



WISCONSIN LEGISLATIVE COUNCIL

*Terry C. Anderson, Director
Laura D. Rose, Deputy Director*

TO: SENATOR GWENDOLYNNE MOORE
FROM: Anne Sappenfield, Senior Staff Attorney
RE: Waiting Lists for Child Care Subsidies
DATE: September 26, 2002

This memorandum, prepared at the request of Kelly Bablitch, discusses current law relating to waiting lists for child care subsidies under Wisconsin Works (W-2).

ADMINISTRATIVE RULES RELATING TO WAITING LISTS

Current Rules

Under current s. DWD 56.05 (5), if funding is not sufficient to meet the needs of all parents who are eligible for child care assistance, a county must establish a waiting list for parents who cannot be accommodated by available funding. The county must place a parent's name on the waiting list when an application is received by telephone or in writing and the parent's eligibility appears likely. Documentation of eligibility is not required before the parent is placed on the waiting list.

The county is required to update the waiting list at least annually to ensure that families on the list still need child care and are likely to be eligible. The county must submit information to the Department of Workforce Development (DWD) upon request regarding the number of parents on the waiting list and the number and ages of the children on the waiting list.

Proposed Rules

Clearinghouse Rule 02-104 proposes to replace the current rules regarding waiting lists with a provision allowing the DWD to make adjustments when funding is not sufficient to meet the needs of all eligible parents applying for child care assistance. Under the proposed rule, DWD may establish a waiting list for parents who cannot be accommodated by available funding. The proposed rule requires DWD to give priority status to the following individuals, in the following order:

1. A W-2 participant who is participating in a W-2 employment position or who is the custodial parent of an infant.
2. A parent whose child has a special need.
3. A parent who needs child care services to participate in activities to obtain a high school diploma or a declaration of equivalency of high school graduation.
4. A foster parent.
5. A kinship care relative.

The proposed rule also permits DWD to limit the increase in maximum reimbursement rates for child care services¹ or to adjust the co-payment schedule for child care subsidies in the event that sufficient funds are not available. [SECTION 17.]

STATUTORY AUTHORITY TO ESTABLISH WAITING LISTS

Although current administrative rules permit counties to establish waiting lists for child care subsidies, it is not clear that DWD has statutory authority to establish or authorize the establishment of waiting lists.

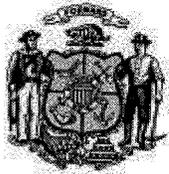
Current law provides that a W-2 agency must determine eligibility for a child care subsidy and lists the criteria under which an individual may receive a child care subsidy. [s. 49.155 (1m), Stats.] However, an individual who is determined to be eligible must be referred to a county department of human or social services (county department) for child care assistance. County departments administer the child care subsidies and, as part of their administrative duties, are required to provide a voucher to an eligible individual for payment of child care services or otherwise reimburse child care providers. [s. 49.155 (3), Stats.] Therefore, it appears that once an individual is found to be eligible for a child care subsidy, the county department is required to provide the individual with the subsidy.²

If you have any questions or need additional information, please contact me directly at the Legislative Council staff offices.

AS:ksm;wu

¹Under current law, each county must establish the maximum reimbursement rate for licensed child care services so that at least 75% of the number of places for children within the licensed capacity of all child care providers in that county can be purchased at or below that maximum rate. A maximum reimbursement rate must also be set for certified child care services at a rate that does not exceed 75% or the rate for licensed care for Level I certified providers and at a rate that does not exceed 50% of the rate for licensed care for Level II providers. [s. 48.155 (6), Stats.]

²The Governor's Executive Budget Bill included a provision under which DWD could develop a plan to limit participation in the child care subsidy program if DWD determined that moneys allocated for the program were insufficient to provide a child care subsidy to individuals who met the eligibility requirements. The provision would have permitted DWD to specify requirements that an individual would be required to meet that are different from those specified in the statutes in the event that funding was insufficient to meet need. This provision was not included in the final version of the bill. If this provision had been enacted, establishing waiting lists would appear to be within DWD's authority because a plan to limit participation could arguably include the establishment of waiting lists.



Legislative Fiscal Bureau

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

September 26, 2002

TO: Senator Gwendolynne Moore
Room 409 South, State Capitol

FROM: Carri Jakel, Fiscal Analyst

SUBJECT: Child Care Information

At your request, I am providing an update of child care spending for the 2001-03 biennium, as well as, some background information on the 2001-03 biennial budget deliberations on child care, the 1999-01 child care budget, current work participation requirements under the temporary assistance for needy families (TANF) program and President Bush's proposal on TANF reauthorization, as it relates to worker participation requirements.

Status of 2001-03 Child Care Spending

2001 Wisconsin Act 16 (the 2001-03 biennial budget act) provides \$274.5 million for 2001-02 and \$305.6 million for 2002-03 for the direct child care program, which includes child care subsidies, administration costs, on-site child care at job centers, and migrant child care. The funding provided assumed program growth of 15% in 2001-02 and 10% in 2002-03.

