positions from MJTC to the new 20-bed adult civil unit at MMHI. Consequently, rather than approving the net PR funding increase included in DHFS request, the Committee could reduce funding and positions budgeted under s. 20.435(2)(kx) by \$292,800 PR in 2001-02 and by \$585,600 PR in 2002-03 and 10.0 PR positions, beginning in 2001-02, and increase funding and position authority budgeted under s. 20.435(2)(gk) by corresponding amounts to correctly reflect the funding adjustments sought by DHFS.

CONCLUSION

Based on the Committee's previous actions to provide additional PR positions and funding to address the staffing needs of the MHIs and the expectation that a new, 20-bed adult civil unit will be created to further address the staffing needs at the MHIs, the Committee may wish to approve the Department's request to transfer \$39,400 GPR in 2001-02 and \$24,000 GPR in 2002-03 from the DCTF general program operations appropriation under s. 20.435(2)(a) to the MA benefits appropriation under s. 20.435(4)(b). In addition, the Committee may wish to transfer \$292,800 PR in 2001-02 and \$585,600 PR in 2002-03 and 10.0 PR positions, beginning in 2001-02, from the appropriation under s. 20.435(2)(kx) to the appropriation under 20.435(2)(gk).

Prepared by: Charles Morgan

**13.10 Meeting
November 5, 2001
Agenda Item VIII**

Issue: DHFS Expenditure Plan for Income Augmentation Funds

Comments:

Two issues to resolve here, how much income augmentation funding to lapse to the general fund and payment of Milwaukee County Child Welfare transition costs with income augmentation funds.

Lapse to the general fund:

Because of the ambiguity of one of the Gov's vetoes there is some discrepancy between DHFS and the Governor about the order in which income augmentation funds must be lapsed, and when they can be spent on other appropriate activities. DOA contends DHFS needs to lapse \$13.086 million in excess income augmentation funds before it can spend any. DHFS thinks they have to lapse \$6.75 million first, spend what they need to, then lapse any remaining. BIG difference.

Milwaukee County Child Welfare transition costs:

DHFS incurred transition costs for the changeover from Milwaukee County to the private vendors. The total costs for the 3 month transition is estimated to be \$3,762,900 (\$2,933,700 GPR and \$829,200 FED). In their contracts with the private agencies, DHFS agreed to pay these transition costs. This issue was brought up at the September 13.10 meeting, and was mixed in with a MOE spending request. This part got split out and we told DHFS to come back with a request to use income augmentation funds rather than straight GPR funds. They're baaaaaack.

These transition costs have already been paid to the private vendors, so DHFS needs to be reimbursed for them by the end of this calendar year. If they're not, the 2002 calendar year contracts with the private vendors will bear the brunt of these costs and services will need to be cut at that level.

Alternatives:

Alt. 1 contains all of the provisions in Alt. 2, below.

Alt. 2 – allows you to choose which of the options from #1 above you want to finance if you don't want to approve their entire request & feel the need to lapse more funding to the general fund:

- a. Lapses \$6.75 million to the general fund in '01-02 rather than '02-03.
- b. Pays the \$2.9 million in transition costs to the private agencies that took over the Milwaukee County Child Welfare caseload. **(note: we must do this if we do nothing else).**
- c. Sets aside \$2.5 million in to be used to offset potential future disallowances in Title IV-E funding after the feds come in and reassess our IV-E caseload.
- d. Sets aside \$500,000 to contract with a private vendor to increase our compliance with the new IV-E regulations. (NOTE: currently MAXIMUS holds this contract. I would expect Gwen to have a motion that excludes their participation in this, or any future contracts for this purpose)

Alt. 3 – lapses all the income augmentation funds to the general fund.

Staff Recommendation: 1 or any combination in 2 that includes 2b.

Do not support Alt. 3. This lapses all the income augmentation funds to the general fund and will ultimately have a negative impact on the private agencies that took over the child welfare services from Milwaukee County, which will undoubtedly trickle down to the clients. This may be attractive to some because it's a quick \$12.7 million for a beleaguered general fund, but it is not the responsible thing to do and will get us in more trouble down the road.

Prepared by: Cindy



Legislative Fiscal Bureau

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November 5, 2001

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health and Family Services: Expenditure Plan for Income Augmentation Funds --
Agenda Item VIII

Under s. 46.46 of the statutes, if the Department of Health and Family Services (DHFS) proposes to use any income augmentation funds for any purpose other than to support costs that are exclusively related to the operational costs of augmenting federal income, DHFS must submit a plan for the proposed use of the funds to the Secretary of the Department of Administration (DOA) by September 1 of the fiscal year after the fiscal year in which those moneys were received. If the DOA Secretary approves the plan, he or she must forward the plan to the Joint Committee on Finance by October 1 of that year for the Committee's review and approval under a 14-day passive review process.

On October 4, 2001, the DOA Secretary submitted a request for the Committee to approve a DHFS plan for the use of federal income augmentation funds. Under the plan approved by the DOA Secretary, DHFS proposes to lapse \$6,750,000 to the general fund, expend \$2,933,700 for costs associated with the DHFS Bureau of Milwaukee Child Welfare's transition of cases from Milwaukee County to private vendors and set aside \$2,552,300 in revenue to offset the potential loss of federal Title IV-E revenue that supports child welfare costs incurred by DHFS and counties. On October 18, 2001, the Co-chairs notified DOA Secretary Lightbourn that this matter would be considered at a future meeting of the Committee.

BACKGROUND

Income augmentation funds are unanticipated federal funds DHFS receives under Title IV-E (foster care), XIX (Medicaid) and XVIII (Medicare) of the federal Social Security Act as reimbursement for costs that were initially paid with state or local revenue, or revenue from one of these sources that would not otherwise have been available, had it not been for activities conducted

to augment federal income. There are no federal restrictions relating to the use of these funds. Consequently, these funds can be used for any purpose.

Not all unanticipated federal revenue received under Title IV-E, Medicare and Medicaid are considered income augmentation funds. Income augmentation funds do not include unanticipated federal Title IV-E funds that must be distributed to counties in order to meet the statutory community aids basic county allocation. Income augmentation funds also do not include at least 50% of the Title IV-E funds DHFS receives after the statutory community aids basic county allocation commitment has been met. Under current law, these funds are distributed to counties as incentive funds. These incentive funds are provided to counties to encourage counties to adopt practices which are intended to augment federal income available under Title IV-E.

Beginning in 2001-02, income augmentation funds include additional federal revenue the state may receive as reimbursement for targeted case management services provided to children in out-of-home care in non-Milwaukee counties under medical assistance (MA). Currently, administrative costs for children in out-of-home care that are not eligible for reimbursement under Title IV-E are paid entirely with state or local revenue. Some non-Title IV-E-eligible children may be eligible for MA services. The U.S. Department of Health and Human Services granted permission to DHFS to claim reimbursement under MA for the cost of providing case management services to MA-eligible children in out-of-home care in March, 2001. The federal MA-matching funds for children in out-of-home care in non-Milwaukee counties are deposited in the DHFS income augmentation appropriation. These funds are referred to as targeted case management funds.

CURRENT LAW

Under s. 46.46 of the statutes, DHFS may use income augmentation funds for costs that are exclusively related to the operational costs of augmenting federal income. In addition, DHFS may expend income augmentation revenue received as targeted case management funds to support counties' share of implementing Wisconsin's statewide automated child welfare information system (WISACWIS). If DHFS proposes to use income augmentation funds, including targeted case management funds, for any purpose other than to support costs exclusively related to the operational costs of augmenting federal income, then DHFS must submit a plan for the proposed use of the funds to the DOA Secretary and the Committee for approval under a 14-day passive review process.

Additionally, 2001 Wisconsin Act 16 (the 2001-03 biennial budget act), specified several uses of income augmentation funds in the 2001-03 biennium. No later than June 30, 2003, the DOA Secretary is required to lapse \$6,750,000 in income augmentation funds to the general fund. Additionally, under a separate provision, the DOA Secretary is required to lapse \$3,008,300 in 2001-02 and \$3,328,500 in 2002-03 in income augmentation funds to the general fund.

Act 16 specifies that if, after meeting the requirements of a plan approved under s. 46.46 and meeting the Act 16 lapse requirements identified above, there remain any funds in the DHFS income augmentation appropriation, such funds are allocated for DHFS costs associated with transitioning child welfare cases from Milwaukee County to private vendors. DHFS may propose to use no more than \$2,933,700 of these funds to support its transitional costs. DHFS is prohibited from encumbering or expending these funds unless it submits a plan for the proposed use of these funds for approval from the Secretary of DOA and the Committee under a 14-day passive review process. The DOA Secretary is required to lapse any income augmentation funds allocated for DHFS transitional costs and not encumbered or expended, as approved by the Committee, to the general fund no later than June 30, 2003.

