



## WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

**2009 Wisconsin Act 335**  
[2009 Assembly Bill 780]

**Rates for Child Welfare Providers**

2009 Wisconsin Act 335 exempts certain child welfare providers from limitations on use of surplus revenue, makes changes to the procedures for determining rates charged by child welfare providers, and requires the Department of Children and Families (DCF) to implement performance-based contracting for child welfare providers.

### **Surplus Revenue**

Under *current law*, all children and family support services and child welfare services purchased by DCF or a county department must meet certain statutory standards. Under one of these standards, if revenue under a contract for the provision of a rate-based service exceeds allowable costs incurred in the contract period, the service provider may retain from the surplus generated by that rate-based service up to 5% of the contract amount. A provider that retains a surplus must use it to cover a deficit between revenue and allowable costs incurred in any preceding or future contract period for the same rate-based service that generated the surplus or to address the programmatic needs of clients served by the same rate-based service that generated the surplus. Also under current law, a provider may accumulate funds from more than one contract period except that, if at the end of the contract period the amount accumulated from all contract periods for a rate-based service exceeds 10% of the amount of all current contracts for that service, the provider must, at the request of a purchaser, return to the purchaser the purchaser's proportional share of that excess and use any of that excess that is not returned to a purchaser to reduce the provider's rate for that service in the next contract period. If a provider has held for four consecutive contract periods an accumulated reserve for a service that is equal to or exceeds 10% of the amount of all current contracts for that service, the provider must apply 50% of that accumulated amount to reducing its unit rate per client for that service in the next contract period.

*Act 335* exempts child welfare agencies, group homes, and residential care centers (RCCs) from current law limiting the amount of reserves a provider may retain from the surplus generated by a rate-based service in a contract period to 5% of the contract amount. The Act also permits DCF to grant an exception to a child welfare agency, group home, or RCC, upon request of the child welfare agency,

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This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature's Web site at: <http://www.legis.state.wi.us/>.

group home, or RCC, to the provisions that apply to a provider if the amount of the surplus funds accumulated from all contract periods for a rate-based service exceeds 10% of the amount of all current contracts for that service.

### **Rates for Out-of-Home Care**

**2009 Wisconsin Act 28**, the Biennial Budget Act, requires RCCs and group homes to annually submit to DCF the per client rate it proposes to charge for services provided in the next year. Also, a child welfare agency must submit to DCF the proposed per client administrative rate it proposes to charge for foster care services provided in the next year. These provisions will first apply to rates for calendar year 2011. DCF must review the proposed rate and audit the RCC, group home, or child welfare agency to determine whether the proposed rate is appropriate to the level of services to be provided, the qualifications of the RCC, group home, or child welfare agency to provide those services, and the reasonable and necessary costs of providing those services. Current law sets forth factors DCF must consider in reviewing a proposed rate. If DCF determines that a proposed rate submitted is appropriate, DCF must approve the proposed rate. If DCF does not approve the proposed rate, DCF must negotiate with the RCC, group home, or child welfare agency to determine an agreed to rate. If after negotiations a rate is not agreed to, DCF and the RCC, group home, or child welfare agency must engage in mediation under a rate resolution procedure promulgated by DCF by administrative rule to arrive at an agreed to rate. If after mediation a rate is not agreed to, the RCC, group home, or child welfare agency may not provide the service for which the rate was proposed.

**Act 335** adds factors DCF must consider in reviewing a proposed rate. First, DCF must consider changes in the consumer price index for all urban consumers, U.S. city average, for the medical care group. Second, DCF must consider whether the agency is accredited by a national accrediting body that has developed child welfare standards.

The Act provides that if after mediation with a group home, RCC, or child welfare agency rate, a rate is not agreed to, DCF must order a rate for the service after considering the factors set forth under current law for reviewing a proposed rate. Under the Act, an RCC, group home, or child welfare agency may appeal the rate set by the department as a contested case under ch. 227, Stats., by filing a request for a hearing with DCF within 30 days after the date of the order.

The Act creates a performance-based contracting system for group homes, RCCs, and child welfare agencies that will be implemented over a three-year period beginning January 1, 2011. DCF, in consultation with an advisory committee, must identify performance-based contracting measurements by which to evaluate the performance of providers in meeting the goals for children placed in their care, and goals for the out-of-home care system. In the year beginning January 1, 2011, DCF must select a representative sample of providers whose performance will be evaluated on the attainment of the measurements identified by the advisory committee. At the end of 2011, DCF, in consultation with the advisory committee, must adjust the measurements as needed.

Beginning January 1, 2013, all providers must have their performance evaluated on the attainment of the identified measurements. Adjustments in the measurements may be made thereafter on an as-needed basis.

Under the Act, DCF must report to the appropriate legislative standing committees on performance-based contracting by November 1, 2010.

***Effective date:*** Act 335 took effect on May 27, 2010.

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AS:ksm