Preliminary information provided by the Department of Workforce Development (DWD) indicates that child care spending totaled \$266.2 million in 2001-02, or \$8.3 million (3.0%) less than the budgeted level. An average of 25,769 families per month received child care subsidies in 2001-02. This represents a 14.9% increase over the average number of families per month served in 2000-01.

For the first two months of 2002-03, an average of 26,456 families per month have received child care subsidies, which is 10.6% over the same period last year. Total spending on subsidies for 2002-03 is 13.6% higher than the same period last year. However, there was an extra weekly pay period this fiscal year compared to last fiscal year.

Based on the preliminary child care spending figures for 2001-02 and totals for the first two months of 2002-03, it appears that the \$305.6 million budgeted for 2002-03 is a reasonable projection for 2002-03 child care expenditures.

2001-03 Biennial Budget Deliberations on Child Care Program Funding

For the 2001-03 biennium, the Governor recommended funding of \$242.5 million in each year for the direct child care program, an increase of \$61.4 million annually over the base level of \$181.1 million. In addition, the bill introduced by the Governor provided that if DWD determined that funds allocated for child care were insufficient to provide a subsidy to eligible recipients, the Department could develop a plan to limit participation in the program. The plan could have required different eligibility limits, such as more strict income limits or limitations on the types of activities required to participate in the program. DWD would have been required to submit the plan to DOA for approval without review of the Legislature.

During budget deliberations, this office projected child care costs totaling \$274.5 million for 2001-02 and \$305.6 million for 2002-03. For the biennium, these estimates were \$95.1 million higher than the Governor's recommendations. As noted, the projections assumed program growth of 15% in 2001-02 and 10% in 2002-03. In response to the projected shortfall in funding under the Governor's 2001-03 biennial budget bill, the Joint Committee on Finance provided additional funding of \$32.0 million (\$1.4 million GPR and \$30.6 million FED) in 2001-02 and \$63.1 million (\$8.6 million GPR and \$54.5 million FED) in 2002-03 to fully fund the program. The Committee also removed the Governor's language allowing DWD to develop a plan to limit participation in the program if a shortfall in funding was projected. In the Governor's remarks regarding the veto message for Act 16, the Governor indicated his concern that the state may not always be able to fund the growth in child care subsidies, and stated that at some point the Legislature would have to adopt the language he proposed to allow the administration to control child care expenditures through administrative means if necessary.

In summary, funding authorized for the direct child care subsidy program for the 2001-03 biennium represents a \$217.9 million increase over base level funding (\$93.4 million in 2001-02 and \$124.5 million in 2002-03), and a \$95.1 million increase over the Governor's recommendation (\$32.0 million in 2001-02 and \$63.1 million in 2002-03).

1999-01 Child Care Program Funding

1999 Wisconsin Act 9 (the 1999-01 biennial budget act) provided \$159.6 million in 1999-00 and \$181.1 million 2000-01 for the direct child care program. Act 9 also directed DWD to identify existing state funds to access additional federal funds for child care under the child care development block grant (CCDBG) program.

On June 15, 2000, the Governor submitted a request for additional expenditure authority. The request indicated that DWD had identified \$11.4 million in additional state funds that could be used to draw an additional \$16.4 million in CCDBG monies. The Governor proposed using \$8.5 million of the

additional federal revenues to fund an estimated 5% increase in child care subsidies in 1999-00, and placing the remaining \$7.9 million in unallotted reserve to fund an anticipated deficit for child care subsidies in 2000-01. However, the request would have only funded caseloads increasing at a rate of less than 0.17% per month for 2000-01, and at the time participation was growing at 1.2% per month. As requested by the Governor, the Finance Committee approved additional authority of \$8.5 million in 1999-00. In addition, the Committee approved \$19.8 million in 2000-01 in unallotted reserve to fully fund the projected subsidies.

On April 18, 2001, the Governor submitted a request for additional expenditure authority to address further expected shortfalls in funding for the child care subsidy program. The Governor requested an additional \$36.3 million in 2000-01 to fund a 2% monthly growth in participation rates and a 10% increase in the average cost per family. The Committee approved the request to fully fund the projected child care subsidies shortfall. As part of the motion approving the additional expenditure authority, the Committee required the Department of Health and Family Services (DHFS) to transfer \$846,800 GPR to DWD to serve as a match for an additional \$1,233,300 in federal CCDBG funds to be used toward child care subsidies. According to the Department of Administration, while the DHFS paperwork was completed to accomplish the transfer of funds, DWD's appropriation was not increased. However, DWD indicates that it was able to access the federal funds by using other eligible TANF expenditures. As a result, the child care subsidy costs that would have been funded with GPR were instead funded with TANF block grant funds leading to an \$846,800 reduction in the TANF opening balance for the 2001-03 biennium and an \$846,800 increase in the general fund opening balance.

In summary, through additional allocations approved by the Joint Committee on Finance, funding totaling \$168.1 million in 1999-00 and \$237.2 million in 2000-01 was budgeted for the child care program. Actual spending for the 1999-01 biennium totaled \$173.6 million in 1999-00 and \$231.9 million in 2000-01. The additional child care expenditures in 1999-00 were funded from underspending in other TANF programs.