DISTRIBUTION OF UNANTICIPATED FEDERAL REVENUE

The plan submitted by DHFS and approved by DOA identifies a total of \$26,555,400 in unanticipated federal revenue available through the end of 2000-01. Of this amount, approximately \$24.4 million was received as reimbursement under Title IV-E or MA. The remainder, approximately \$2.1 million, was received from Medicare. The following table identifies how this unanticipated federal revenue would be distributed under the proposed plan.

Proposed Allocation of Unanticipated Federal Revenue Available as of June 30, 2001

Total Unanticipated Federal Revenue	\$26,555,400
Less Contractor Fee	-1,781,700
Less County Incentive Funds	<u>-11,253,300</u>
Total Available as Income Augmentation Funds	\$13,520,400
Less Operational Costs Exclusively Related to Augmenting Federal Income	<u>-784,400</u>
Total Revenue Available	\$12,736,000
Proposed Uses of Revenue under the Plan	
Act 16 Lapse Requirement	\$6,750,000
DHFS Transitional Costs	2,933,700
Title IV-E Disallowance Set Aside	2,552,300
Title IV-E Compliance Contract	<u>500,000</u>
Total Proposed Uses of Revenue	\$12,736,000

Contractor Fee. Some unanticipated federal revenues are available to the state as a result of income augmentation activities conducted by a private contractor. Such activities include reviewing individual case files and claims data to determine if costs were properly determined eligible for reimbursement under Title IV-E, MA or Medicare. DHFS currently contracts with MAXIMUS, Inc. to conduct these activities. Under the terms of this contract, MAXIMUS receives 10% of all collections received as a result of its activities. The current contract with MAXIMUS expires October 30, 2002.

Title IV-E Incentive Funds. Under current law, if, on December 31 of any year, there remain any unspent or unencumbered funds in the community aids basic county allocation that exceed the amount received under Title IV-E and distributed to counties, DHFS must carry forward the excess funds and distribute at least 50% to counties, other than Milwaukee County, for projects to assist children and families and to support the costs to implement WISACWIS. (Milwaukee County is not eligible to receive Title IV-E incentive funds, since Milwaukee County does not administer child welfare services and therefore, generally does not generate claims for reimbursement under Title IV-E). These incentive funds are provided to counties to encourage counties to adopt practices which are intended to augment federal income available under Title IV-E. The remainder of any unanticipated Title IV-E funds are deposited in the DHFS income augmentation appropriation.

Costs Exclusively Related to the Operational Costs of Augmenting Federal Income. Under current law, DHFS may expend federal income augmentation funds to support costs exclusively related to the operational costs of augmenting federal income. Under the plan approved by DOA, \$217,200 annually would be encumbered to support administrative costs to augment federal income in 2002-03 and 2003-04. These costs include salaries for limited-term employees, federal claims processing costs, rent, telephone, fax machine and copier costs, and miscellaneous supplies and services. Additionally, the plan would encumber \$175,000 annually for costs to operate a statewide IV-E eligibility determination unit in 2001-02 and 2002-03. This unit operates under contract with MAXIMUS, and uses information about new child welfare cases collected by counties to determine if a case is eligible for Title IV-E reimbursement. Because these costs are exclusively related to the operational costs of augmenting federal income, DHFS is authorized to expend income augmentation funds for these purposes without the approval of DOA or the Committee.

DESCRIPTION OF REQUEST

As provided in s. 46.46 (2), DOA has requested the Committee to approve the following planned use of income augmentation funds for costs *not* exclusively related to augmenting federal income.

Act 16 Lapse Requirement. Act 16 requires the DOA Secretary to lapse \$6,750,000 to the general fund no later than June 30, 2003. Therefore, current revenue estimates include an

assumption that this amount of funding would lapse to the general fund in 2002-03. Under the plan submitted by DOA, this lapse would occur in 2001-02, rather than 2002-03.

DHFS Transition Costs. The plan proposes to expend \$2,933,700 for DHFS transition costs associated with transferring the provision of services to child welfare cases from Milwaukee County to private vendors, from June, 2001, through October, 2001. The transition includes five contracts previously held by Milwaukee County: (a) ongoing case management at sites two and five; (b) the adoption unit; (c) the out-of-home care unit; and (d) the trust fund accounting unit. DHFS incurred these transition costs because, over a three-month period (June, July and August, 2001), the state was funding two contracts – contracts with Milwaukee County and with the new vendors – to facilitate the transfer of cases from Milwaukee County to the new vendors. The total costs of this transition is estimated to be \$3,762,900 (\$2,933,700 GPR and \$829,200 FED).

Title IV-E Disallowance Set Aside. The plan proposes to set aside, or encumber, \$2,552,300 to offset potential reduction in Title IV-E funds from a change in federal policy on IV-E claiming and possible penalties assessed on the state from the federal Title IV-E review.

Title IV-E of the federal Social Security Act provides entitlement matching funds to states for a portion of the cost of services for children who are placed in out-of-home care, including maintaining certain children in foster care and the associated administrative, child placement and training costs. In federal fiscal year 2000, Wisconsin received \$27.3 million FED for foster care maintenance payments and \$54.8 million FED for foster care administration under Title IV-E.

Title IV-E funds are distributed to counties (other than Milwaukee County) through the community aids basic county allocation. For costs incurred on behalf of children in Milwaukee County, Title IV-E funds are budgeted directly in the DHFS appropriation for the Bureau of Milwaukee Child Welfare. Also, the state receives Title IV-E funds on behalf of children with special needs awaiting adoption. These Title IV-E funds are budgeted directly in a DHFS, Division of Children and Family Services appropriation. In addition, a smaller amount of Title IV-E revenue is distributed to counties through the youth aids allocation on behalf of children in the juvenile justice system that meet the Title IV-E eligibility criteria, to the University of Wisconsin through the training partnerships program and for child welfare assistant district attorneys in the Milwaukee County District Attorney's office.

The level of federal funding that DHFS can claim is based on a number of factors, including the number of IV-E eligible children and the level of reimbursement.

IV-E Eligibility. Title IV-E eligibility is determined when the child leaves the home of his or her natural parents or caretaker and is usually determined only once. Once eligibility is established, the child remains IV-E eligible as long as the child remains under the care and responsibility of the child welfare agency.

IV-E eligibility requirements include meeting certain financial eligibility criteria based on the former aid to families with dependent children (AFDC) program; a voluntary placement agreement

signed by the child's parents or guardians or a judicial determination that remaining in the home would be contrary to the child's welfare, within certain time frames as specified under federal law; a determination that reasonable efforts were made to prevent the removal of the child from the home or to return the child to his or her home; and finally, a determination that the care and placement of the child are the responsibility of specified public agencies.

The IV-E eligibility rate is the number of IV-E eligible children in Wisconsin as a percent of the total number of children in foster care or adoptive placements statewide. Federal regulations define who is included in each of these categories. Currently, approximately 87% of children in out-of-home care in Milwaukee County and 76% of children statewide are IV-E eligible.

IV-E Reimbursability. IV-E reimbursement is provided to fund 50% of the costs of administration, training and placement services. Maintenance payments intended to cover the costs of food, shelter, clothing, daily supervision, child care, school supplies, general incidentals, liability insurance for the child and reasonable travel to the child's home for visits are reimbursed at the rate used for MA reimbursements, which is currently approximately 59%. States receive this reimbursement for children who are IV-E eligible and reimbursable. Reimbursability is determined monthly and is contingent upon the state agency maintaining responsibility for placement, complying with IV-E case requirements and the placement being in a licensed foster family home or child care institution (CCI).

Federal Policy Change. The U.S. Department of Health and Human Services (DHHS) issued a memorandum to states in July, 2001, which DHHS asserts is a clarification of existing Title IV-E policy. The policy outlined in the memorandum would decrease the number of children who would be IV-E eligible and increase the number of children that would be included in the definition of a foster care placement. These two changes could reduce Wisconsin's statewide IV-E eligibility rate from 76% to 55%. DHFS estimates that under this change, the state would annually receive \$14 million less in IV-E funding. This loss could be partially offset by claiming some of the administrative costs for these children as MA targeted case management services, which could reduce the loss of funding to \$8 million annually.

