2011 DRAFTING REQUEST

Bill

Received: **10/04/2010**

Received By: **mgallagh**

Wanted: **As time permits**

Companion to LRB:

For: **Administration-Budget 266-2213**

By/Representing: **Kisiolek**

May Contact: **Anna Oehler, DOC**

Drafter: **mgallagh**

Subject: **Children - juvenile justice**
Correctional System - com crctns

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Kisiolek, BB0041 -

Topic:

DJC Daily Rates

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	mgallagh 10/13/2010	csicilia 10/15/2010 csicilia 11/12/2010	jfrantze 10/19/2010	_____ _____ _____ _____	sbasford 10/19/2010		S&L
/P2	mgallagh 01/27/2011	csicilia 02/01/2011	mduchek 11/12/2010	_____ _____	mbarman 11/12/2010		S&L
/P3	mgallagh 02/09/2011 mgallagh	kfollett 02/09/2011 csicilia	rschluet 02/01/2011	_____ _____ _____	sbasford 02/01/2011		S&L

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
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/P4	mgallagh 02/11/2011	csicilia 02/12/2011	jfrantze 02/10/2011	_____ _____	sbasford 02/10/2011		S&L
/P5			phenry 02/12/2011	_____ _____	mbarman 02/14/2011		S&L

FE Sent For:

<END>

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/P3	mgallagh 02/09/2011 mgallagh	kfollett 02/09/2011 csicilia	rschluet 02/01/2011 2/12 ph	_____ _____ _____	sbasford 02/01/2011		S&L

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
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/P4			jfrantze 02/10/2011	_____ _____	sbasford 02/10/2011		S&L

/P5 gjs 2/12/10

FE Sent For:

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/P2	mgallagh 01/27/2011	csicilia 02/01/2011	mduchek 11/12/2010	_____ _____	mbarman 11/12/2010		S&L
/P3			rschluet 02/01/2011	_____ _____	sbasford 02/01/2011		S&L

/P3 gs 2/10/11 3/11

FE Sent For:

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Correctional System - com crctns

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Kisiolek, BB0041 -

Topic:

DJC Daily Rates

Instructions:

See attached

Drafting History:

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/P2			mduchek 11/12/2010	_____ _____	mbarman 11/12/2010		S&L

FE Sent For:

<END>

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Drafter: **mgallagh**

Subject: **Children - juvenile justice**
Correctional System - com crctns

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Kisiolek, BB0041 -

Topic:

DJC Daily Rates

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	mgallagh 10/13/2010	csicilia 10/15/2010	jfrantze 10/19/2010	11/12 Km PH	sbasford 10/19/2010		S&L

FE Sent For: /P2 gs 11/12 10 11/12 **<END>**

10-13-2010

2011 DRAFTING REQUEST

Bill

Received: **10/04/2010**

Received By: **mgallagh**

Wanted: **As time permits**

Companion to LRB:

For: **Administration-Budget 266-2213**

By/Representing: **Kisiolek**

May Contact: **Anna Oehler, DOC**

Drafter: **mgallagh**

Subject: **Children - juvenile justice**
Correctional System - com crctns

Addl. Drafters:

Extra Copies: CJS

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

Pre Topic:

DOA:.....Kisiolek, BB0041 -

Topic:

DJC Daily Rates

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	mgallagh	/P1 cjs 10/15	10/15				

FE Sent For:

<END>

2011-13 Budget Bill Statutory Language Drafting Request

- Topic: DJC Daily Rates
- Tracking Code: BB0041
- SBO team: AEJ
- SBO analyst:
  - Phone: 266-2213
  - Email: Katrina.kisiolek@wisconsin.gov
- Agency acronym: DOC
- Agency number: 410
- Priority (Low, Medium, High): Medium

Intent: Update statues to show requested juvenile and community corrections rates once decide which juvenile facility to close. Also, include a nominal amount in the type 1 juvenile corrections facility rate to eliminate the 3(hm) deficit in twenty years.

DEPARTMENT OF CORRECTIONS
2011-2013 Biennial Budget
Statutory Language Request

Topic: DJC Daily Rates

Current Language

Current language at §301.26(4) sets the statutory rates for juveniles in correctional facilities and in community corrections over the time period of the biennium. Once a decision regarding the juvenile facility to close has been made, the rates below will need to be modified accordingly. The current facilities are too disparate in facility and staffing costs to be certain the rates below will remain the same regardless of which facility closes. In addition, the Type 1 juvenile correctional facility rate includes a nominal amount to eliminate the 3(hm) deficit in 20 years.

Proposed Change

Update the statutory dates and the rates calculated for the biennium.

§301.26(4)(d)2. Beginning on July 1, 2011, and ending on June 30, 2012, the per person daily cost assessment to counties shall be ~~$270~~ $290 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$270~~ $290 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$298~~ $321 for care in a residential care center for children and youth, ~~$190~~ $194 for care in a group home for children, ~~$72~~ $78 for care in a foster home, ~~$130~~ $118 for care in a treatment foster home, ~~$124~~ $102 for departmental corrective sanctions services and ~~$40~~ $42 for departmental aftercare services. ?

§301.26(4)(d)3. Beginning on July 1, 2012, and ending on June 30, 2013, the per person daily cost assessment to counties shall be ~~$275~~ $294 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$275~~ $294 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$313~~ $337 for care in a residential care center for children and youth, ~~$200~~ $202 for care in a group home for children, ~~$75~~ $81 for care in a foster home, ~~$130~~ $124 for care in a treatment foster home, ~~$103~~ $104 for departmental corrective sanctions services and ~~$41~~ $42 for departmental aftercare services.

Effect of the Change

This change will modify statutes to reflect requested juvenile and community corrections rates.

Rationale for the Change

Rates reflecting the cost of care in juvenile correctional institutions and community corrections are set in statute and updated each biennium.

Desired Effective Date:	Upon Passage of Bill
Agency:	DOC
Agency Contact:	Anna Oehler
Phone:	240-5524

09 Wis. Act 28, s. 2676

Section 2676. 301.26 (4) (d) 2. of the statutes, as affected by 2009 Wisconsin Act .... (this act), is amended to read:

09 Wis. Act 28, s. 2676 - continued

301.26 (4) (d) 2. Beginning on ~~July 1, 2009~~ January 1, 2010, and ending on June 30, 2010, the per person daily cost assessment to counties shall be $270 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), $270 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), $298 for care in a residential care center for children and youth, $190 for care in a group home for children, $72 for care in a foster home, $124 for care in a treatment foster home under rules promulgated under s. 48.62 (8) (c), $101 for departmental corrective sanctions services, and $40 for departmental aftercare services.