Federal Child Care and TANF Requirements

Federal regulations state that if a W-2 participant is a single custodian parent caring for a child under age six, the state may not reduce or terminate assistance based on the parent's refusal to engage in required work if he or she demonstrates an inability to obtain needed child care because: (a) appropriate care within a reasonable distance is unavailable; (b) informal child care by a relative or under other arrangement is unavailable or unsuitable; or (c) appropriate and affordable formal child care arrangements are unavailable. Therefore, if child care subsidies are not available because there is a waiting list, the W-2 agency would not be permitted to sanction participants who do not participate in work requirements. If a state is determined to have violated this provision, the federal government can reduce the state's TANF grant by up to 5% for the immediately succeeding fiscal year, unless the state demonstrates that it had reasonable cause or achieves compliance under a corrective compliance plan.

If the TANF block grant is reduced, the state must expend its own funds to replace the reduction in the grant.

Under the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (which created the TANF program), states receiving TANF funds must meet certain work participation rates or incur financial penalties. There are separate work participation requirements for all families versus two-parent families. The state's worker participation rates may be reduced based on caseload reductions that have occurred since 1995. If the state does not comply with minimum worker participation requirements, the federal government can reduce TANF grant expenditures from 5% to 21%, depending on how many years the state fails to meet the requirements and the degree of noncompliance. If the TANF block grant is reduced, the state must expend its own funds to replace the reduction in the grant. Because of significant caseload reductions since 1995, Wisconsin's adjusted work participation requirement for federal fiscal year (FFY) 2002 is 0% for all families and 18% for two-parent families.

Worker participation rates would increase under most proposals currently being considered at the federal level for TANF reauthorization. The President's plan would eliminate the separate two-parent family rate, and require 50% of TANF families with one or more adults to participate in work and other activities that lead to self-sufficiency for FFY 2003. The participation rate would increase by 5% annually until it reaches 70% in FFY 2007. In addition, the proposal would phase out the current credits for caseload reduction that states receive in determining each state's minimum rate. The full credits would apply for FFY 2003 and would be reduced by half for FFY 2004 and eliminated for FFY 2005.

Under the President's plan, families with children age one year and older would have to be engaged in activities for 40 hours per week in order to be included in the worker participation rate. States would be allowed to exclude families during their first month of participation in the program, and exclude, on a case-by-case basis, families with children under one year old. Current law requires single parent families with children above six years of age to engage in countable activities for 30 hours per week, and single parent families with children under six years of age to engage in countable activities for 20 hours per week. States have the option to exclude single parent families with children under one year old from their work participation calculation. Two-parent families are required to engage in work for 35 hours per week, or 55 hours per week if they receive federally-funded child care.

Currently, states can count hours in paid or unpaid work, job search and job readiness (up to six weeks per year), and vocational training (up to 12 months) toward the first 20 hours of activity for the worker participation calculation. The President's plan would allow states to: (a) count individuals who have ceased receiving assistance for employment within the first three months of having left assistance; (b) receive partial credit for individuals who have at least 24 hours per week in unsubsidized or subsidized employment, on-the-job training or supervised work experience or community service activities; (c) have some discretion to define other approved activities that could count toward the remaining 16 hours of participation per week for individuals under (b); (d) for up to three consecutive months in a 24-month period, count participation in substance abuse treatment, rehabilitation and work-

related training as meeting the 24 hour per week direct work requirement; and (e) count certain teen parents who maintain satisfactory school attendance requirements.

I hope this information is helpful. Please contact me if you need additional information.

CJ/bh

August 9, 2002

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
201 E. Washington Ave.
Madison, WI 53707-7946

Re: Proposed rules on Chapter 56
Administration of Child Care Funds

Dear Ms. Pridgen,

This letter contains my comments on proposed rules affecting Chapter 56, governing the administration of child care funds. Although the proposed rules raise a number of important issues, I will concentrate my comments on the adjustments proposed to meet funding shortfalls, especially providing authority to establish waiting lists and to increase parental copayments. The waiting list provisions would establish priorities for service in the following order: W-2 participants, parents with children with special needs, teens completing high school, foster parents, and kinship care relatives.

1. Waiting lists as established in DWD 56.03(5) are neither authorized under the statute governing the Wisconsin shares program, nor are they contemplated by the legislature.

In Sec. 49.155(1m), eligibility criteria for the Wisconsin shares program are clearly laid out. Then in subsection (3)(a), it states that W-2 agencies "**shall** refer an individual who has been determined eligible under sub. (1m)" to county departments for child care assistance. Next, subsection (3)(b) states that the county department, "**shall** do all of the following:

1. Determine an individual's liability under sub. (5).
2. Provide a voucher to an eligible individual for the payment of child care services provided by a child care provider or otherwise reimburse child care providers.

...."

Finally, subsection (3m)(a) states that "the department **shall** reimburse child care providers or **shall** distribute funds to county departments . . . for child care services provided under this section" This is all mandatory language; it leaves no discretion to the department to decide to deny funds to eligible families under any terms.