Since many states assert that this change is more than a clarification of existing Title IV-E policy, states are requesting DHHS to withdraw the memorandum and pursue this change through the administrative rules process. However, to date, DHHS has not withdrawn the memorandum and thus, states are subject to the changes outlined in the memorandum.

Federal IV-E Eligibility and Reimbursement Review. DHHS is conducting state Title IV-E program reviews to determine if states are properly claiming funding under Title IV-E. The review will examine the accuracy of IV-E eligibility and reimbursement for children in out-of-home care statewide, and includes a review of the initial IV-E eligibility determination for children, the reimbursability of those children for specific periods of out-of-home care and the eligibility of care providers for IV-E reimbursement. Wisconsin's review is scheduled for March, 2002.

DHHS will review 80 cases, selected at random from the statewide, out-of-home care caseload and will include both child welfare (Chapter 48) and juvenile justice (Chapter 938) cases. The review will focus on the reimbursement of care during a six-month period (April through September, 2001), but IV-E eligibility will be reviewed from the point of initial entry into the system to the present. A case is found to be in compliance if it includes accurate and complete documentation of IV-E eligibility, compliance with IV-E procedural requirements and current licenses for all placement providers.

The number of errors found in these 80 cases will determine the penalties that may be assessed on the state. If a case is found to be non-compliant with IV-E eligibility and claiming regulations, that case will be found to be in error and disallowances may be assessed on that case. Disallowances must be removed from the state's IV-E claim. If errors are found in the IV-E eligibility determination of more than 10% of the reviewed cases (eight cases), the state will be required to implement a program improvement plan to correct the problems identified in the review. DHHS will then perform a second review in another year, on a larger sample of 150 cases. If errors in the IV-E eligibility determination are found in 10% or more of the reviewed cases, the disallowance rate from those cases will be extrapolated against all IV-E maintenance payment funds received by the state.

Assuming the state is able to pass the first federal review, the penalties would be relatively minor, since penalties would be assessed only on the individual cases with errors and not extrapolated statewide. However, if the state does not pass the initial review and a second review is performed, any penalties from this review could be very significant, since the disallowance will be extrapolated statewide. DHFS estimates that the one-time penalty could be as much as \$10 million. In addition, there would be long-term effects of failing any review because if a case is found to be in error in its IV-E eligibility determination, that case would not be eligible for IV-E reimbursement for as long as those children are in out-of-home care. If there are enough children who are found to no longer be IV-E eligible, this could affect the IV-E eligibility ratio, which influences the IV-E claiming rate and affects the level of federal matching funds available to the state. However, the long-term fiscal impact of this result is not known at this time but could affect funding for all uses of IV-E funds, including the Bureau of Milwaukee Child Welfare, the special needs adoption program, community aids and youth aids.

The state is expecting a IV-E eligibility review every three years, and the "error tolerance rate" will drop to 5% for these subsequent reviews.

Title IV-E Compliance Contract. The plan proposes to expend \$500,000 for a contract with MAXIMUS to: (a) reduce the likelihood of failing the first phase of the federal review by correcting documentation or backing up prior claims for cases identified as lacking adequate documentation; (b) assist DHFS in preparing for the federal IV-E eligibility and reimbursement review; and (c) improve counties' knowledge of the IV-E rules and assist counties in implementing the necessary changes to assure IV-E claiming levels. MAXIMUS plans to achieve these objectives by: (a) screening cases for errors and missing documentation; (b) correcting cases when possible; (c) designing and implementing a process for the state to improve compliance with IV-E

requirements; (d) monitoring procedural changes in the counties to assure future IV-E compliance; and (d) assisting in the IV-E financial review. The contract period would be from now through March 30, 2002, with the intent to complete services before the federal review in March.

MAXIMUS conducted a mock audit of 513 Title IV-E reimbursable cases statewide to assess Wisconsin's IV-E eligibility and determination process and concluded that approximately 16% of eligible cases may be incorrectly claimed. In addition, the majority of the errors in non-Milwaukee counties were in court orders, with cases lacking required language or were not processed within the required time frame (58%) and in financial information, with cases classified as IV-E eligible but whose income exceeds AFDC limits or there was no financial information available (25%). In Milwaukee County, the majority of errors occurred because workers incorrectly listed the proper caretaker at the time of removal (53%) and errors in court orders (34%).

ANALYSIS

Act 16 Lapse Requirement. Act 16 requires the DOA Secretary to lapse a total of \$13,086,800 in income augmentation revenue to the general fund in the 2001-03 biennium, including: (a) \$6,750,000 no later than June 30, 2003 (Section 9223 (4z)); and (b) \$3,008,300 in 2001-02 and \$3,328,500 in 2002-03 (Section 9223 (5zk)). The Act 16 general fund condition statement is based on the assumption that revenue to the general fund would increase by these amounts as a result of the income augmentation revenue lapses.

The total amount of income augmentation revenue available under the proposal submitted by the DOA Secretary is \$12,736,000. If the Committee lapsed all of this revenue to the general fund, rather than approve it for use as recommended by the DOA Secretary, the remaining amount of income augmentation revenue that would have to lapse to the general fund in order to meet the Act 16 lapse requirement would total \$350,800. It is expected that any Act 16 lapse requirement not met under the plan as approved by the Committee would be the first commitment of income augmentation revenue under any future plan submitted to the Committee in this biennium.

Although Act 16 requires a total of \$13,086,800 in income augmentation revenue to lapse to the general fund in the 2001-03 biennium, the Committee could approve the use of income augmentation revenue for any other purpose. However, approval of income augmentation revenue, as proposed by the DOA Secretary or for any other purpose, increases the amount of income augmentation revenue that would have to be lapsed to the general fund during the remainder of the biennium in order to meet the Act 16 lapse requirements.

DHFS Transition Costs. Act 16 requires that income augmentation funds be allocated for DHFS transition costs after the Act 16 lapse requirements have been met (\$3,008,300 in 2001-02 and \$10,078,500 in 2002-03). Based on the language included in the Act, an argument can be made that income augmentation funds cannot be allocated for DHFS transition costs at this time, since all of the Act 16 lapse requirements have not yet been met. Therefore, the Committee could deny the approval of allocating income augmentation revenue for DHFS transition costs as proposed.

However, DHFS argues that the intent of Act 16 was to allow for income augmentation revenues to be allocated for DHFS transition costs once \$6,750,000 in income augmentation revenue was lapsed to the general fund and therefore, approval of the use of income augmentation revenue for DHFS transition costs as proposed is appropriate.

Enrolled 2001 Senate Bill 55 specified that the DOA Secretary lapse \$6,750,000 in income augmentation revenue to the general fund, no later than June 30, 2003. Under a separate provision, Enrolled SB 55 required the DOA Secretary to lapse \$3,008,300 in 2001-02 and \$3,328,500 in 2002-03 in targeted case management funds to the general fund. Additionally, the enrolled bill specified that after these lapse requirements were met, any additional income augmentation funds would be allocated for DHFS transitional costs and any costs not expended or encumbered for DHFS transition costs would be lapsed to the general fund. Further, the enrolled bill would have prohibited the use of income augmentation revenue for any other purpose.

Because the enrolled bill specified that the second lapse requirement (\$3,008,300 in 2001-02 and \$3,328,500 in 2002-03) was from targeted case management funds and not traditional income augmentation revenue, the effect of the enrolled bill was that once \$6,750,000 in income augmentation revenue was lapsed to the general fund, any additional income augmentation revenue would be allocated for DHFS transition costs, subject to the Committee's approval.

However, the Governor partially vetoed the provision in the enrolled bill that specified the second lapse requirement was to come from targeted case management funds and as a result, this second lapse could be met with traditional income augmentation revenue (Section 9223 (5zk)). This veto changed the impact of the provision. Instead of income augmentation revenue being allocated for DHFS transition costs after the \$6,750,000 lapse requirement was met, the effect of the veto is that income augmentation revenue would be allocated for DHFS transition costs after the \$6,750,000 lapse requirement *and* the second lapse requirement was met (\$3,008,500 in 2001-02 and \$3,328,500 in 2002-03).

DHFS argues that the intent behind the Governor's partial veto was not to require that DHFS transition costs be supported with income augmentation revenue after both the first and second lapse requirements were met, but instead, to allow that income augmentation revenue could be used to meet the targeted case management lapse requirement, in the event that sufficient targeted case management funds were not available.