09 Wis. Act 28, s. 2677

Section 2677. 301.26 (4) (d) 3. of the statutes is amended to read:

09 Wis. Act 28, s. 2677 - continued

301.26 (4) (d) 3. Beginning on July 1, ~~2008~~ 2010, and ending on June 30, ~~2009~~ 2011, the per person daily cost assessment to counties shall be ~~$268~~ $275 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$268~~ $275 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$296~~ $313 for care in a residential care center for children and youth, ~~$172~~ $200 for care in a group home for children, ~~$74~~ $75 for care in a foster home, ~~$145~~ $130 for care in a treatment foster home, ~~$101~~ $103 for departmental corrective sanctions services, and ~~$37~~ $41 for departmental aftercare services.

09 Wis. Act 28, s. 2678

Section 2678. 301.26 (4) (d) 3. of the statutes, as affected by 2009 Wisconsin Act .... (this act), is amended to read:

09 Wis. Act 28, s. 2678 - continued

301.26 (4) (d) 3. Beginning on July 1, 2010, and ending on June 30, 2011, the per person daily cost assessment to counties shall be $275 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), $275 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), $313 for care in a residential care center for children and youth, $200 for care in a group home for children, $75 for care in a foster home, $130 for care in a treatment foster home under rules promulgated under s. 48.62 (8) (c), $103 for departmental corrective sanctions services, and $41 for departmental aftercare services.

DOA:.....Silver, BB0044 – Juvenile corrections daily rates

FOR 2009–11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

Under current law relating to community youth and family aids, generally referred to as "youth aids," DOC is required to allocate various state and federal moneys to counties to pay for state–provided juvenile correctional services and local delinquency–related and juvenile justice services. DOC charges counties for the costs of services provided by DOC according to per person daily cost assessments specified in the statutes. Currently, those assessments include assessments of $268 for care in a juvenile correctional facility or a treatment facility, $896 for care in a residential care center for children and youth, $170 for care in a group home, $74 for care in a foster home, $145 for care in a treatment foster home, $101 for corrective sanctions services, and $37 for aftercare services. This bill changes those assessments for fiscal year 2009–10 to $270 for care in a juvenile correctional facility or a treatment facility, $894 for care in a residential care center for children and youth, $190 for care in a group home, $72 for care in a foster home, $136 for care in a treatment foster home, $101 for corrective sanctions services, and $40 for aftercare services; and for fiscal year 2010–11 to $275 for care in a juvenile correctional facility or a treatment facility, $309 for care in a residential care center for children and youth, $200 for care in a group home, $75 for care in a foster home, $132 for care in a treatment foster home, $103 for corrective sanctions services, and $41 for aftercare services.

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

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

SECTION 1. 301.26 (4) (d) 2. of the statutes is amended to read:

301.26 **(4)** (d) 2. Beginning on July 1, ~~2007~~ 2009, and ending on June 30, ~~2008~~ 2010, the per person daily cost assessment to counties shall be ~~$259~~ $270 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$259~~ $270 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$277~~ $294 for care in a residential care center for children and youth, ~~$165~~ $190 for care in a group home for children, ~~$67~~ $72 for care in a foster home, ~~$132~~ $126 for care in a treatment foster home, ~~$99~~ $101 for departmental corrective sanctions services, and ~~$35~~ $40 for departmental aftercare services.

Double draft

SECTION 2. 301.26 (4) (d) 3. of the statutes is amended to read:

301.26 **(4)** (d) 3. Beginning on July 1, ~~2008~~ 2010, and ending on June 30, ~~2009~~ 2011, the per person daily cost assessment to counties shall be ~~$268~~ $275 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$268~~ $275 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$296~~ $309 for care in a residential care center for children and youth, ~~$172~~ $200 for care in a group home for children, ~~$74~~ $75 for care in a foster home, ~~$145~~ $132 for care in a treatment foster home, ~~$101~~ $103 for departmental corrective sanctions services, and ~~$37~~ $41 for departmental aftercare services.

Double draft

the equivalent of treatment foster care under new level of care system

(END)

Eff. date – 2nd treatment date stated in the notice... (See Act 182, section 12(1)

D-Note – Drafting instructions set rate for treatment foster care, but treatment foster eliminated by 2009 Act 28. effective on date stated in the notice... instead s. 48.62 (~~4~~ 8) provides for different levels of foster care. ∴ DOA consult w/ DOC & DCF to determine how to describe

State of Wisconsin
2011 - 2012 LEGISLATURE

LRB-0214/P1
MPG

DOA:.....Kisiolek, BB0041 - DJC Daily Rates

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

Not
Do Not Use

1 AN ACT ...; **relating to:** the budget .

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

Under current law relating to community youth and family aids, generally referred to as "youth aids," DOC is required to allocate various state and federal moneys to counties to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services. DOC charges counties for the costs of services provided by DOC according to per person daily cost assessments specified in the statutes. Currently, those assessments include assessments of $275 for care in a juvenile correctional facility or a treatment facility, $275 for care for juveniles transferred from a juvenile correctional institution, $313 for care in a residential care center for children and youth, $200 for care in a group home, $75 for care in a foster home, $130 for care in a treatment foster home, $103 for corrective sanctions services, and $41 for aftercare services. This bill changes those assessments for fiscal year 2011-2012 to $290 for care in a juvenile correctional facility or a treatment facility, $290 for care for juveniles transferred from a juvenile correctional institution, $321 for care in a residential care center for children and youth, $194 for care in a group home, $78 for care in a foster home, $118 for care in a treatment foster home, $102 for corrective sanctions services, and $42 for aftercare services; and for fiscal year 2012-13 to $294 for care in a juvenile correctional facility or a treatment facility, $294 for care for juveniles transferred from a juvenile

correctional institution, $337 for care in a residential care center for children and youth, $202 for care in a group home, $81 for care in a foster home, $124 for care in a treatment foster home, $104 for corrective sanctions services, and $42 for aftercare services.

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

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

1 **SECTION 1.** 301.26 (4) (d) 2. of the statutes is amended to read:

2 301.26 **(4)** (d) 2. Beginning on July 1, ~~2009~~ 2011, and ending on June 30, ~~2010~~
3 2012, the per person daily cost assessment to counties shall be ~~$270~~ $290 for care in
4 a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$270~~ $290 for care
5 for juveniles transferred from a juvenile correctional institution under s. 51.35 (3),
6 ~~$298~~ $321 for care in a residential care center for children and youth, ~~$190~~ $194 for
7 care in a group home for children, ~~$72~~ $78 for care in a foster home, ~~$124~~ $118 for
8 care in a treatment foster home, ~~$101~~ $102 for departmental corrective sanctions
9 services, and ~~$40~~ $42 for departmental aftercare services.