As written, the child care statute does not contemplate running out of funds. When the legislature intends to provide for such an event, it clearly knows how to set forth standards for reducing expenditures. See sec. 49.665 (4)(at), Stats. where the department is authorized to meet insufficient funds in the Badger care program by lowering maximum income levels for initial eligibility. No language providing for such an eventuality is present in the child care statute.

Instead, on at least two occasions, in July, 2000, and again in April, 2001, the Joint Finance Committee approved additional funds when shortfalls in the Wisconsin shares program were imminent. Furthermore, in the 2001-03 Biennial Budget, the governor's budget sought to authorize waiting lists. The legislature rejected that proposal.

Besides failing to provide any authority for the department to establish waiting lists, the intent to provide for all eligible families is clear.

2. A better and fairer policy, should the department be unable to meet the demand for Wisconsin shares by any other means, would be to request authority to reduce income eligibility limits.

Waiting lists will hurt most those with the least stable employment – those cycling in and out of jobs or forced to depend on temporary employment. Losing employment will place them at the back of the line for Wisconsin shares, since there is no priority for working families (except those with special needs children). These are likely to be family heads who are just entering the job market, or those with the least marketable skills – a profile that fits many, many parents who are leaving the W-2 program.

The end result may well be families forced back into W-2, because they have no means of support without the child care necessary to work. Or, worse, parents may try to maintain their employment with only informal child care arrangements, or no child care arrangements at all. Finally, and even more perverse, the department's proposed priorities mean that family heads going back on W-2 will immediately go to the head of the line for Wisconsin shares eligibility!

Far better and fairer would be to reduce the maximum income limits for initial eligibility. Such an eligibility rule would favor those least able to pay, rather than those who happened to get in the door at the right time and then were able to sustain their employment the longest. Such a solution makes just as much sense for the Wisconsin shares program as it does for Badger care.

3. Increasing copays to reduce costs, as proposed in DWD 56.03(5)(c), would also reduce usage of the program by those most in need of help.

In January, 2001, the Legislative Audit Bureau reported that the cost of copayments to families likely resulted in parents not participating in Wisconsin shares. (LAB Report 01-1) According to federal estimates, only 13.6% of eligible children participated in the child care subsidy program in the period April through September, 1998. After reducing copayments somewhat, Wisconsin's levels were still higher than copayments in most other Midwestern states by July, 2000. And, county and W-2 agency staff told LAB that copayments remained unaffordable and that many parents did not participate as a result.

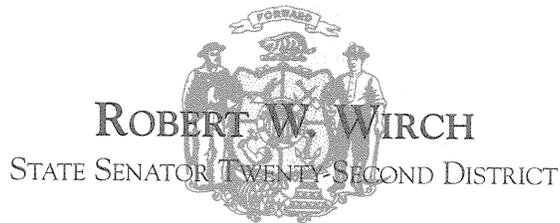
The result of raising copayments can only result in reducing usage of the program and parents relying on informal care, or no care at all. And, the lack of stable child care has a profound effect on parents' ability to sustain their work efforts.

4. Before any shortfall is declared, the department should urge the legislature to reduce W-2 work requirements for parents of infants.

The W-2 program currently requires full time work as soon as the youngest child in the family reaches 12 weeks of age. At the same time, reports are indicating that children whose parents work full time before a child is nine-months-old do less well in school. Other reports affirm the benefits of mothers nursing their infants, a practice exceedingly problematic for mothers returning so early to full-time work. Finally, infant day care is much more expensive than care for older children. For all these reasons it makes very good sense to reduce work requirements for parents of infants. Even a minimal change, such as allowing parents to provide full-time care of their infants up to 6 months of age, and then requiring half-time work until the child is a year old, makes excellent economic sense, and would promote the fiscal stability of the Wisconsin shares program as well as the health and welfare of Wisconsin's children.

Respectfully submitted,

Carol W. Medaris
Project Attorney
Wisconsin Council on Children and Families



September 12, 2002

State Senator Judy Robson
15 South Wing, State Capitol
Hand Delivered

Dear Senator Robson:

I am writing you to request that a public hearing be scheduled to discuss Administrative Clearinghouse Rule 02-104, which has been referred to the Senate Committee on Human Service and Aging. I have reviewed the rule in detail and am concerned with several entities of the Department of Workforce Development's (DWD) proposal.

I feel that it would be in the best interest of the Committee, the DWD, and the public to hold a public hearing in regards to CR 02-104. Thank you in advance for your consideration and cooperation.

Sincerely,

ROBERT W. WIRCH
State Senator
22nd Senate District

State Capitol, P.O. Box 7882, Madison, Wisconsin 53707-7882 • 608-267-8979

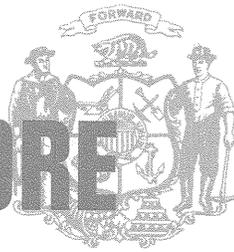
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State Senator
GWENDOLYNNE MOORE



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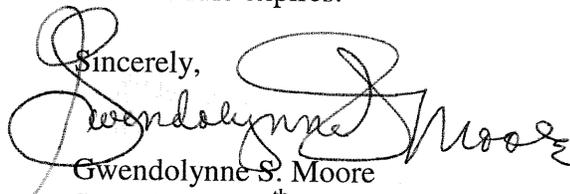
September 11, 2002

Senator Judy Robson
Chair, Senate Committee on Human Services and Aging
Madison, WI
Hand Deliver

Dear Senator Robson,

Department of Workforce Development Clearinghouse Rule Number: 02-104, relating to the administration of child care funds, has been forwarded to the Senate Committee on Human Services and Aging. My staff person, Kelly Bablitch, has communicated some of my concerns as it relates to the implementation of this rule to your office. I respectfully request that you conduct a public hearing on this rule before the Committee's jurisdiction over the rule expires.