The Committee could approve the proposal to allocate income augmentation revenue for DHFS transition costs if it determines that the intent of Act 16 was to first meet the \$6,750,000 lapse requirement, then support DHFS transition costs and then meet the targeted case management lapse requirement. Alternatively, the Committee could deny the proposal to allocate income augmentation revenue for DHFS transition costs if it determines that the language of Act 16, as vetoed, requires that the lapse requirements be met before providing funds to support DHFS transition costs.

Additionally, DHFS argues that to deny approval of income augmentation revenue for its transition costs at this time would result in the Department being unable to meet its calendar year 2001 contract commitments with Milwaukee County and the private vendors contracted to provide child welfare services in Milwaukee County. DHFS staff believe the funding is needed by December 31, 2001, to close out the Milwaukee child welfare contracts and if transition costs are not funded by December, 2001, there will be a shortfall in the Department's funding and the calendar year 2002 contracts could be adversely affected.

However, if the Committee determines that it is unable to allocate income augmentation revenue for DHFS transition costs based on its interpretation of the Act 16 provision, as vetoed, DHFS would be able to propose to use future income augmentation funds, if available, for this purpose.

Title IV-E Disallowance Set Aside. The Committee could approve the proposal to set aside, or encumber, \$2,552,300 to offset a potential reduction in Title IV-E funds from a change in federal IV-E claiming policy and possible penalties assessed on the state from the federal Title IV-E review. Because funding for state child welfare responsibilities and community aids could be affected by such reductions or penalties, encumbering funds for this purpose could reduce the impact of possible future reductions or penalties on these programs. In addition, any funding that is not needed to offset actual IV-E losses would be available for allocation under future income augmentation plans. Alternatively, the Committee could deny approval to encumber funding for this purpose, since the administration or the Legislature could address such funding shortfalls when the actual amount of such reductions or penalties is available. Denying approval of the use of income augmentation for this purpose and instead lapsing these funds to the general fund increases the certainty that the amount of income augmentation revenue that is lapsed to the general fund in the 2001-03 biennium will meet the Act 16 lapse requirements.

Title IV-E Compliance Contract. DHFS asserts that Wisconsin may have a difficult time passing the federal review, based on the results of the mock audit, conducted by MAXIMUS. Therefore, the administration included funding as part of its request for the compliance contract to improve the state's chance of passing the first review, but if needed, the subsequent federal review. DOA states that this contract, through achievement of the stated objectives, could minimize the penalties and disallowances on the state as a result of these reviews.

In the plan submitted by DOA, costs for the compliance contract were identified as costs exclusively related to the operational costs of augmenting federal income, and therefore, not subject to the Committee's review. However, these costs do not appear to be similar to other costs that are more exclusively related to the operational costs of augmenting federal income, such as administrative costs and the Title IV-E eligibility determination unit. Therefore, if the Committee wishes to authorize funding for this purpose, it could do so as part of the overall plan subject to the Committee's approval.

Under the alternatives presented, any revenue not expended or encumbered by the Committee would lapse to the general fund and be used to comply with the Act 16 lapse requirements.

ALTERNATIVES

1. Approve the DOA proposal for the use of income augmentation revenue.
2. Approve one or more of the following items included in the DOA proposal for the use of income augmentation revenue:
 - a. Lapse \$6,750,000 in income augmentation funds to the general fund in 2001-02, rather than 2002-03 as assumed in current revenue estimates.
 - b. Expend \$2,933,700 in income augmentation funds for DHFS costs associated with transitioning child welfare cases from Milwaukee County to private vendors.
 - c. Encumber \$2,552,300 in income augmentation funds to be used to offset potential future disallowances in Title IV-E funding.
 - d. Expend \$500,000 in income augmentation funds to contract with a private vendor to increase Wisconsin's compliance with Title IV-E regulations.

Additionally, direct the DOA Secretary to lapse any funds not approved for expenditure or encumbrance to the general fund no later than June 30, 2002, and specify that any funds lapsed under this alternative would be used to partially comply with the Act 16 lapse requirements (Sections 9223 (4z) and (5zk)).

2. Deny the request and instead direct the DOA Secretary to lapse \$12,736,000 in income augmentation funds to the general fund no later than June 30, 2002, to partially comply with the lapse requirements included in Act 16 (Sections (4z) and (5zk)). [An additional lapse of \$350,800 would be required in the future to fully meet the Act 16 lapse provisions.]

Prepared by: Yvonne M. Arsenault and Rachel Carabell

HEALTH AND FAMILY SERVICES

Expenditure Plan for Income Augmentation Funds
Agenda Item VIII

Motion:

Move to adopt Alternatives (2)(a) and (2)(b) from the LFB Paper. In addition, direct DHFS to perform activities to increase Wisconsin's compliance with Title IV-E regulations by reallocating current funding and staff for this purpose. Prohibit DHFS from contracting with a private vendor to perform these services. Direct the DOA Secretary to lapse any funds not approved for expenditure or encumbrance to the general fund no later than June 30, 2002, to partially comply with the Act 16 lapse requirements.

Note:

This motion would lapse a total of \$9,802,300 to the general fund.

MO#			
	BURKE	<input checked="" type="radio"/>	N A
	DECKER	<input checked="" type="radio"/>	N A
2	MOORE	<input checked="" type="radio"/>	N A
	SHIBILSKI	<input checked="" type="radio"/>	N A
	PLACHE	<input checked="" type="radio"/>	N A
	WIRCH	<input checked="" type="radio"/>	N A
	DARLING	<input checked="" type="radio"/>	N A
	ROSENZWEIG	<input checked="" type="radio"/>	N A
1	GARD	<input checked="" type="radio"/>	N A
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	ALBERS	<input checked="" type="radio"/>	N A
	DUFF	<input checked="" type="radio"/>	N A
	WARD	<input checked="" type="radio"/>	N A
	HUEBSCH	<input checked="" type="radio"/>	N A
	HUBER	<input checked="" type="radio"/>	N A
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V. Department of Health and Family Services – John Kiesow, Executive Assistant

The department requested release of \$500,000 GPR from the Committee's supplemental GPR appropriation under s. 20.865 (4)(a) at the September 5, 2001 s. 13.10 meeting. The Committee transferred this amount to the department's appropriation for gifts and grants under s. 20.435(4)(i), but prohibited the department from releasing these funds to the Westside Healthcare Association, Inc., in the City of Milwaukee until the release is approved under s. 13.10.



SCOTT McCALLUM

Governor
State of Wisconsin

November 27, 2001

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

The Honorable John Gard, Co-Chair
Joint Committee on Finance
308 East, State Capitol
Madison, WI 53702

Dear Senator Burke, Representative Gard and Members:

Attached are the signed minutes of the November 5, 2001, regular meeting of the Committee under s. 13.10.

Pursuant to s. 13.10(4), Wisconsin Statutes, I am objecting to the Committee's action under two items of the minutes.

Regarding Item VIII, the Joint Committee on Finance directed the Department of Health and Family Services (DHFS) to perform activities to increase Wisconsin's compliance with Title IV-E regulations by reallocating current funding and staff for this purpose and prohibited DHFS from contracting with a private vendor for these services.

Because the state faces the potential loss of \$10 million in IV-E funding if it does not pass the federal compliance review, I am retaining language that directs the department to perform these activities. I do not believe, however, that it is appropriate to limit the department's flexibility to hire a private vendor, when it may be more efficient and cost-effective to do so. Detailed knowledge of the complex federal IV-E regulations and IV-E claiming practices in other states is a requirement for the compliance activities to be successful. It would be difficult to recruit and maintain state staff with this level of experience, even if the hiring freeze were lifted.

Regarding Item X, the Joint Committee on Finance stipulated that no state agency receiving approval for any program or segregated funding supplementation or position authorization under this item may increase any fees, chargebacks or assessments for any appropriation associated with those supplements or position authorizations without first receiving the approval of the Joint Committee on Finance under a 14-day passive review process.

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

December 5, 2001

Mr. Dan Caucutt
Department of Administration
101 East Wilson Street, 10th Floor
Madison, WI 53703

Dear Mr. Caucutt:

On November 27, 2001, we received the signed minutes from the Committee's November 5, 2001, s. 13.10 meeting. In forwarding the minutes, the Governor indicated that he had vetoed two portions of the Committee's action.

Pursuant to s. 13.10(4) of the statutes, we conducted a mail ballot to determine if the Committee's November 5, 2001, action on these matters should be upheld, regardless of the Governor's veto.