NOTE: NOTE: Subd. 2. is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:NOTE:

10 **2. Beginning on January 1, 2010, and ending on June 30, 2010, the per person daily cost assessment to counties shall be $270 for care in a Type 1 juvenile correctional**
11 **facility, as defined in s. 938.02 (19), $270 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), $298 for care in a residential care**
12 **center for children and youth, $190 for care in a group home for children, $72 for care in a foster home, $124 for care in a treatment foster home under rules promulgated**
13 **under s. 48.62 (8) (c), $101 for departmental corrective sanctions services, and $40 for departmental aftercare services.**

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28.

14 **SECTION 2.** 301.26 (4) (d) 2. of the statutes, as affected by 2009 Wisconsin Act
15 28, section 2676, and 2011 Wisconsin Act .... (this act), of the statutes is repealed and
16 recreated to read:

17 301.26 **(4)** (d) 2. Beginning on July 1, 2011, and ending on June 30, 2012, the
18 per person daily cost assessment to counties shall be $290 for care in a Type 1
19 juvenile correctional facility, as defined in s. 938.02 (19), $290 for care for juveniles
20 transferred from a juvenile correctional institution under s. 51.35 (3), $321 for care

in a residential care center for children and youth, $194 for care in a group home for children, $78 for care in a foster home [other than a foster home that is certified to provide level * care, as defined in the rules promulgated under s. 48.62 (8) (a)], $118 for care in a [foster home that is certified to provide level * care, as defined in those rules], $102 for departmental corrective sanctions services, and $42 for departmental aftercare services.

Note: The bracketed language needs to be completed prior to introduction

SECTION 3. 301.26 (4) (d) 3. of the statutes is amended to read:

301.26 **(4)** (d) 3. Beginning on July 1, ~~2010~~ 2012 , and ending on June 30, ~~2011~~ 2013, the per person daily cost assessment to counties shall be ~~$275~~ $294 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$275~~ $294 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$313~~ $337 for care in a residential care center for children and youth, ~~$200~~ $202 for care in a group home for children, ~~$75~~ $81 for care in a foster home, ~~$130~~ $124 for care in a treatment foster home, ~~$103~~ $104 for departmental corrective sanctions services, and ~~$41~~ $42 for departmental aftercare services.

NOTE: NOTE: Subd. 3. is amended by 2009 Wis. Act 28 eff. the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9) to read:NOTE:

3. Beginning on July 1, 2010, and ending on June 30, 2011, the per person daily cost assessment to counties shall be $275 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), $275 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), $313 for care in a residential care center for children and youth, $200 for care in a group home for children, $75 for care in a foster home, $130 for care in a treatment foster home under rules promulgated under s. 48.62 (8) (c), $103 for departmental corrective sanctions services, and $41 for departmental aftercare services.

History: 1995 a. 27 ss. 6363p, 9126 (19); 1995 a. 77, 352, 416, 417; 1997 a. 27, 35, 237, 252; 1999 a. 9, 32; 2001 a. 16, 59, 109; 2003 a. 33; 2005 a. 25, 344; 2007 a. 20 ss. 3112 to 3124; 9121 (6) (a); 2007 a. 97; 2009 a. 28.

SECTION 4. 301.26 (4) (d) 3. of the statutes, as affected by 2009 Wisconsin Act 28, section 2678, and 2011 Wisconsin Act .... (this act), of the statutes is repealed and recreated to read:

301.26 **(4)** (d) 3. Beginning on July 1, 2012 , and ending on June 30, 2013, the per person daily cost assessment to counties shall be $294 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), $294 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), $337 for care

in a residential care center for children and youth, $202 for care in a group home for children, $81 for care in a foster home [other than a foster home that is certified to provide level * care, as defined in the rules promulgated under s. 48.62 (8) (a)], $124 for care in a [foster home that is certified to provide level * care, as defined in those rules], $104 for departmental corrective sanctions services, and $42 for departmental aftercare services.

**** Note: The bracketed language needs to be completed prior to introduction

SECTION 9411. Effective dates; Corrections.

(1) JUVENILE CORRECTIONAL SERVICES DAILY RATES. The repeal and recreation of section 301.26 (4) (d) 2. and 3. of the statutes takes effect on the date stated in the notice provided by the secretary of children and families and published in the Wisconsin Administrative Register under section 48.62 (9) of the statutes.

(END)

July 1, 2011, or on the day after publication, or on

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0214/P1dn
MPG/...:...

Oct. 13, 2010

date

gjs

children and families

Katrina:

Please review this draft carefully to ensure that it is consistent with your intent.

The drafting instructions set a new rate for "treatment foster care." However, treatment foster care was eliminated by 2009 Wisconsin Act 28, effective on the date stated in the notice to be provided by the secretary of DCF and published in the Wisconsin Administrative Register under s. 48.62 (9), stats. Instead, s. 48.62 (8), stats., provides for different levels of foster care to be developed through rule-making. Therefore, you should consult with DOC and DCF to determine how the equivalent of treatment foster care will be described under the new level of care system for purposes of establishing the daily rates. In this draft, in sections 2 and 4, I have bracketed the portion that needs to be completed based on the new description of the equivalent care to treatment foster care.

Also, please confirm the updated dollar amounts for the daily rates under s. 301.26 (4) (d) 2. Some of the stricken amounts shown in the drafting instructions do not match the current levels in the statute.

Thanks,

Michael P. Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0214/P1dn
MPG:cjs:jf

October 19, 2010

Katrina:

Please review this draft carefully to ensure that it is consistent with your intent.

The drafting instructions set a new rate for "treatment foster care." However, treatment foster care was eliminated by 2009 Wisconsin Act 28, effective on the date stated in the notice to be provided by the secretary of children and families and published in the Wisconsin Administrative Register under s. 48.62 (9), stats. Instead, s. 48.62 (8), stats., provides for different levels of foster care to be developed through rule-making. Therefore, you should consult with DOC and DCF to determine how the equivalent of treatment foster care will be described under the new level of care system for purposes of establishing the daily rates. In this draft, in sections 2 and 4, I have bracketed the portion that needs to be completed based on the new description of the equivalent care to treatment foster care.

Also, please confirm the updated dollar amounts for the daily rates under s. 301.26 (4) (d) 2. Some of the stricken amounts shown in the drafting instructions do not match the current levels in the statute.