Sincerely,


Gwendolynne S. Moore
State Senator, 4th District

Sargent, Justin

From: Bablitch, Kelly
Sent: Tuesday, September 10, 2002 11:14 AM
To: Sargent, Justin
Subject: FW: Additional information request as it relates to the child care memo

Please see attached a memo request Senator Moore has made of the non-partisan Legislative Fiscal Bureau. Obviously, this memo has been requested in response to her objections to DWD's proposed rule.

Let me know if you have any questions.

Kelly Bablitch

-----Original Message-----

From: Bablitch, Kelly
Sent: Tuesday, September 10, 2002 11:12 AM
To: Reinhardt, Rob; Jakel, Carri
Subject: Additional information request as it relates to the child care memo

As it relates to Senator Moore's request on an update on the financial situation of the direct child care subsidy program, I would appreciate the LFB including the following additional information:

- Information on the two times the Joint Committee on Finance stepped in to cover a projected shortfall in the direct child care subsidy program during the 1999-01 budget cycle. Specifically, how much funding did the Department of Workforce Development request (for what DWD projected caseload) and how much funding did the Joint Committee on Finance actually provide/approve (based on LFB caseload projections) (please note Director Bob Lang prepared a memo to the entire Joint Committee on Finance explaining how DWD failed to follow the April 2001 instructions of the Finance Committee---to ensure accuracy regarding what actually happened this information regarding the DHFS/DWD motion should be included).
- A description of the funding (and the below-described policy item) provided for the direct child care subsidy in the budget proposed by Governor Scott McCallum in February 2001. Specifically, that at the time of introduction, the LFB projected that based on funding provided in Governor McCallum's budget that there would be a \$95 million deficit in the child care budget. Also, please describe the Governor's provision that would have granted DWD and DOA administrative authority (without any legislative approval) to override all existing law on the child care program. (Victoria Carreon described some of the policy implications in her LFB budget paper #1045). Then, please describe what JFC actually approved (i.e., in terms of increased funding, for LFB projected caseload, as well as removal of the previously described policy item.) As well, as what was signed into law (i.e., how much funding does Act 16 provide the direct child care subsidy program (above base funding and above Governor's funding). Could you also note the Governor's veto message as it related to the policy provision that the Legislature removed.
- Furthermore, could you provide a discussion of the federal TANF requirements as they relate to state provision of child care. Again, Ms. Carreon discussed this in her LFB paper, #1045, point #28 and #29. As well in an April 2001, memo to Senator Gwen Moore. It would be important to note that there are currently competing TANF proposals at the federal level, as it relates to workforce participation rates (point #29 in Ms. Carreon's memo notes the federal law requirement on Workforce Participation rates.) Please include information on what President Bush included as a the new workforce participation requirement in his TANF proposal (he proposed increasing the state workforce participation rates).

As I previously mentioned, this issue is quite timely, since Senator Robson's Committee's jurisdiction on DWD's proposed child care rule expires October 4th, 2002. I know Senator Wirch's office is also interested in this information.

Thank you in advance for your assistance.

Kelly Bablitch
Policy Analyst
Office of Senator Moore

February 20, 2001 **Moore Asks Governor McCallum to Fully Fund**

Child Care Program Madison--- According to a memorandum prepared by the non-partisan Legislative Fiscal Bureau (LFB) per the request of State Senator Gwendolynne S. Moore (D-Milwaukee), the state's child care subsidy program, Wisconsin Shares, will have a budget deficit in FY 2001 ranging from - \$37.3 million to -\$50.7 million. As a result of this information, Senator Moore urged Governor Scott McCallum "to prioritize fully funding the child care program in this fiscal year and in the 2001-03 state budget because Wisconsin's low-income working families require continued access to quality, affordable child care." Moore noted that in July 2000, the Joint Committee on Finance already once unanimously approved providing additional dollars for the child care subsidy program, in an attempt to prevent a shortfall of funding during this biennium. Moore, in a February 19, 2001, letter to Governor McCallum, asked that he instruct his cabinet to "work cooperatively and expeditiously to prevent a shortfall of funding in the child care program during this fiscal year." A member of the influential Joint Committee on Finance, Moore asked the LFB to identify funds available to meet the projected shortfall in funding, including underspending in the 2000-01 Temporary Assistance to Needy Families (TANF) program. According to the LFB, "based on the changes in revenues and expenditures...., the total amount of all available funds to meet the child care expenditure shortfall is \$41.6 million." Moore said, "If the Governor would act quickly, the Finance Committee could consider these dollars, thus assuring adequate funding for Wisconsin Shares and eliminating any need to create undesirable waiting lists for child care in this state." The Department of Workforce Development asked for an additional \$51.9 million in federal funding for the child care subsidy program in their 2001-03 budget request. However, the non-partisan Legislative Audit Bureau, in its January 2001, evaluation of the subsidy program, noted that, "it is difficult to assess whether the amount requested will be adequate to cover program costs." Therefore, in her letter, Moore urged Governor McCallum "to ensure that the child care subsidy program, Wisconsin Shares, is sufficiently funded in the state budget you present to the legislature tomorrow." In Governor McCallum's budget address delivered to the legislature today, he indicated that his budget included an additional \$84 million for direct child care. Senator Moore further recommended two proactive steps that the McCallum administration could take toward this goal: modifying the current law requirement that requires women to return to work six weeks after the birth of a child and including enough General Purpose Revenue (GPR) in the child care budget so the state can directly draw down all federal dollars for which it is eligible.