The first question put to the Committee members on the veto was as follows:

"Shall the November 5, 2001, action of the Joint Committee on Finance on Agenda Item VIII, directing DHFS to reallocate current funding and staff to perform activities to increase Wisconsin's compliance with Title IV-E regulations and prohibiting DHFS from contracting with a private vendor to perform these services, be upheld, notwithstanding the objection of the Governor?"

The vote on the question was as follows:

Ayes, 9 (Burke, Decker, Moore, Shibilski, Plache, Wirch, Ward, Huber, Coggs); Noes, 7 (Gard, Kaufert, Albers, Duff, Huebsch, Darling, Rosenzweig)

Eleven affirmative votes being necessary, the action of the Joint Committee on Finance on Agenda Item VIII, directing DHFS to reallocate current funding and staff to perform activities

to increase Wisconsin's compliance with Title IV-E regulations and prohibiting DHFS from contracting with a private vendor to perform these services, was not upheld.

The second question put the Committee members on the veto was as follows:

"Shall the November 5, 2001, action of the Joint Committee on Finance on Agenda Item X, stipulating that no state agency which receives approval for any program revenue or segregated funding supplementation or position authorization under Agenda Item X may increase any fees, chargebacks or assessments for any appropriation associated with those supplements or position authorizations without first receiving the approval of the Joint Committee on Finance under a 14-day passive review process, be upheld, notwithstanding the objection of the Governor?"

The vote on the question was as follows:

Ayes, 16 (Burke, Decker, Moore, Shibilski, Plache, Wirch, Darling, Rosenzweig, Gard, Kaufert, Albers, Duff, Ward, Huebsch, Huber, Coggs); Noes, 0

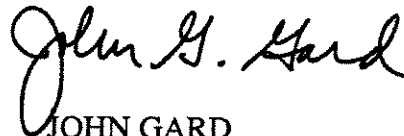
Eleven affirmative votes being necessary, the action of the Joint Committee on Finance on Agenda Item X, stipulating that no state agency which receives approval for any program revenue or segregated funding supplementation or position authorization under Agenda Item X may increase any fees, chargebacks or assessments for any appropriation associated with those supplements or position authorizations without first receiving the approval of the Joint Committee on Finance under a 14-day passive review process, was upheld.

The executed mail ballots and a copy of the memorandum which accompanied the distribution of the mail ballots are enclosed for the record.

Sincerely,



BRIAN BURKE
Senate Chair



JOHN GARD
Assembly Chair

cc: Governor Scott McCallum
Members, Joint Committee on Finance
Phyllis Dubé, Secretary, Department of Health and Family Services
George Lightbourn, Secretary, Department of Administration

BB:JG:js
Enclosures

Wisconsin Association of Homes and Services for the Aging, Inc.

204 South Hamilton Street • Madison, Wisconsin 53703 • 608-255-7060 • FAX 608-255-7064 • www.wahsa.org

December 18, 2001

To: Members, Joint Committee on Finance

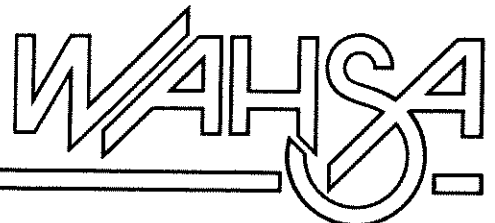
From: John Sauer, Executive Director

Subject: The Impact of Nursing Home Labor Region Alternative A.5. on IGT Funding

2001 Act 16 provided an additional \$40 million in IGT supplemental payments to county and municipal nursing facilities, raising the total IGT supplemental payment to \$77.1 million in each year of the biennium. Those supplemental payments are to be distributed in the following manner: 1) The first draw will cover the direct care losses of all 49 county and 10 municipal nursing facilities; 2) Once those costs are covered, the second draw will cover the operating deficits of county nursing facilities which are downsizing (The three county nursing facilities in Sheboygan County plus the county facilities in Rock and Walworth Counties, which comprise the three IGT wire-transfer counties, as well as the county nursing facilities in Manitowoc and Outagamie Counties); and 3) All remaining funds, if any funds remain, will be used to cover the operating deficits of the remaining county and municipal facilities.

In 2002-03, the above distribution methodology will flip-flop: The first draw of the \$77.1 million IGT supplemental payment will cover the operating deficits of the downsizing county facilities; the next draw will cover the direct care losses of all the remaining county and municipal facilities and, if any funds remain, they will be used to offset the operating deficits of those remaining county and municipal facilities.

Alternative A.5. will provide \$1.2 million in direct care/hold harmless funds to 14 county facilities. If Alternative A.5. is defeated, the end result for those 14 county facilities is their direct care losses would increase by \$1.2 million. Instead of being made up through \$1.2 million in hold harmless funds under Alternative A.5., the \$1.2 million in direct care losses now will have to be made up by shifting IGT funds from the three wire transfer counties of Sheboygan, Rock and Walworth Counties, plus Outagamie and Manitowoc Counties which also have county facilities downsizing.



According to preliminary DHFS figures, the impact of Alternative A.5.'s defeat in 2001-02 is as shown in Table 1.

Because the operating deficits of the 7 wire transfer/downsizing county facilities will be covered before the direct care costs of the remaining county facilities in 2002-03, the loss of the \$1.2 million in Alternative A.5. hold harmless funds for those 14 county facilities could be especially devastating in the second year of the biennium. For purposes of making this analysis, we assumed the direct care and operating losses were the same in 2002-03 as they were in 2001-02.

Based on the assumptions stated above, we estimate that the following counties could receive a decreased IGT award by the following amounts in 2002-03 in order to make up for the increase in county nursing facility direct care losses due to the defeat of Alternative A.5.

<u>County</u>	<u>Estimated Decrease in 2002-03 IGT Award Due to The Defeat of Alternative A.5.</u>
Brown	\$ 27,956
Clark	39,120
Dane	319,214
La Crosse	40,371
Marathon	87,619
Milwaukee	205,872
Ozaukee	53,411
Winnebago	93,246

For counties like Brown, Clark and those not listed above, their county facilities still might be better off under the DHFS proposal than under Alternative A.5. But for counties like Milwaukee and Dane, the 44-cent per patient day increase they would receive in their 2001-02 MA rate under the DHFS proposal pales in comparison with their estimated loss in IGT funds in 2002-03.

Table 1

Alternative A. 5.	Alternative A.3. (DHFS Proposal)
IGT Funds Available: \$77,100,000	IGT Funds Available: \$77,100,000
Total Direct Care Losses of County Facilities: <u>\$70,770,000</u>	Total Direct Care Losses of County Facilities: \$70,770,000
Funds Available After First IGT Draw \$6,330,000	Additional Direct Care Losses to County Facilities Due to Loss Of Alternative A.5. Hold Harmless Funds: <u>\$ 1,200,000</u>
	Funds Available After First IGT Draw: \$ 5,130,000
Total Operating Deficits of 7 Wire Transfer/Downsizing Facilities: \$11,400,000	Total Operating Deficits of 7 Wire Transfer/Downsizing Facilities: \$11,400,000
Funds Available After First IGT Draw <u>\$ 6,330,000</u>	Funds Available After First IGT Draw <u>\$ 5,130,000</u>
IGT Funding Deficit for Wire Transfer/Downsizing Counties in 2001-02 \$5,070,000	IGT Funding Deficit for Wire Transfer/Downsizing Counties in 2001-02 \$6,270,000

**13.10 Meeting
December 18, 2001
Agenda Item V**

Issue: DHFS: Nursing Home Labor Regions

Staff Recommendation: Alt. A3, B2

Comments:

The battle here will be between Alternatives A3 and A5, the big difference being that Alt. A5 has a hold harmless provision that will have a negative impact on the majority of the nursing homes in the state. Under either provision, all nursing homes will be receiving increases in 2001-02 compared to their 2000-01 rates.

The hold harmless provision (A5) will primarily benefit nursing homes in the Minneapolis and Superior metropolitan areas, and to a lesser extent, Racine & Kenosha. **This provision will cost nursing homes in Milwaukee County \$900,000.**

Another point to remember with respect to county run nursing homes, they're getting an additional increase through the magic of the IGT program.

Alternatives:

A3 – supported by Milwaukee County, SEIU, Dane County, DHFS, Wisconsin Health Care Association (primarily for-profit nursing homes) and Senator Moen.

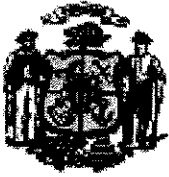
A5 – Supported by AFSCME, Wisconsin Association of Homes and Services for the Aging (WAHSA) (primarily not-for-profit and county homes) and Senator Jauch (It was rumored that WI Counties was going to voice support for this option, but now they're keeping their powder dry. They've got winners & losers under each scenario).