Thanks,

Michael P. Gallagher
Legislative Attorney
Phone: (608) 267-7511
E-mail: michael.gallagher@legis.wisconsin.gov

Gallagher, Michael

From: Kisiolek, Katrina L - DOA [Katrina.Kisiolek@wisconsin.gov]
Sent: Tuesday, November 09, 2010 3:43 PM
To: Gallagher, Michael
Subject: DJC rates

Hi Michael,
Here are the updated rates for BB0041. Only the top line (juvenile correctional facilities) has changed.

	FY12	FY13
Juvenile Correctional Facilties	$ 288.00	$ 291.00
Corrective Sanctions	$ 102.00	$ 104.00
Aftercare	$ 42.00	$ 42.00
Residential Care Centers	$ 321.00	$ 337.00
Group Homes	$ 194.00	$ 202.00
Treatment Foster Homes	$ 118.00	$ 124.00
Regular Foster Homes	$ 78.00	$ 81.00

Thanks,
Katie

Katrina Kisiolek
266-2213

LRB 0214

Redraft In 11-12-2010

State of Wisconsin
2011 - 2012 LEGISLATURE

LRB-0214/1
MPG:cjs:jf
Stays

P2

DOA:.....Kisiolek, BB0041 - DJC Daily Rates

FOR 2011-13 BUDGET -- NOT READY FOR INTRODUCTION

Do NOT Gen

1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

CORRECTIONAL SYSTEM

JUVENILE CORRECTIONAL SYSTEM

Under current law relating to community youth and family aids, generally referred to as "youth aids," DOC is required to allocate various state and federal moneys to counties to pay for state-provided juvenile correctional services and local delinquency-related and juvenile justice services. DOC charges counties for the costs of services provided by DOC according to per person daily cost assessments specified in the statutes. Currently, those assessments include assessments of $275 for care in a juvenile correctional facility, $275 for care for juveniles transferred from a juvenile correctional institution, $313 for care in a residential care center for children and youth, $200 for care in a group home, $75 for care in a foster home, $130 for care in a treatment foster home, $103 for corrective sanctions services, and $41 for aftercare services. This bill changes those assessments for fiscal year 2011-2012 to $290 for care in a juvenile correctional facility, $290 for care for juveniles transferred from a juvenile correctional institution, $321 for care in a residential care center for children and youth, $194 for care in a group home, $78 for care in a foster home, $118 for care in a treatment foster home, $102 for corrective sanctions services, and $42 for aftercare services; and for fiscal year 2012-13 to $294 for care in a juvenile correctional facility, $294 for care for juveniles transferred from a juvenile correctional institution, $337 for care in a residential care center for

288 288 291 291

children and youth, $202 for care in a group home, $81 for care in a foster home, $124 for care in a treatment foster home, $104 for corrective sanctions services, and $42 for aftercare services.

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

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

SECTION 1. 301.26 (4) (d) 2. of the statutes is amended to read:

301.26 **(4)** (d) 2. Beginning on July 1, ~~2009~~ 2011, and ending on June 30, ~~2010~~ 2012, the per person daily cost assessment to counties shall be ~~$270~~ $290 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$270~~ $290 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$298~~ $321 for care in a residential care center for children and youth, ~~$190~~ $194 for care in a group home for children, ~~$72~~ $78 for care in a foster home, ~~$124~~ $118 for care in a treatment foster home, ~~$101~~ $102 for departmental corrective sanctions services, and ~~$40~~ $42 for departmental aftercare services.

SECTION 2. 301.26 (4) (d) 2. of the statutes, as affected by 2009 Wisconsin Act 28, section 2676, and 2011 Wisconsin Act .... (this act), of the statutes is repealed and recreated to read:

301.26 **(4)** (d) 2. Beginning on July 1, 2011, and ending on June 30, 2012, the per person daily cost assessment to counties shall be $290 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), $290 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), $321 for care in a residential care center for children and youth, $194 for care in a group home for children, $78 for care in a foster home [other than a foster home that is certified to provide level * care, as defined in the rules promulgated under s. 48.62 (8) (a)], $118

for care in a [foster home that is certified to provide level * care, as defined in those rules], $102 for departmental corrective sanctions services, and $42 for departmental aftercare services.

****NOTE: The bracketed language needs to be completed prior to introduction.

SECTION 3. 301.26 (4) (d) 3. of the statutes is amended to read:

301.26 **(4)** (d) 3. Beginning on July 1, ~~2010~~ 2012, and ending on June 30, ~~2011~~ 2013, the per person daily cost assessment to counties shall be ~~$275~~ $294 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$275~~ $294 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$313~~ $337 for care in a residential care center for children and youth, ~~$200~~ $202 for care in a group home for children, ~~$75~~ $81 for care in a foster home, ~~$130~~ $124 for care in a treatment foster home, ~~$103~~ $104 for departmental corrective sanctions services, and ~~$41~~ $42 for departmental aftercare services.

SECTION 4. 301.26 (4) (d) 3. of the statutes, as affected by 2009 Wisconsin Act 28, section 2678, and 2011 Wisconsin Act .... (this act), of the statutes is repealed and recreated to read:

301.26 **(4)** (d) 3. Beginning on July 1, 2012, and ending on June 30, 2013, the per person daily cost assessment to counties shall be $294 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), $294 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), $337 for care in a residential care center for children and youth, $202 for care in a group home for children, $81 for care in a foster home [other than a foster home that is certified to provide level * care, as defined in the rules promulgated under s. 48.62 (8) (a)], $124 for care in a [foster home that is certified to provide level * care, as defined in those

1 rules], $104 for departmental corrective sanctions services, and $42 for
2 departmental aftercare services.

****NOTE: The bracketed language needs to be completed prior to introduction.

3 **SECTION 9411. Effective dates; Corrections.**

4 (1) JUVENILE CORRECTIONAL SERVICES DAILY RATES. The repeal and recreation of
5 section 301.26 (4) (d) 2. and 3. of the statutes takes effect on July 1, 2011, or on the
6 day after publication, or on the date stated in the notice provided by the secretary
7 of children and families and published in the Wisconsin Administrative Register
8 under section 48.62 (9) of the statutes, whichever is latest.

9 **(END)**

Gallagher, Michael

From: Oehler, Anna M - DOC [Anna.Oehler@wisconsin.gov]
Sent: Thursday, January 20, 2011 1:51 PM
To: Gallagher, Michael; Kisiolek, Katrina L - DOA
Cc: McCulley, Shelby A - DOC; Bajkiewicz, David M - DOC; Couey, Roland - DOC
Subject: Language Change for 301.26(4)(d)2 and 3 regarding Alternate Care (RCC, TFC, FC, GH)

Attachments: Remove Alternate Care Rates.doc

Mike and Katie,
Attached is the language (very rough) draft that I pulled together to show you what we were looking due to the change at DCF for foster care and their level system.

