



## Legislative Fiscal Bureau

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TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 802: Supplemental Medical Assistance Payments to Nursing Homes  
Owned by Local Governments

### BACKGROUND

*Supplemental Payments to Nursing Homes Owned by Local Governments.* Under current law, the Department of Health and Family Services (DHFS) may provide up to \$37,100,000 annually as supplemental payments to nursing homes that are owned or operated by counties, cities, villages, or towns to reduce these facilities' operating deficits. These payments are in addition to payments DHFS makes to reimburse nursing homes for their costs of providing care to medical assistance (MA) recipients under the prospective reimbursement system. These supplemental payments reduce the amount of property tax levy that local governments would otherwise contribute to the cost of operating these facilities. 2005 Wisconsin Act 25 (the 2005-07 biennial budget act) provides DHFS \$37.1 million in each year of the 2005-07 biennium to make these supplemental payments.

Although the statutes provide DHFS general guidance in distributing supplemental funds to nursing homes owned by local governments, the state's MA plan describes the specific methodology DHFS must use to distribute these supplemental funds. Under the 2005-06 state MA plan, DHFS must determine, for the period July 1, 2005 through June 30, 2006, each county and municipal facility's: (a) projected direct care operating deficit (DCOD); (b) projected overall operating deficit (OAOD); (c) eligible direct care deficit, or EDCD, which equals the lesser of the DCOD or the OAOD; and (d) the projected non-direct care deficit, which is equal to the OAOD less the EDCD).

If the funding budgeted for supplemental payments is not sufficient to support each qualifying facility's EDCD, then DHFS is required to distribute the funds to qualifying facilities in a

manner that is proportionate to each facility's MA patient days for each facility's fiscal year that ended during calendar year 2004.

Under 2003 Wisconsin Act 33 (the 2003-05 biennial budget act), \$37.1 million was budgeted in 2003-04 and 2004-05 to support these supplemental payments. However, 2003 Wisconsin Act 100 required DHFS to allocate any additional unanticipated and unbudgeted federal MA matching funds the state received based on deficits of nursing homes owned by local governments in both 2003-04 and 2004-05. As a result of this legislation, counties and cities received supplemental payments totaling approximately \$50.1 million and \$54.8 million in 2003-04 and 2004-05, respectively.

*Certified Public Expenditure Program and the MA Trust Fund.* Under the certified public expenditure (CPE) program, DHFS claims federal MA matching funds based on certified losses of nursing homes owned by local governments. All revenue the state collects under the CPE program is deposited to the MA trust fund, which supports a portion of the state costs of the MA program. Under 2005 Wisconsin Act 25, it was estimated that \$47 million in 2005-06 and \$43 million in 2006-07 would be deposited to the MA trust fund from this source.

The MA trust fund is currently estimated to have a deficit of approximately \$58.8 million by the end of the 2005-07 biennium. This shortfall is primarily due to the Governor's partial vetoes in Act 25, which reduced revenue to the MA trust fund by approximately \$60.2 million in the 2005-07 biennium.

## **SUMMARY OF BILL**

AB 802 would require DHFS to distribute any federal matching funds the state receives under the CPE program that exceed the amount of funds the state anticipated and budgeted as revenue in the biennial budget act for the fiscal year in which the funds are received. DHFS would be required to distribute these funds as supplements to funds DHFS currently distributes to nursing homes that are owned and operated by local governments. The bill would modify an existing appropriation, which DHFS does not currently use to disburse funds, by converting it from a sum certain appropriation to a sum sufficient appropriation, to enable DHFS to disburse these funds. Finally, the bill would delete obsolete references to the modified appropriation.

## **FISCAL EFFECT**

Based on preliminary information, DHFS currently estimates that county- and city-owned nursing homes will incur operating deficits of approximately \$85 million in 2005-06. If DHFS were to certify these losses under the CPE program, the state could claim federal matching funds at the 2005-06 federal MA matching rate (57.8175%). Consequently, the state would claim approximately \$49.1 million in revenue for deposit to the MA trust fund from the CPE program in

2005-06. Since \$47 million was anticipated to be deposited to the MA trust fund under the CPE program under the Act 25 budget assumptions, an additional \$2.1 million would be available to support supplemental payments. This funding would then be available, in addition to the \$37.1 million budgeted in 2005-06 in Act 25, to make supplemental payments to approximately 56 facilities operated by counties and cities.

DHFS cautions that the current estimate of operating deficits is preliminary, and that it will be at least January, 2006, before the agency has all relevant data to determine how much federal funds the state will claim under the CPE program for fiscal year 2005-06. The CPE claims the state makes in 2005-06 will be based on cost reports that are currently under review by nursing home auditors. Further, the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) has not yet approved the state's 2005-06 MA plan as it relates to methods of reimbursing nursing homes.

In summary, the bill would neither increase GPR spending, nor increase the current estimated shortfall in the MA trust fund. The bill may increase funding for supplemental payments to county- and city-owned nursing homes in the current and future biennia if the state claims more MA matching funds under the CPE program than the amounts that had been estimated under AB 25 and future biennial budget acts. However, by requiring DHFS to distribute unanticipated funds the state may receive under the CPE program as supplemental payments to county- and city-owned nursing homes, the state would be unable to use any unanticipated funds, should they be realized, to address the current projected shortfall in the MA trust fund.

#### **ASSEMBLY AMENDMENT 1 TO ASSEMBLY BILL 802**

*Summary.* Under AA 1, DHFS would be required to disburse any unanticipated funds the state receives under the CPE to all nursing homes, other than state operated nursing homes, in proportion to the number of patient days attributed to MA recipients in each nursing home's most recently completed fiscal year. These supplemental funds could only be used to reimburse nursing homes for the costs of providing direct care to MA recipients.

*Fiscal Effect.* As of December 31, 2004, there were 399 licensed nursing homes in the state, of which 382 were certified to provide services to MA recipients. Since approximately 24% of MA payments to nursing homes are provided by nursing homes that are operated by local governments, DHFS would distribute approximately 76% of these supplemental funds to not-for-profit and proprietary nursing homes (approximately \$1.6 million) and approximately 24% to facilities operated by local governments (approximately \$0.5 million). DHFS would claim federal matching funds on any supplemental payments it makes to nursing homes other than the nursing homes that are owned or operated by local governments. (DHFS will have already maximized the amount of federal claims the state can make based on deficits of facilities operated by local governments under the CPE program.)

Based on the estimated state fiscal year 2005-06 federal matching rate (57.8175%), the \$1.6 million that would be provided to not-for-profit and proprietary homes would be matched with approximately \$2.2 million in federal MA matching funds, so that a total of \$4.3 million would be available to support supplementary payments in 2005-06 (\$3.8 million for not-for-profit and proprietary facilities and \$0.5 million for facilities operated by local governments), based on the Department's preliminary estimates of CPE claims in 2005-06.

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