B1 – would keep whatever system is voted on in A, in place until other legislation is passed to change it.

B2 – would keep whatever system is voted on in A, in place until the feds adopt a Medicare nursing home labor adjustment index, then we'd follow suit at the state level.

Do not support extending this process any longer. These 2 sides have been working for over a year to come to some agreement & haven't been able to. Their payments are already late.

Prepared by: Cindy



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

December 18, 2001

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health and Family Services: Regional Labor Adjustments to Medical Assistance Reimbursement to Nursing Homes--Agenda Item V

2001 Wisconsin Act 16 (the 2001-03 biennial budget act) requires the Department of Health and Family Services (DHFS), together with representatives of the nursing home industry and organized labor, to develop a comprehensive plan that specifies varying regions of the state with respect to labor costs for nursing home staff for the purpose of determining medical assistance (MA) reimbursement for nursing homes' allowable direct care costs. Act 16 requires DHFS to submit the plan to the Joint Committee on Finance by September 1, 2001, or the first day of the second month beginning after the act's effective date, whichever is later, for the Committee's approval under a 14-day passive review process. DHFS may implement the plan only upon approval by the Committee.

On October 19, 2001, DHFS submitted its plan to the Co-chairs, who distributed the plan to all Committee members. On November 7, 2001, the Co-chairs notified DOA Secretary Lightbourn that the Committee wished to meet on this matter.

BACKGROUND

State law requires DHFS to reimburse nursing homes for care they provide to MA recipients according to a prospective payment system that DHFS updates annually. In developing rates, DHFS must establish payment standards by using recent cost reports submitted by nursing homes. DHFS must consider six cost centers and may consider a seventh, over-the-counter-drugs, when developing facility-specific nursing home rates. The six mandatory cost centers are: (1) direct care; (2) support services; (3) administrative and general; (4) fuel and utilities; (5) property taxes, municipal services or assessments; and (6) capital.

In general, DHFS pays nursing homes for their expenses in a given cost center as long as their expenses per patient day do not exceed "targets" (maximum rates) that are based on the costs for all nursing homes in the state. However, if a nursing home's actual costs exceed the target, DHFS only reimburses the nursing home for costs up to the target rate.

Since 1984, DHFS has been required to adjust each nursing home's target to reflect variations in regional labor costs. DHFS has used a variety of methods to make this adjustment. In 1998-99, each nursing home's direct care target was adjusted by one of three index values, depending upon whether the nursing home was located in a "high," "moderate" or "low" labor cost region.

Beginning in 1999-00, DHFS began transitioning to a regional labor cost adjustment that uses the Medicare hospital labor cost index. Under the Medicare labor cost index, there are 14 different regions in Wisconsin that include 13 standard metropolitan statistical areas (SMSAs), centered on such urban areas as Milwaukee, Madison and Appleton/Oshkosh, and a rural classification that encompasses the remaining areas of the state. In 1999-00, DHFS began phasing in the new labor region adjustment by using a weighted average of the old and new labor indexes, with a one-third weight given for the new Medicare labor index. In 2000-01, DHFS continued phasing in the new labor region adjustment by using a two-thirds weight for the new Medicare labor factor. It was anticipated that the new Medicare labor factor would be fully phased in, beginning in 2001-02.

In his 2001-03 biennial budget, the Governor recommended that the phase-in to the Medicare labor index be discontinued and that the requirement that DHFS adjust direct care costs to reflect regional labor cost variations be repealed. The administration's proposal was based on several arguments. First, DHFS had been unable to develop a consensus with the nursing home industry to establish a single method for adjusting rates to reflect differences in regional labor costs. Specifically, nursing homes that were determined to be in low labor cost regions objected, and DHFS responded by establishing "hold harmless" provisions so that rates paid to nursing homes that would otherwise be adversely affected by their classifications would not be reduced. Due to the hold harmless provisions, the labor index adjustments did not reflect the true differences in nursing homes' labor costs, based on the regional classification system DHFS used. For example, in 1998-99, the last year in which the old three-region index was used, only 60 of the 404 nursing homes (14.9%) were classified in the "low" labor cost region. Second, it was argued that nursing homes compete on a statewide basis for labor, suggesting that there are no differences in labor costs between geographic areas and therefore no justification for adjusting each nursing home's target.

During its budget deliberations, the Joint Committee on Finance adopted the Governor's recommendation to repeal the labor region adjustment requirement. However, the Senate deleted this provision, thus retaining the requirement. The Assembly also deleted the provision that would have repealed the provision and, in addition, included the provision that required DHFS, together with representatives from the nursing home industry and organized labor, to develop the plan that

specifies varying regions of the state for the purpose of making the labor cost adjustment. The Assembly's provision was adopted by the Conference Committee and enacted in Wisconsin Act 16.

ANALYSIS

Plan Descriptions

DHFS, after consulting with representatives of the nursing home industry and organized labor, developed five options to address the issue of varying labor region costs. Each of these alternatives is described below.

1. *Eliminate Labor Regions.* Under this option, DHFS would not adjust the direct care portion of each facility's rate to reflect differences in labor costs. The administration's arguments for this proposal have been previously discussed in this paper. However, it appears that the Committee does not currently have the option to select this alternative, since Act 16 retains the provision that requires DHFS to make a labor cost adjustment, under the plan approved by the Committee. Nonetheless, the attachment to this paper that estimates the aggregate effect of each of the proposals DHFS considered on providers by region and by ownership includes this proposal for comparison purposes.

2. *Medicare Labor Regions.* Under this option, DHFS would complete the phase-in of the Medicare labor region adjustment that it began in 1999-00. The reason DHFS adopted the Medicare hospital wage index three years ago was to establish a definitive and objective index that might avoid the need to include hold harmless provisions that distort the labor cost adjustment. It also eliminated the need for DHFS to annually calculate and update a labor cost index.

Further, it was argued that, under the old three-region adjustment, a nursing home's adjustment could change significantly if it was in a region that was reclassified, even though the wage level in that region may not have changed significantly. This could happen, for example, if a geographic area were reclassified from being in the low end of the high-cost group to the high end of the medium-cost group. In contrast, under the Medicare labor region adjustment, a nursing home's labor cost adjustment only changes by the amount of estimated change in labor costs for each geographic area.

One criticism with the Medicare index is that all areas outside of SMSAs are classified under one category -- "balance of state." For nursing homes in some counties, the adjustment may not accurately reflect real cost differences. For example, under the old three-region system, nursing homes in Jefferson County had a standardized labor index adjustment of 1.084, indicating that their direct care targets were increased to reflect higher than average labor costs. Jefferson County is located between two SMSAs -- Milwaukee and Madison, but under the Medicare labor index, Jefferson County is included in the "balance of state" category, which has a standardized labor

index adjustment of 0.95 because it is comprised primarily of rural counties. One might expect that the wage levels in Jefferson County are higher than in counties that are not adjacent to two SMSAs. Consequently, nursing home operators in that county believe that the Medicare labor index does not accurately reflect wage costs in that area.

A second criticism of the Medicare index is that it is based on hospital wage rates, rather than nursing home wage rates. Medicare justifies the use of a hospital wage index on the argument that hospitals and nursing home employees represent the same labor market pool, since a nurse aide or nurse may be employed by either type of institution. However, the relative number of nurses employed in hospitals is much higher than the number of nurses employed in nursing homes. Consequently, variations in market conditions for nurses have a greater effect on hospital costs than on nursing home costs.

The U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) is currently developing a wage index for nursing homes and recently published the results of a nursing home wage index. However, CMS found that the nursing home index results were unreliable, and will continue to use the Medicare hospital wage index for the purpose of establishing Medicare nursing home rates in the current federal fiscal year. However, CMS will continue to develop a Medicare nursing home wage labor adjustment index and may use it in the future for the purpose of making Medicare nursing home payments.

In its request to the Committee, DHFS indicates that it recommends that, in the future, DHFS use the Medicare-based labor region methodology, once nursing home wages are incorporated into the Medicare formula.

3. *Facility-Specific Medicare Labor Regions.* This proposal, which was developed by the Wisconsin Health Care Association (WHCA), uses the Medicare labor region designations, but indexes them based on Wisconsin facility-specific average wages per hour, excluding county-owned nursing homes, but including homes under phase-down agreements.