July 16, 2000

Senator Moore's Proposals for Child Care Spending and Community Corrections receive Unanimous Support from the Joint Committee on Finance

Madison--Senator Gwendolynne S. Moore (D-Milwaukee), a member of the influential Joint Committee on Finance, secured millions of dollars for Milwaukee at the June 12, 2000, quarterly meeting of the Committee. Senator Moore offered motions to provide an additional \$60 million in additional child care spending and over \$1 million for community corrections programs, including alcohol and other drug abuse (AODA) treatment. Both of Moore's amendments, which could bring millions of dollars into Milwaukee's economy, received the unanimous support of the Committee.

The additional child care funding will be used to supplement Wisconsin Shares, the Child Care Subsidy Program. Moore fought to secure additional dollars for the program to cover current and

anticipated funding shortfalls. Moore's proposal utilizes federal Child Care Development Block Grant (CCDBG) funds and Temporary Assistance to Needy Families (TANF) dollars to provide an additional \$7.9 million in fiscal year 2001 and to create a \$19.8 million reserve fund for the Child Care Subsidy Program. Moore said, "the provision of these dollars for the subsidy program is an appropriate use of TANF funds and will help prevent the formation of waiting lists for child care assistance in the future. We must strive to ensure that low-income families continue to have access to affordable child care."

In addition to providing additional dollars for the Wisconsin Shares program, the Committee also more than tripled funding for the child care scholarship and bonus program. The newly expanded program will provide a training and scholarship system for child care workers serving children of all ages, including family care providers and group center staff, combined with an annual bonus for child care workers who meet specified levels of education. Moore said, "Wisconsin currently faces a crisis in the child care industry because we lose well-qualified providers every day, primarily due to low-wages. This initiative will help ensure that child care providers are fully prepared for the work with which we entrust them."

The Finance Committee also approved a local pass-through of child care federal funds in the amount of \$26 million. The proposal will provide opportunities for local public agencies to draw down federal child care match dollars. According to a formula established by the Department of Workforce Development, Milwaukee is now eligible to draw down at least \$8.9 million of the available dollars.

Senator Moore also sponsored a motion which allocated an additional \$500,000 of unspent funds in the Department of Corrections' (DOC) budget toward alcohol and other drug abuse (AODA) programming for probation and parolees. The Joint Committee on Finance unanimously backed the provision after Senator Moore stressed the well-documented connection between individuals with substance abuse issues and criminal conduct.

"The Legislature often thinks nothing of allocating millions of dollars toward prison building and shipping inmates to other states," said Moore. "However, we need to invest in resources that will help integrate offenders back into our communities. Substance abuse treatment is an essential component of preventing many offenders from returning to a life of crime."

Senator Moore's motion also allocated \$150,000 for the Operation Fresh Start program--a multi-agency state program that provides educational and vocational training to at-risk youth.

Sargent, Justin

From: Flury, Kelley
Sent: Monday, October 07, 2002 10:39 AM
To: Sargent, Justin
Subject: Please call Mark Wadium, Outagamie County, re Oct. 16 committee hearing

446-0440 (Madison number)

Sargent, Justin

From: Kostelic, Jeff
Sent: Monday, September 30, 2002 2:47 PM
To: Sargent, Justin
Subject: Rule Hearing

Jonathan Peacock - Wisconsin Council on Children and Families would like to discuss the scheduling of rule. 284-0580 ext 307

WECA

Mary Babula
Wisconsin Early Childhood Association
Membership Services Director

Childhood Assn.
Wisc. St., Suite 200
Milwaukee, WI 53203
608-240-9880 ext. 7222
1-800-783-9322 ext. 7222
Fax: (608) 240-9890
Email: mbabula@wecanaeyc.org

9/6/02

Hello Justin,

On behalf of the Wis Women's
Network Child Care Task Force

I would like to request that
the Senate Committee on
Human Services + Aging

Schedule a hearing on DW D
Pub C R 02-104 relating to
Child care administration.