I will let you know if there are any problems at the Secretary's Office level but at this point, we all appear to be on board with moving this forward without identifying rates within the statutes for residential care centers, group homes and foster homes.

Also, we want to make sure this change does not, in any way, change the ability of our staff to place youth into a placement based on assessed need. We didn't think it did but would like you to know that would be a concern for us. We also want to make sure that the reference to DCF 56 encompasses all applicable licensing and rate setting from DCF for residential care centers, group homes and foster homes. We aren't sure if DCF 56 is the only reference for these items or if they are scattered throughout various statutes and rules.

We appreciate your willingness to work with us as we move into the new biennium. Let me know if you have any questions.

Have a great day,

Remove Alternate Care Rates.do...

Anna Oehler
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Remove Alternate Care Rates.

FY12 – Statutory Draft
§301.26(4)(d)2. Beginning on July 1, 2011, and ending on June 30, 2012, the per person daily cost assessment to counties shall be ~~$270~~ $290 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$270~~ $290 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$298 $321 for care in a residential care center for children and youth, $190 $194 for care in a group home for children, $72 $78 for care in a foster home, $130 $118 for care in a treatment foster home, $124~~ $102 for departmental corrective sanctions services and ~~$40~~ $42 for departmental aftercare services.

FY13 – Statutory Draft
§301.26(4)(d)3. Beginning on July 1, 2012, and ending on June 30, 2013, the per person daily cost assessment to counties shall be ~~$275~~ $294 for care in a Type 1 juvenile correctional facility, as defined in s. 938.02 (19), ~~$275~~ $294 for care for juveniles transferred from a juvenile correctional institution under s. 51.35 (3), ~~$313 $337 for care in a residential care center for children and youth, $200 $202 for care in a group home for children, $75 $81 for care in a foster home, $130 $124 for care in a treatment foster home, $103~~ $104 for departmental corrective sanctions services and ~~$41~~ $42 for departmental aftercare services.

Replace crossed out sections in blue (and move to end of paragraph) with the following language:

The per person daily cost assessment to counties shall be the amount charged by the provider for residential care center for children and youth, care in a group home for children and care in a foster home and care in a treatment foster home as defined and licensed by the Department of Children and Families under rule DCF 56.

We didn't address the specific levels because, as we understand it, the levels may not be fully set and could still change.

State of Wisconsin
Department of Children and Families

EMERGENCY RULE

DCF 56
Foster Care

The Wisconsin Department of Children and Families orders the repeal of ch. DCF 38; ss. DCF 56.09(2)(h) and (i); the renumbering of s. DCF 56.03(1); the amendment of ss. DCF 56.01(1); 56.02(1), (2)(a)1., (b)1.(note), and (c)1; 56.03(3)(a), (14), (15), (22), (24), (29), (36), (38); 56.04(4)(a)2.(note) and (8); 56.05(1)(b) and (c); 56.07(2), (4)(d) and (i), and (10)(a); 56.08(8)(a)2.; 56.09(1)(h), (1m), (2)(a), and (4)(e); 56.13(title), (1)(title), (1), (2), (3)(title) and (e), (4)(title), and (4); 56.14(4), (6)(intro.) and (c), (7)(title), (a)(intro.), (b), (c), and (d), and (8)(b)3.; the repeal and recreation of ss. DCF 56.03(27); 56.04(2) and (4)(a)5m.; 56.06; 56.07(4)(g); 56.08(11) and (note); 56.09(2)(a); 56.11(title), (1), (4), and (5); and 56.15; and the creation of ss. DCF 56.03(1), (1g), (6m), (10m), (11m), (15m), (21g), (21r), (33m), (34d), (34h), (34p), (34t), (35m), (37e), (37m), (37s); 56.05(1)(b)2., (c)1.h. to n. and 2.; 56.07(1m), (2)(b), and (3)(d); 56.08(8)(a)3.; 56.09(1)(am), (bm), (dm), (em), (fm), (gm), (hm), and (o), (1g), (1m)(d) to (g), (4)(dm) and (g), and (10)(g); 56.13(1)(c) and (5) to (8); 56.14(4)(b), (6d), (6h), (6p), (6t), (7e), (7m), (7s), (8)(b)1g. and 1r.; 56.16 to 56.23; and Appendix A, relating to foster care.

Finding of Emergency

The Department of Children and Families finds that an emergency exists and that the attached rule is necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is:

In the Child and Family Services Review of Wisconsin's child welfare system this past year, the federal Administration for Children and Families found that Wisconsin is not operating in substantial conformity with a number of federal requirements. In response to this review, the department has submitted a program improvement plan that commits the department to complete implementation of the levels of care system and the child assessment tool throughout the first quarter of 2011. Implementation must begin immediately to meet this deadline and subsequent dependent deadlines in the remaining 2 years of the program improvement plan.

Analysis Prepared by the Department of Children and Families

Statutory authority: Sections 48.62 (1) and (8), 48.67 (1) and (4), and 227.11 (2) (a), Stats.
Statutes interpreted: Sections 48.62 and 48.67, Stats.
Related statute or rule: Ch. 48, Stats.; DCF 37 and 54

Explanation of Agency Authority

Section 48.62 (1), Stats., provides that any person who receives, with or without transfer of legal custody, 4 or fewer children or, if necessary to enable a sibling group to remain together, 6 or fewer children or, if the department promulgates rules permitting a different number of children, the number of children permitted under those rules, to provide care and maintenance for those children shall obtain a license to operate a foster home from the department, a county department or a licensed child welfare agency as provided in s. 48.75, Stats.

Section 48.62 (8), Stats., as created by 2009 Wisconsin Act 28 and affected by 2009 Wisconsin Act 71, provides that the department shall promulgate rules relating to foster homes as follows:

- Rules providing levels of care that a licensed foster home is certified to provide. Those levels of care shall be based on the level of knowledge, skill, training, experience, and other qualifications that are required of the licensee, the level of responsibilities that are expected of the licensee, the needs of the children who are placed with the licensee, and any other requirements relating to the ability of the licensee to provide for those needs that the department may promulgate by rule.

- Rules establishing a standardized assessment tool to assess the needs of a child placed or to be placed outside the home, to determine the level of care that is required to meet those needs, and to place the child in a placement that meets those needs. A foster home that is certified to provide a given level of care may provide foster care for any child whose needs are assessed to be at or below the level of care that the foster home is certified to provide. A foster home that is certified to provide a given level of care may not provide foster care for any child whose needs are assessed to be above that level of care unless the department, county department, or child welfare agency issuing the foster home license determines that support or services sufficient to meet the child's needs are in place and grants an exception to that prohibition.