DHFS has identified several advantages and disadvantages to this proposal. The primary advantage is that it may provide a more accurate indicator of industry costs than the Medicare labor region index because the adjustment would be based on actual differences in average wages paid by each facility. Further, by excluding average wages paid in county homes, the regional variations in wage rates may be less distorted than if these wages were included.

However, one disadvantage to this proposal is that it does not weight the factors for MA days, and instead, uses patient day wage costs for all payers in the nursing home. Since MA only reimburses facilities for their MA patient day costs, it may be more appropriate to exclude non-MA patient day wage costs. Second, because it does not take into account variations in wage differences in county-owned nursing homes, it may under represent the true differences in wage

costs because non-county and county nursing homes in some areas compete in the same labor pool, which may increase wages for non-county homes in these areas.

4. *Facility-Specific Medicare Labor Regions, Weighted to MA Patient Day Costs (DHFS Recommendation)*. This proposal is identical to the preceding proposal, except that DHFS would weight the labor regions by MA patient day costs, rather than use all patient days, to better reflect actual MA costs. Because this proposal is a variation of the previous proposal, the advantages and disadvantages of this proposal described in the previous two paragraphs apply to this proposal, except that it addresses the issue of using MA patient days to better reflect MA costs, which is the basis of MA reimbursement.

DHFS recommends that the Committee adopt this fourth proposal. DHFS has submitted to CMS its methods for implementing 2001-02 nursing home payment rates that includes labor factor adjustments based on this proposal, but indicates in its methods that either this labor factor adjustment, or a labor factor adjustment determined by the Wisconsin Legislature, will be used. Further, the proposal incorporates a "hold harmless" provision that is discussed later in the paper.

5. *Facility-Specific Medicare Labor Regions, Weighted to MA Patient Day Costs, including County Homes*. This proposal is identical to the fourth proposal, except that it includes wage costs for county nursing homes and excludes wage costs for nursing homes with rates that are adjusted to reflect "phase down" agreements between the nursing homes and DHFS. The primary arguments for excluding costs for nursing homes that are under phase-down agreements is that their rates do not accurately represent their current labor costs. In time, it is expected that the average labor costs of these nursing homes will decrease to levels that will better represent ongoing costs once the phase-down is complete.

DHFS staff indicate that the primary purpose of including this proposal was to illustrate the effect of including the costs of county nursing homes in the labor region adjustment.

DHFS has estimated the aggregate funding effect of the five proposals described above, both by Medicare labor region and by ownership type. The results of this simulation are presented in the attachment to this paper. In addition, the aggregate funding effect of a sixth proposal offered by the Wisconsin Association of Homes and Services for the Aging, Inc. (WAHSA) is provided in the attachment. This proposal is discussed later in this paper. Because these simulations use cost data contained in 1998-99 cost reports and DHFS will establish rates based on data contained in 1999-00 cost reports, the actual distributional effect of each proposal can only be estimated at this time.

The attachment contains three sections. The first section provides an estimate of how approximately \$67.2 million that is budgeted to fund rate increases in 2001-02 would be distributed to nursing homes, by ownership type, under each proposal. The second section provides, for each proposal, an estimate of the average rate increase per patient day for nursing homes, by ownership type. The third section provides, for each proposal, an estimate of how the \$67.2 million that is

available for rate increases would be distributed, in aggregate, to nursing homes within each of the Medicare labor regions under each proposal.

Hold Harmless Provisions and WAHSA Proposal

The Committee is presented with options that would affect the distribution of approximately \$67.2 million in MA funding available for nursing home rate increases in 2001-02. During the Legislature's 2001-03 budget, no consensus had been reached on what labor region adjustment should be used to affect the direct care targets. Consequently, the budget provision delegated the responsibility to establish this adjustment to the Committee.

One of the primary issues before the Committee is the degree to which the labor adjustment should incorporate hold harmless provisions. The DHFS recommendation would incorporate a hold harmless provision by using the 2000-01 direct care base amount of \$57.42 and the primary labor factors used in the 2000-01 nursing home formula. Specifically, a nursing home's direct care target would be the greater of either: (a) the product of the facility's case mix index, the statewide direct care base (\$60.73) and the proposed, new labor factor adjustment; or (b) the product of the facility's case mix index, the previous year's direct care base (\$57.42) and the alternative labor factor adjustment that does not include the \$1.74 per patient day inflation adjustment from 2000-01 or the 2000-01 hold harmless provision that further incorporated some historical labor factors from 1996.

The DHFS simulations project that the "cost" of this hold harmless provision is approximately \$700,000 in 2001-02. That is, in the absence of the hold harmless provision, approximately \$700,000 more would be available to distribute under a formula that does not incorporate this provision. This hold harmless provision primarily benefits nursing homes in the Minneapolis and Superior metropolitan areas, and, to a lesser extent, nursing homes in Racine and Kenosha.

The proposal advocated by WAHSA, which is presented as Alternative 5, differs from the labor adjustment recommended by the DHFS in that DHFS would be required to hold the direct care payments at least equal to the 2000-01 maximum direct care payments for facilities at or above these levels. The "cost" of this hold harmless provision, which is estimated to be approximately \$3.4 million, would be funded by reducing the target for administrative and general services from \$12.59 per day (95% of the median), as provided under the plan recommended by DHFS, to \$12.15 per day (91.7% of the median).

Compared to the plan recommended by DHFS, this hold harmless provision primarily benefits nursing homes in the "rural-high" category (\$2.1 million), and to a lesser extent, Racine (\$0.3 million), the Minneapolis metropolitan area (\$0.1 million) and Kenosha area (\$0.1 million). The plan would reduce estimated aggregate payments to nursing homes in Milwaukee County

(-\$0.9 million), nursing homes in the rural-medium (-\$0.6 million) and rural-low groups (-\$0.3 million), Appleton (-\$0.2 million), Green Bay (-\$0.1 million), Janesville (-\$0.1 million), Wausau (-\$0.1 million), Eau Claire (-\$0.1 million) and Sheboygan (-\$0.1 million).

Comparing the two proposals based on nursing home ownership, the WAHSA recommendation would increase estimated aggregate payments to county-owned nursing homes (\$0.8 million) and reduce estimated aggregate payments to for-profit facilities (-\$0.8 million)

Hold harmless provisions are intended to ensure that certain facilities are not adversely affected by formula changes. In short, they enable certain facilities to be overcompensated, compared to the level of reimbursement these facilities would receive in the absence of hold harmless provisions. The cost of hold harmless provisions are borne by facilities that do not benefit from these provisions, since these facilities receive less than they would in the absence of the hold harmless provisions.

In considering the WAHSA proposal, several points should be made.

First, one of the arguments for establishing a new labor region adjustment is that the previous labor region adjustments had been subject to hold harmless requirements that distorted the nursing home formula. WAHSA's hold harmless provision would include the \$1.74 per patient day inflation adjustment from 2000-01 and the 2000-01 hold harmless provision that further incorporated some historical labor factors from 1996. In contrast, the Department's hold harmless provision would not include these two factors, but would use the 2000-01 direct care target of \$57.42 per day and the primary labor factor DHFS used in the 2000-01 formula.

Second, under the plan recommended by DHFS, it is estimated that all nursing homes would receive total rate increases in 2001-02, compared to their 2000-01 rates, assuming they experience no significant changes in occupancy rates or patient case mix. However, the direct care targets of 56 nursing homes would decrease in 2001-02, compared to the previous year. Under the WAHSA plan, it is estimated that all nursing homes would receive total rate increases in 2001-02, compared to their 2000-01 rates, but no nursing home's direct care target would be decreased in 2001-02, compared to the previous year.

WAHSA has argued that, with the 6% rate increase for nursing homes provided in Act 16, no nursing home's direct care maximum payment should be reduced in 2001-02 from its 2000-01 level. Under the DHFS simulations, 56 nursing homes would have a reduction in their direct care maximum rates under the Department's recommended plan. Others argue that it is more important to consider the total rate, not the direct care maximum payment rate, when determining the relative merits of these proposals.

Consequences of Inaction by the Committee

Some legislators may believe that the Act 16 provision relating to nursing home labor regions was intended to ensure that DHFS would develop a proposal that would be supported by all representatives of the nursing home industry and that the Joint Finance Committee should not be required to resolve what is, arguably, an administrative issue. Nonetheless, Act 16 delegates the responsibility to make this decision to the Committee. The Committee could choose not to make a decision at this time. This would provide DHFS additional time to develop an option that is acceptable to all representatives of the nursing home industry. However, the Committee may not wish to further delay resolution of this issue for the following reasons.