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September 11, 2002

Senator Judy Robson, Chair
Senate Committee on Human Services and Aging
P.O. Box 7882
Madison, WI 53707-7882

Re: Clearinghouse Rule 02-104
Relating to administration of child care funds

Dear Senator Robson,

By this letter I wish to request that you schedule a hearing on the Department's proposed rules relating to administration of child care funds. Although the Department made some changes as a result of comments at the administrative hearing, very serious problems remain.

Most important, in the view of the Council, is the Department's proposal to establish and set priorities for waiting lists. Waiting lists are neither authorized by statute nor are they contemplated by the legislature. In fact, the legislature specifically refused to authorize waiting lists in the last legislative session. (See discussion of these issues in my August 9, 2001 letter to the Department, attached.) Neither are they good policy, hurting most those with the least stable employment, and raising the distinct possibility that family heads will have to return to the W-2 program to regain eligibility for the Wisconsin Shares subsidy.

The Department's proposal to increase copays to meet a funding shortfall is also bad policy: it increases barriers to work among the lowest-paid wage-earners. And, it was also rejected by the legislature as a response to funding shortfalls in the last session.

The legislature has thus far consistently met anticipated deficits in the Wisconsin Shares program with additional funding. Any other approach should await careful consideration by the legislature, rather than be accomplished by unilateral administrative action which directly contravenes past legislative decisions.

Cordially,
Carol W. Medaris
Project Attorney





August 9, 2002

Elaine Pridgen
Office of Legal Counsel
Dept. of Workforce Development
201 E. Washington Ave.
Madison, WI 53707-7946

Re: Proposed rules on Chapter 56
Administration of Child Care Funds

Dear Ms. Pridgen,

This letter contains my comments on proposed rules affecting Chapter 56, governing the administration of child care funds. Although the proposed rules raise a number of important issues, I will concentrate my comments on the adjustments proposed to meet funding shortfalls, especially providing authority to establish waiting lists and to increase parental copayments. The waiting list provisions would establish priorities for service in the following order: W-2 participants, parents with children with special needs, teens completing high school, foster parents, and kinship care relatives.

- 1. Waiting lists as established in DWD 56.03(5) are neither authorized under the statute governing the Wisconsin shares program, nor are they contemplated by the legislature.**

In Sec. 49.155(1m), eligibility criteria for the Wisconsin shares program are clearly laid out. Then in subsection (3)(a), it states that W-2 agencies “shall refer an individual who has been determined eligible under sub. (1m)” to county departments for child care assistance. Next, subsection (3)(b) states that the county department, “shall do all of the following:

1. Determine an individual’s liability under sub. (5).
2. Provide a voucher to an eligible individual for the payment of child care services provided by a child care provider or otherwise reimburse child care providers.

....”

Finally, subsection (3m)(a) states that “the department shall reimburse child care providers or shall distribute funds to county departments . . . for

child care services provided under this section” This is all mandatory language; it leaves no discretion to the department to decide to deny funds to eligible families under any terms.

As written, the child care statute does not contemplate running out of funds. When the legislature intends to provide for such an event, it clearly knows how to set forth standards for reducing expenditures. See sec. 49.665 (4)(at), Stats. where the department is authorized to meet insufficient funds in the Badger care program by lowering maximum income levels for initial eligibility. No language providing for such an eventuality is present in the child care statute.

Instead, on at least two occasions, in July, 2000, and again in April, 2001, the Joint Finance Committee approved additional funds when shortfalls in the Wisconsin shares program were eminent. Furthermore, in the 2001-03 Biennial Budget, the governor’s budget sought to authorize waiting lists. The legislature rejected that proposal.

Besides failing to provide any authority for the department to establish waiting lists, the intent to provide for all eligible families is clear.

2. A better and fairer policy, should the department be unable to meet the demand for Wisconsin shares by any other means, would be to request authority to reduce income eligibility limits.

Waiting lists will hurt most those with the least stable employment – those cycling in and out of jobs or forced to depend on temporary employment. Losing employment will place them at the back of the line for Wisconsin shares, since there is no priority for working families (except those with special needs children). These are likely to be family heads who are just entering the job market, or those with the least marketable skills – a profile that fits many, many parents who are leaving the W-2 program.

The end result may well be families forced back into W-2, because they have no means of support without the child care necessary to work. Or, worse, parents may try to maintain their employment with only informal child care arrangements, or no child care arrangements at all. Finally, and even more perverse, the department’s proposed priorities mean that family heads going back on W-2 will immediately go to the head of the line for Wisconsin shares eligibility!

Far better and fairer would be to reduce the maximum income limits for initial eligibility. Such an eligibility rule would favor those least able to pay, rather than those who happened to get in the door at the right time and then were able to sustain their employment the longest. Such a solution

makes just as much sense for the Wisconsin shares program as it does for Badger care.

3. Increasing copays to reduce costs, as proposed in DWD 56.03(5)(c), would also reduce usage of the program by those most in need of help.

In January, 2001, the Legislative Audit Bureau reported that the cost of copayments to families likely resulted in parents not participating in Wisconsin shares. (LAB Report 01-1) According to federal estimates, only 13.6% of eligible children participated in the child care subsidy program in the period April through September, 1998. After reducing copayments somewhat, Wisconsin's levels were still higher than copayments in most other midwestern states by July, 2000. And, county and W-2 agency staff told LAB that copayments remained unaffordable and that many parents did not participate as a result.