- Rules providing monthly rates of reimbursement for foster care that are commensurate with the level of care that the foster home is certified to provide and the needs of the child who is placed in the foster home. Those rates shall include rates for supplemental payments for special needs, exceptional circumstances, and initial clothing allowances for children placed in a foster home that is receiving an age–related monthly rate under s. 48.62 (4), Stats. In promulgating the rules, the department shall provide a mechanism for equalizing the amount of reimbursement received by a foster parent prior to the promulgation of those rules and the amount of reimbursement received by a foster parent under those rules so as to reduce the amount of any reimbursement that may be lost as a result of the implementation of those rules.

- Rules providing a monthly retainer fee for a foster home that agrees to maintain openings for emergency placements.

Section 48.67 (1), Stats., provides that the department shall promulgate rules establishing minimum requirements for the issuance of licenses to, and establishing standards for the operation of, child welfare agencies, day care centers, foster homes, treatment foster homes, group homes, shelter care facilities, and county departments. Those rules shall be designed to protect and promote the health, safety, and welfare of the children in the care of all licensees.

Section 48.67 (4), Stats., requires that all foster parents successfully complete training in the care and support needs of children who are placed in foster care that has been approved by the department. The training shall be completed on an ongoing basis, as determined by the department. The department shall promulgate rules prescribing the training that is required under this subsection and shall monitor compliance with this subsection according to those rules.

Summary of the Rule

Section 48.62 (8) (a), Stats., directs the department to create rules providing levels of care for foster homes. The purpose of levels of care is to improve the placement stability, safety, and permanence of children placed in foster homes by matching their assessed needs with the skills, abilities, and capacities of caregivers.

Levels of Care

The Department has implemented the rules on levels of care in two phases. The first level of care rule was effective January 1, 2010, and created a process to certify foster homes at Level 1 or 2 and created training requirements for foster parents who operate foster homes with a Level 1 or 2 certification. A Level 1 foster home is available only to foster parents with a child-specific license. The creation of Level 1 foster homes coincided with implementation of the statutory requirement that relative caregivers of a child placed in the caregiver's home under court order who received kinship care payments under DCF 58 apply for and obtain a foster care license if they are licensable. A Level 2 foster home is a basic foster home.

This rule creates a process to certify foster homes at Level 3 to 5. DCF 38, Treatment Foster Care for Children, is repealed and most of the requirements in DCF 38 are integrated into DCF 56, Foster Home Care for Children, to create a single foster care rule with progressive requirements for all foster parents and agencies. Requirements from DCF 38 that have been integrated into DCF 56 with minor modifications include requirements regarding the characteristics and responsibilities of foster parents, physical environment of foster homes, care of foster children, responsibilities of supervising and licensing agencies, and responsibilities of the treatment team.

Treatment Foster Parent Requirements under DCF 38. Under DCF 38, a treatment foster parent had to have the following qualifications:

- Experience: An applicant had to meet at least 2 criteria from a list of 5 types of education, skills, abilities, and work or personal experience with children.
- Training:
  - 18 hours of pre-placement training.

    - 24 hours of training in the second 12-month period following licensure.
    - 18 hours of ongoing training in every subsequent 12-month period.
- Three favorable references.

Level 3 Moderate Treatment Foster Homes. For new Level 3 foster homes, a foster parent must have the following qualifications:

- Experience: An applicant must meet at least 3 criteria from a list of 7 types of education, skills, abilities, and work or personal experience with children.
- Training:
    - 36 hours of pre-placement training.
    - 24 hours of training during the initial licensing period, which is generally 2 years.
    - 18 hours of ongoing training in each 12-month period subsequent to initial licensing period.
- Four favorable references.

The rule provides that a licensing agency shall issue a modified license with a certification to operate a Level 3 foster home without determining the eligibility of the foster parent if on December 31, 2010, the foster parent had a license to operate a treatment foster home under ch. DCF 38.

Level 4 Specialized Treatment Foster Homes. For new Level 4 foster homes, a foster parent must have the following qualifications:

- Experience: An applicant must meet at least 4 criteria from a list of 7 types of education, skills, abilities, and work or personal experience with children.
- Training:
    - 40 hours of pre-placement training.
    - 30 hours of training during the initial licensing period, which is generally 2 years.
    - 24 hours of ongoing training in each 12-month period subsequent to initial licensing period.
- Four favorable references.

The rule provides that no licensing agency may issue a certification to operate a Level 4 foster home without first determining the eligibility of the foster parent under the new Level 4 requirements.

Level 5 Exceptional Treatment Foster Homes. Certification to operate a Level 5 foster home is available only when an exception is granted by the department exceptions panel. An applicant for certification to operate a Level 5 foster home, in conjunction with a licensing agency, may apply for Level 5 certification if the following conditions are met:

- A placement is needed for a child with the following conditions:
    - The child has behaviors or conditions that require a high degree of supervision and overnight awake care that is provided by program staff who rotate shifts within a 24-hour period.

- The child will benefit from a home-like environment that has fewer children than a group home or residential care center for children and youth.
- The child is expected to need long-term care or has needs agreed to by the department.

- All other community placement options have been investigated and determined to be unavailable or not in the best interest of the child.

A Level 5 foster home must have a program manager who is the foster parent and licensee of the foster home. An applicant for a program manager position must have specified education or experience and must complete 40 hours of pre-placement training, 30 hours of initial licensing training, and 24 hours of ongoing training in each 12-month period subsequent to the initial licensing period.

A Level 5 foster home must have program staff who are responsible for daily supervision of the children and direct care to the children to ensure their safety and well-being. The minimum staff ratios for program staff are one program staff person for every 2 children during waking hours and one program staff person for every 4 children during sleeping hours. An applicant for a program staff position must have specified education and experience and have a background check, favorable references, and, if hired, a health exam. Before working independently with a child, program staff must complete 40 hours of pre-placement training and work with qualified experienced program staff or similar professionals for at least the first 80 hours of employment Program staff must also complete 24 hours of ongoing training in each year of employment subsequent to the initial year of employment.

The department exceptions panel has been granting exceptions to operate shift-staffed treatment foster homes under DCFS Memo Series 2006-15. Licensing agencies will issue a modified license with a certification to operate a Level 5 foster home to a foster parent who, on December 31, 2010, had been granted an exception to operate a shift-staffed treatment foster home by the department exceptions panel.

Assessment of Needs and Strengths

Section 48.62 (8) (b), Stats., directs the department to create rules establishing a standardized assessment tool to assess the needs of a child placed or to be placed outside the home, to determine the level of care that is required to meet those needs, and to place the child in a placement that meets those needs.