First, this issue has a long history of controversy, and is likely to continue to be controversial. Nearly one year after the Governor's 2001-03 biennial budget recommendations were introduced, there remains no consensus on the issue. One reason is that there is no single organization that represents the interests of all nursing homes in the state. The Wisconsin Health Care Association (WHCA), which represents primarily for-profit nursing homes, supports the DHFS proposal, while WAHSA, which represents primarily not-for-profit and county-owned homes, opposes the DHFS plan.

Even if an alternative plan were developed for 2001-02, additional changes could be proposed in following years. The Committee has an opportunity at this time to establish a methodology that DHFS will be required to use until legislation is enacted that would direct DHFS to use a different method. The Act 16 provision does not specify that the method determined by the Committee would only be used to establish rates for the 2001-02 fiscal year or the 2001-03 biennium.

Second, this issue has delayed the Department's calculation of 2001-02 nursing home rates. It has been suggested that DHFS could establish interim rates until the issue is resolved. Although this appears to be feasible, it is not known at this time whether CMS would provide federal MA matching funds to support the new interim rates, since CMS may determine that the state's nursing home payment methodology has not been approved.

Finally, the plan DHFS submitted to CMS identifies a maximum rate of \$12.59 per day for administrative and general services. If this rate were reduced to \$12.15 per day to support the cost of the hold harmless, CMS might require DHFS to resubmit the plan, since the plan only identifies the labor region adjustment as a factor to be determined by the Wisconsin Legislature.

For these reasons, if the Committee decides to defer action on this issue to provide DHFS additional time to develop a plan that is supported by both WAHSA and WHCA, it could prohibit DHFS from establishing interim rates until the issue is resolved. This option may provide an incentive for WAHSA and WHCA to develop an alternative plan.

ALTERNATIVES

A. Plan Approval

1. *Medicare Labor Regions.* Adopt a labor region adjustment that completes the phase-in of the Medicare labor region adjustment that it began phasing in 1999-00.
2. *Facility-Specific Medicare Labor Regions.* Adopt a labor region adjustment that uses the Medicare labor region designations, but indexes them based on Wisconsin facility-specific average wages per hours, excluding county-owned nursing homes, but including homes under the phase-down agreements.
3. *Facility-Specific Medicare Labor Regions, Weighted to MA Patient Days (DHFS Recommendation).* Adopt a labor region adjustment that is identical to Alternative 2, but require DHFS to weight the labor regions by MA patient day costs, rather than use all patient days in making the calculation.
4. *Facility-Specific Medicare Labor Regions, Weighted to MA Patient Days, including County Homes.* Adopt a labor region adjustment that is identical to Alternative 3, but direct DHFS to include wage costs for county nursing homes and exclude wage costs for nursing homes with rates that are adjusted to reflect "phase down" agreements between the nursing homes and DHFS.
5. *Facility-Specific Medicare Labor Regions, Weighted to MA Patient Days, with Hold Harmless Provision for Direct Care Payments (WAHSA Proposal).* Adopt a labor region adjustment that is identical to Alternative 3, except require DHFS to adjust the direct care maximum payment by reducing the payment for allowable administrative costs so that the direct care maximum payment for each facility is not decreased below the facility's direct care maximum payment in 2000-01, unless the 2000-01 standards of payment provide for a decrease due to a reduction in resident occupancy, direct care costs or resident case mix.
6. Defer action on this item. Instead, direct DHFS to resubmit a proposal by February 1, 2002, for consideration by the Committee under the same 14-day passive review process specified in Act 16. Permit, but not require, DHFS to establish interim nursing home rates for 2001-02, until the Committee approves a labor region adjustment plan.
7. Defer action on this item. Instead, direct DHFS to resubmit a proposal by February 1, 2002, for consideration by the Committee under the same 14-day passive review process specified in Act 16. Prohibit DHFS from establishing interim rates for 2001-02 until the Committee approves a labor region adjustment plan.

B. Duration of Plan

1. In addition to adopting Alternatives (1), (2), (3), (4) or (5), specify that the plan adopted by the Committee would be used by DHFS for all subsequent fiscal years, unless modified through the enactment of a bill.

2. In addition to adopting Alternatives (1), (2), (3), (4), or (5), specify that the plan adopted by the Committee would be used by DHFS until the state fiscal year following the year in which Medicare adopts a Medicare nursing home labor adjustment index. Beginning in that year, direct DHFS to use the same nursing home labor adjustment index used by Medicare.

Prepared by: Charles Morgan

ATTACHMENT

Change from 2000-01 Rates, by Ownership (\$ in Thousands)

	Alternative					
	1	2	3	4	5	
	Eliminate Labor Regions	Medicare Labor Regions	WHCA Proposal	DHFS Recommendation (WHCA Proposal, MA Days Only)	WHCA Proposal MA Days, with County Homes	WAHSA Proposal
County	\$14,387	\$12,085	\$12,443	\$12,461	\$12,690	\$13,222
For-Profit	30,719	32,078	32,082	32,092	31,859	31,270
Tax Exempt	20,681	21,756	21,415	21,434	21,384	21,436
Other Government	<u>1,442</u>	<u>1,336</u>	<u>1,300</u>	<u>1,300</u>	<u>1,262</u>	<u>1,312</u>
Total	\$67,229	\$67,255	\$67,240	\$67,287	\$67,195	\$67,240

Average Increase from 2000-01 Rates Per Patient Day, by Ownership

County	\$6.40	\$5.38	\$5.54	\$5.55	\$5.65	\$5.89
For-Profit	7.45	7.78	7.78	7.78	7.73	7.58
Tax Exempt	6.38	6.72	6.61	6.62	6.60	6.62
Other Government	9.06	8.40	8.17	8.17	7.93	8.24

Aggregate Funding for Rate Increases, by Region (\$ in Thousands)

Rural - High	\$6,898	\$3,095	\$3,531	\$3,544	\$3,694	\$5,602
Rural - Medium	19,475	14,083	14,682	14,699	14,907	14,087
Rural - Low	10,930	8,801	9,066	9,073	9,160	8,782
Minneapolis - High	1,663	2,227	1,663	1,663	1,662	1,793
Superior - Low	1,016	1,288	861	860	840	924
Eau Claire - Medium	2,499	2,182	2,290	2,289	1,703	2,192
La Crosse - Medium	1,743	1,850	1,317	1,322	1,583	1,239
Wausau - Medium	1,436	2,036	1,792	1,791	1,672	1,690
Madison - High	1,485	3,217	2,292	2,287	2,788	2,160
Janesville - Medium	1,441	2,401	2,260	2,264	2,120	2,166
Racine - High	1,101	1,327	587	588	1,139	856
Kenosha - Medium	1,323	1,547	969	971	1,332	1,087
Appleton - Medium	3,722	3,882	4,195	4,204	4,477	3,998
Green Bay - Medium	2,825	2,868	3,054	3,057	3,133	2,917
Sheboygan - High	2,132	879	2,404	2,395	1,999	2,324
Milwaukee - High	<u>7,539</u>	<u>15,573</u>	<u>16,277</u>	<u>16,278</u>	<u>14,987</u>	<u>15,424</u>
Total	\$67,228	\$67,256	\$67,240	\$67,285	\$67,196	\$67,240

MO# Alt 5

BURKE	<input checked="" type="radio"/>	N	A
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MOORE	<input checked="" type="radio"/>	N	A
BAUMGART	<input checked="" type="radio"/>	N	A
PLACHE	<input checked="" type="radio"/>	N	A
WIRCH	<input checked="" type="radio"/>	N	A
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HUEBSCH	<input checked="" type="radio"/>	N	A
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COGGS	<input checked="" type="radio"/>	N	A

AYE 6 NO 10 ABS _____

MO# Alt 3

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HUEBSCH	<input checked="" type="radio"/>	N	A
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COGGS	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS _____

MO# B-2

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GARD	<input checked="" type="radio"/>	N	A
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HUEBSCH	<input checked="" type="radio"/>	N	A
HUBER	<input checked="" type="radio"/>	N	A
COGGS	<input checked="" type="radio"/>	N	A

AYE 16 NO 0 ABS _____

V. Department of Health and Family Services – Peggy Handrich, Administrator,
Division of Health Care Financing

The department requests approval by the Committee of a comprehensive plan regarding the treatment of labor costs in rates set by the department for the reimbursement of nursing home expenditures under the Medical Assistance program. The plan was submitted to the Committee under 14-day passive review, as required by Section 9123 (13d) of 2001 Wisconsin Act 16.

Due to an objection from a committee member, this request is now before the Committee under s. 13.10.