The result of raising copayments can only result in reducing usage of the program and parents relying on informal care, or no care at all. And, the lack of stable child care has a profound effect on parents' ability to sustain their work efforts.

4. Before any shortfall is declared, the department should urge the legislature to reduce W-2 work requirements for parents of infants.

The W-2 program currently requires full time work as soon as the youngest child in the family reaches 12 weeks of age. At the same time, reports are indicating that children whose parents work full time before a child is nine-months-old do less well in school. Other reports affirm the benefits of mothers nursing their infants, a practice exceedingly problematic for mothers returning so early to full-time work. Finally, infant day care is much more expensive than care for older children. For all these reasons it makes very good sense to reduce work requirements for parents of infants. Even a minimal change, such as allowing parents to provide full-time care of their infants up to 6 months of age, and then requiring half-time work until the child is a year old, makes excellent economic sense, and would promote the fiscal stability of the Wisconsin shares program as well as the health and welfare of Wisconsin's children.

Respectfully submitted,



Carol W. Medaris
Project Attorney
Wisconsin Council on Children and Families

To: Members of the Senate Committee on Human Services and Aging
From: Justin Sargent, committee clerk for Senator Robson
Date: September 5, 2002
Re: Administrative Rule Referred to the Committee

An administrative rule was referred to the committee for review. If you would like a hard copy of this rule, please let me know. I can be reached at 6-2253 or by email.

Please also contact me if you would like the committee to hold a hearing on this rule.

The committee has jurisdiction over this rule until October 4, 2002.

CR 02-104

The Department of Workforce Development is submitting CR 02-104, relating to administration of child care funds.

This proposed rule provides authority to adjust various policies if child care funds are insufficient to serve all eligible families, increase the number of age categories used to determine maximum reimbursement rates from 2 to 4, exclude providers at which more than 75% of the children's care is subsidized from the survey used to determine market rates, authorize new methods of monitoring to prevent and address fraud and overpayments, and create appeal rights for providers.

Senate Human Services and Aging Committee

Paper ballot, please return by 5pm Thursday October 17th.

CR 02-104 relating to the administration of child care funds.

Moved to:

Request DWD to modify Clearinghouse Rule 02-104 by deleting Sections 17 and 22, but to maintain Section 44 to eliminate the authority for counties to establish waiting lists, and request DWD to review Section 38.

Motioned by Senator Moore
Seconded by Senator Wirch

yes no



Senator Carol Roessler

OCT 17 2002 1:20 PM

Senate Human Services and Aging Committee

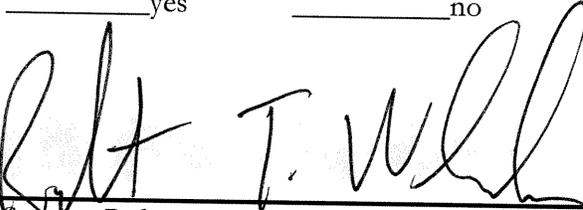
Paper ballot, please return by 5pm Thursday October 17th.

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Request DWD to modify Clearinghouse Rule 02-104 by deleting Sections 17 and 22, but to maintain Section 44 to eliminate the authority for counties to establish waiting lists, and request DWD to review Section 38.

Motioned by Senator Moore
Seconded by Senator Wirch

_____yes X no


Senator Robert Welch

OCT 17 2002

OCT 17 2002

8:29 AM

Senate Human Services and Aging Committee

Paper ballot, please return by 5pm Thursday October 17th.

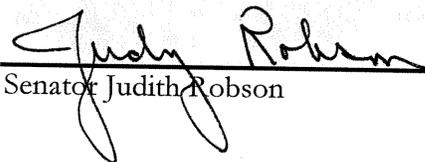
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Seconded by Senator Wirch

yes no



Senator Judith Robson

Senate Human Services and Aging Committee

Paper ballot, please return by 5pm Thursday October 17th.

CR 02-104 relating to the administration of child care funds.

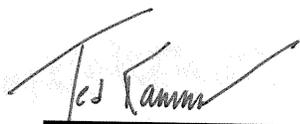
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Request DWD to modify Clearinghouse Rule 02-104 by deleting Sections 17 and 22, but to maintain Section 44 to eliminate the authority for counties to establish waiting lists, and request DWD to review Section 38.

Motioned by Senator Moore
Seconded by Senator Wirch

_____yes

no



Senator Ted Kanavas

OCT 17 2002 9:05 AM

Senate Human Services and Aging Committee

Paper ballot, please return by 5pm Thursday October 17th.

CR 02-104 relating to the administration of child care funds.

Moved to:

Request DWD to modify Clearinghouse Rule 02-104 by deleting Sections 17 and 22, but to maintain Section 44 to eliminate the authority for counties to establish waiting lists, and request DWD to review Section 38.

Motioned by Senator Moore
Seconded by Senator Wirch

yes no

Sen. David Hansen

Senator David Hansen

OCT 17 2002 9:45 AM