The standardized assessment tool prescribed by the department is the *Child and Adolescent Needs and Strengths* (CANS) tool authored by Dr. John Lyons and the Praed Foundation and customized for use in Wisconsin by the department and the author. There is substantial research demonstrating the reliability and validity of the CANS tool. It is used statewide in 15 other states and is used in parts of 22 additional states.

The rule provides that a placing agency shall assess each foster child before placement in a foster home or within 30 days after the child's placement. A placing agency shall assess each foster parent in relation to the child placed within 30 days after the child's placement in the foster home. A placing agency shall reassess each foster child and the child's foster parent

within 6 months after the child's last assessment or reassessment. The placing agency, licensing agency, or foster parent may request a reassessment more frequently. The person who will administer the tool will first review the child's case record; interview or collect information from an individual who has interviewed the child, child's family, foster parent or other out-of-home care provider, and the child's team or treatment team; and review information gathered in collaboration with the child's team or treatment team. The person administering the standardized assessment tool will rate the child's needs and strengths relative to what is developmentally appropriate for a child of a similar age and the foster parent's needs in relation to that child to determine how to support the placement stability of the child with that foster parent.

The placing agency will use information from the assessment of a child, child's family, and the foster parent of the child for all of the following:

- To communicate information about the needs and strengths of the child and child's family.
- To assist with determining the child's service needs and developing the child's plan of care.
- To determine a level of need of 1/2, 3, 4, 5, or 6 for the child.
- To inform decisions regarding a placement at a level of care that is appropriate to meet the child's level of need.
- To evaluate the match between the knowledge, skills, and abilities of a foster parent and the needs and strengths of a child.
- To assist in the development of services and supports needed for a specific child and foster parent to promote the stability of the placement.
- To provide a mental health screen to all children entering foster care.
- To determine any supplemental payments for a child's special needs.

A placing agency, in accordance with a licensing agency, may place a child in a foster home that is certified to provide a given level of care if the child's level of need is at or below the level of care that the foster home is certified to provide. A placing agency may place a child with a level of need that is higher than the level of care that a foster home is certified to provide if the placing agency grants an exception and documents in the child's electronic case record what services and supports will be provided to meet the child's needs. A child whose level of need is lower than 5 may not be placed in a Level 5 foster home, except for continuation of an existing placement during planning for the child's transition to a less restrictive setting following a reassessment.

Phase-In of Child Assessment Tool and New Supplemental Payments. The use of the standardized assessment tool to assess a child's needs and strengths and the new method for determining supplemental payments will apply on the following dates:

- On the date of placement for a child who is placed in a foster home or who is placed in a new foster home on or after February 21, 2011.
- On the date of a child's 6-month reassessment for a child who is already placed in a foster home on February 20, 2011, and remains in that foster home on the date of the child's 6-month reassessment.

* But, need provision to cover higher rates coming B/F 7 July 1, 2011.

Not an issue due to July 1, 2011 eff. Date for very rates.

Supplemental Payments, Exceptional Payments, and Retainer Fee

Supplemental Payments. A placing agency shall make supplemental payments for a child's special needs to a foster parent who operates a foster home with a Level 2 to 5 certification. The placing agency shall determine the amount of a supplemental payment based on the total of all of the following:

- 'Identified needs and strengths.' A dollar amount determined by the department multiplied by the total points that the placing agency rates a child to determine the presence of special needs on a form prescribed by the department. The placing agency will use information obtained from the standardized assessment tool to rate the child relative what is developmentally appropriate for a child of a similar age in the following areas:
  - Adjustment to trauma.
  - Life functioning, including physical, mental, and dental health; relationships with family members; and social skills.
  - Functioning in a child care or school setting.
  - Strengths.
  - Behavioral and emotional needs.
  - Risk behaviors.
  - Child's language.
- 'Level of care higher than level of need.' An amount determined by the department if a foster home's level of care certification is higher than the level of need of a child placed in the foster home and the foster home has a Level 3 or 4 certification.

Exceptional Payments. A placing agency may make exceptional payments to a foster parent to accomplish any of the following:

- Enable the child to be placed in a foster home instead of being placed or remaining in a more restrictive setting.
- Enable the placement of siblings or minor parent and minor children together.
- Assist with transportation costs to the school the child was attending prior to placement in out-of-home care.
- Replace a child's basic wardrobe that has been lost or destroyed in a manner other than normal wear and tear.
- For a child placed in a foster home before February 21, 2011, and who remains placed in that foster home, equalize the total monthly payment amount lost by the child's foster parent due to implementation of the new method of determining supplemental payments.

The Fostering Connections to Success and Increasing Adoptions Act of 2008 allows the state to claim federal funds for expenses to assist a foster child with transportation costs to the school the child was attending prior to placement in out-of-home care.

Retainer Fee. A placing agency may provide a monthly retainer fee to a foster parent to maintain openings in a foster home for emergency placements. This fee may not be considered part of the foster care payment for a specific child.

Other

- A foster parent may not smoke or allow another person to smoke in a foster home or in a vehicle when a foster child is present.
- The rule incorporates provisions of DSP Memo Series 2009-05 that was jointly issued by the Department of Health Services and the Department of Children and Families. It provides that a foster parent may not use any type of physical restraint on a foster child unless the foster child's behavior presents an imminent danger of harm to self or others and physical restraint is necessary to contain the risk and keep the foster child and others safe. If physical restraint is necessary, the rule provides certain prohibited practices.

Summary of Factual Data and Analytical Methodologies

The non-statutory requirements of the rule are based on recommendations from the Out-of-Home Care/Adoption Committee and the Foster Parent Training Committee. The committees have worked with the department for the past 5 years to incorporate new federal laws into state law and policy by referring to other state models and national standards of child welfare practice. For the past 2 years, both committees have focused on developing policy to implement the levels of care and foster parent training initiatives in 2009 Wisconsin Act 28. Both committees have statewide membership of staff from counties, tribes, private child-placing agencies, foster and treatment foster parents, court personnel, advocacy agencies, and state government.

Summary of Related Federal Requirements

Under 45 CFR 1355.32 and 1355.33, the federal Administration for Children and Families conducts a Child and Family Services Review of each state's child welfare system every 5 years. States found not to be operating in substantial conformity with federal requirements shall develop a program improvement plan. The program improvement plan must set forth the goals, the action steps required to correct each identified weakness or deficiency, and dates by which each action step is to be completed in order to improve the specific areas.

42 USC 671(a)(24) requires that the state plan for foster care and adoption assistance include a certification that, before a child in foster care under the responsibility of the state is placed with prospective foster parents, the prospective foster parents will be prepared adequately with the appropriate knowledge and skills to provide for the needs of the child, and that such preparation will be continued, as necessary, after the placement of the child.

42 USC 675 (1) (G) defines "case plan" to include a plan for ensuring the educational stability of the child while in foster care, including an assurance that the state agency has coordinated with appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or if remaining in such school is not in the best interests of the child, assurances by the state agency and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

42 USC 674 (4) (A) defines "foster care maintenance payments" as payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's

personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.

As part of the Fostering Connections to Success and Increasing Adoptions Act of 2008, 42 USC 675 (1) (G) was created and 42 USC 674 (4) (A) was amended to add the phrase "reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement."

Comparison to Adjacent States

The assessment tool prescribed by the department is used statewide in Iowa and Illinois and is used parts of Minnesota and Michigan. Michigan and Illinois have a levels of care system for foster homes.

Agency Contact Person

Jonelle Brom, Bureau of Permanence and Out-of-Home Care, Division of Safety and Permanence, (608) 264-6933, jonelle.brom@wisconsin.gov.

Appendix A

Placement Complexity Chart

		Placement Options		
Child's Level of Need	**Provider's Level of Care**	**Foster Home**	**Group Home**	**Residential Care Center**
1/2	1	Child-Specific		
	2	Basic		
3	3	Moderate Treatment	Group Home	
4	4	Specialized Treatment		
5	5	Exceptional Treatment		Residential Care Center
6	6			

	Step-down level to be used for transition planning to a less restrictive placement setting.
	Placement of children at this level is not appropriate.

Note: A child in foster care can be served by a foster home with a certification lower than the child's level of need if an exception has been granted and documented in the child's electronic case record by the placing agency and the agency shows what services and supports will be provided to meet the child's needs.

SECTION 59. EFFECTIVE DATE. This rule shall take effect on January 1, 2011, as provided in s. 227.24 (1) (d), Stats.

1/20/2011 conf. call Re: Daily Rates.

- DOC → Anna, Selly, Dave;
- Katie K. DOA.

→ Treatment Foster Care.

→ DOC Proposal.

→ Remove rates for alternate care.

→ we charge county what provides charging us.

→ Resid
Group
Foster
Treatment.

(c) A child whose level of need is lower than 5 may not be placed in a Level 5 foster home, except for continuation of an existing placement during planning for the child's transition to a less restrictive setting following a reassessment under sub. (3) (b).

Note: See Appendix A for the placement complexity chart that shows placement options based on a child's level of need and a provider's level of care.

DCF 56.23 Supplemental payments, exceptional payments, initial clothing allowance, and retainer fee. (1) COVERAGE. (a) A placing agency shall determine the amount of any payment made directly to a foster parent for the care and maintenance of a foster child under one or more of the following:

1. Basic maintenance payments established under s. 48.62 (4), Stats.

2. Supplemental payments based on the following:

a. Subsection (2) if the child has been assessed using the department's standardized assessment tool under s. DCF 56.22.

b. Section DCF 56.11 (2) and (3) if the child has not yet been assessed using the department's standardized assessment tool under s. DCF 56.22, as phased in under s. DCF 56.11 (1).

Note: DCF 56.11 and subd. 2. b. will not appear in the permanent version of this rule because the phase-in of the CANS tool will be complete.

3. Exceptional payments under sub. (3).

4. Initial clothing allowance under sub. (4).

(b) The total monthly payment amount to a foster parent under par. (a) 1., 2., and 3. is subject to a maximum determined by the department.

(2) SUPPLEMENTAL PAYMENTS. (a) A placing agency shall make supplemental payments to a foster parent who operates a foster home with a Level 2 to 5 certification for a child's special needs as determined under par. (b).

Note: Under s. 48.62 (4), Stats., supplemental rates are available only to foster parents who are receiving an age–related rate and are not available to foster parents who operate a Level 1 foster home.

(b) The placing agency shall determine the amount of a supplemental payment based on the total of all of the following:

1. 'Identified needs and strengths.' A dollar amount determined by the department multiplied by the total points that the placing agency rates a child to determine the presence of special needs on a form prescribed by the department. The placing agency shall use information obtained from the standardized assessment tool under s. DCF 56.22 to rate the child relative to what is developmentally appropriate for a child of a similar age in the following areas:

a. Adjustment to trauma.

b. Life functioning, including physical, mental, and dental health; relationships with family members; and social skills.

c. Functioning in a child care or school setting.

d. Strengths.

e. Behavioral and emotional needs.

f. Risk behaviors.

g. Child's language.

2. 'Level of care higher than level of need.' An amount determined by the department if a foster home's level of care certification is higher than the level of need of a child placed in the foster home and the foster home has a Level 3 or 4 certification.

(3) EXCEPTIONAL PAYMENT. (a) A placing agency may make an exceptional payment to a foster parent to accomplish any of the following:

1. Enable the child to be placed in a foster home instead of being placed or remaining in a more restrictive setting.

2. Enable the placement of siblings or minor parent and minor children together.

3. Assist with transportation costs to the school the child was attending prior to placement in out-of-home care.

4. Replace a child's basic wardrobe that has been lost or destroyed in a manner other than normal wear and tear.

5. For a child placed in a foster home before February 21, 2011, and who remains placed in that foster home, equalize the total payment amount lost by the child's foster parent due to implementation of the method of determining supplemental payments in sub. (2).

(b) A placing agency may determine the frequency and amount of an exceptional payment necessary to meet one or more purposes in par. (a), provided no total monthly payment to the foster parent exceeds the maximum amount determined by the department under sub. (1) (b).

(4) INITIAL CLOTHING ALLOWANCE. (a) A placing agency may pay an initial clothing allowance to a foster parent when a child is initially placed in foster care.

(b) The amount of the initial clothing allowance shall be the actual cost of the clothing not to exceed a maximum determined by the department.

(c) If a child is placed in foster care 120 days or more after a previous out–of–home care placement was terminated, the placement shall be considered an initial placement for the purpose of par. (a).

Note: See the department's uniform foster care rate-setting policy and forms related to rates on the department's website www.dcf.gov in the section on foster care program and services. The policy includes current information for all of the following:

1. Total monthly maximum payment to a foster parent.
2. Dollar amount that is multiplied by the total points of a child's identified needs and strengths to determine the portion of a supplemental payment under sub. (2) (b) 1.
3. Dollar amount of the portion of a supplemental payment under sub. (2) (b) 2.if a foster home's level of care is higher than a child's level of need.
4. Maximum initial clothing allowance.

(5) RETAINER FEE. A placing agency may provide a monthly retainer fee to a foster parent to maintain openings in a foster home for emergency placements under ss. 48.205 and 938.205, Stats. This fee may not be considered part of the foster care payment for a specific child.