



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

---

April 17, 2015

Joint Committee on Finance

Paper #369

### **Funeral and Cemetery Aids (DHS -- Medical Assistance -- Administration)**

[LFB 2015-17 Budget Summary: Page 230, #5]

---

#### **CURRENT LAW**

Wisconsin's funeral and cemetery aids program (WFCAP) reimburses funeral homes, cemeteries, and crematories for eligible services they provide to certain deceased individuals who were medical assistance (MA) or Wisconsin Works participants at the time of their death. Approximately 95% of the individuals for whom financial assistance is provided qualify for MA based on elderly, blind and disabled (EBD) eligibility criteria. DHS may accept reimbursement requests only from funeral homes, cemeteries and crematories -- family members and other non-providers may not submit reimbursement requests. Providers must submit itemized statements of goods and services within 12 months of the date of death, and may appeal payment determinations through the Department of Administration's Division of Hearings and Appeals.

The program provides this assistance when estates of the decedents are insufficient to pay qualifying costs. The statutes require the state to pay: (a) the lesser of \$1,000 or the cemetery expenses that are not paid by the estate of the deceased or other persons, if the total cemetery expenses for the recipient do not exceed \$3,500; and (b) the lesser of \$1,500 or the funeral and burial expenses not paid by the estate of the decedent or other persons if the total funeral and burial expenses do not exceed \$4,500.

The Department of Health Services (DHS) centrally administers WFCAP for residents in all areas of the state other than Milwaukee County, where the program is administered by DHS staff in Milwaukee Enrollment Services (MILES).

Base funding for the program is \$10,804,900 GPR.

## GOVERNOR

Provide \$20,800 GPR in 2015-16 and \$138,600 (\$306,600 GPR, \$242,000 FED, and -\$410,000 PR) in 2016-17 and increase estimated revenue to the general fund by \$242,000 in 2016-17 to reflect the following items relating to the program.

*Cost-to-Continue Reestimate.* Provide \$382,900 GPR in 2015-16 and \$862,600 GPR in 2016-17 to fund projected increases in the cost of reimbursing funeral homes, cemeteries, and crematories for eligible expenses, based on current law.

*Coverage of Reimbursable Expenses under Life Insurance Policies.* Provide that, if a recipient, the recipient's spouse, or another person owns a life insurance policy insuring the recipient's life and the face value of the policy is more than \$3,000, any amount that DHS is obligated to pay under WFCAP would be reduced by one dollar for every dollar by which the face value of the policy exceeds \$3,000. Reduce funding by \$362,100 GPR in 2015-16 and by \$724,100 GPR in 2016-17 to reflect estimates of the reduction in reimbursable costs that would result from this change.

*Recovery of Funeral and Cemetery Aids Payments from the Decedent's Estate and Estate of Surviving Spouse.* Require DHS to pursue recovery of WFCAP payments provided on behalf of a decedent by making a claim in the decedent's estate and the estate of the decedent's spouse. Create references to WFCAP in the current estate recovery provisions. However, unlike other benefits for which DHS pursues recoveries, DHS would pursue recoveries for funeral and cemetery aids benefits even if the decedent on whose estate the claim is made has a surviving spouse or a surviving child who is under the age of 21 or disabled. Further, DHS could not waive recovery of funeral and cemetery benefits if the agency determined that recovering the amount paid on the decedent's behalf would constitute an undue hardship.

Increase estimated revenue to the general fund by \$242,000 in 2016-17 to reflect the administration's estimates of amounts that would be recovered under this provision. However, almost all amounts recovered under WFCAP would reduce amounts that would otherwise be recovered under the MA estate recovery program. Consequently, increase funding for MA benefits by \$168,100 GPR and \$242,000 FED in 2016-17 to replace funding that would otherwise be available from these recoveries. Reduce MA benefits funding supported by MA recoveries by \$410,000 PR in 2016-17.

Provide that all the statutory changes would first apply to individuals receiving funeral and cemetery aids benefits who die on the bill's general effective date.

## DISCUSSION POINTS

### A. Reestimate of Current Program Costs

1. The administration's projections of program costs in the 2015-17 biennium are based on historical trends in the total number of individuals whose funeral and burial costs could qualify for assistance (as measured by estimates of the number of individuals who will qualify for EBD

MA), the number of annual deaths in this population, the number of requests for cemetery and funeral reimbursements, and the average amount of reimbursable costs.

2. WFCAP is an entitlement program budgeted in a GPR sum certain appropriation. If the amount budgeted for the program exceeds actual reimbursements payments, funding lapses to the general fund. If the amount of funding budgeted for the program is insufficient to pay eligible reimbursement claims, DHS must request additional expenditure authority from the Legislature. In July, 2013, DHS requested the Joint Committee on Finance to authorize the transfer of \$2,262,100 GPR in 2012-13 from surplus funding budgeted for SeniorCare benefits to fund a shortfall the WFCAP program incurred in the 2011-13 biennium. The Committee approved the DHS request.

3. Table 1 shows the assumptions DHS used to estimate the additional funding that will be needed to support projected program costs in the 2015-17 biennium.

**TABLE 1**  
**WFCAP Cost to Continue Estimate**  
**2015-17 Biennium**

	State Fiscal Year	
	<u>2015-16</u>	<u>2016-17</u>
<b>Total Estimated Number of WFCAP Eligible Deaths</b>	20,462	20,991
<b>Cemetery Reimbursements</b>		
Total Requests for Reimbursement	4,964	5,153
Average Reimbursement Amount	\$925	\$934
Subtotal	\$4,591,500	\$4,814,500
<b>Funeral Reimbursements</b>		
Total Requests for Reimbursement	4,556	4,730
Average Reimbursement Amount	\$1,448	\$1,449
Subtotal	\$6,596,275	\$6,852,982
<b>Total Estimated Costs</b>	<b>\$11,187,800</b>	<b>\$11,667,500</b>
<b>Base Funding</b>	<b>\$10,804,900</b>	<b>\$10,804,900</b>
<b>Difference -- Governor's Recommendations (GPR)</b>	<b>\$382,900</b>	<b>\$862,600</b>

4. Table 2 identifies total WFCAP reimbursement payments for state fiscal years 2005-06 through 2013-14 and the administration's estimates for fiscal years 2014-15 through 2016-17.

**TABLE 2****WFCAP Total Reimbursement Payments  
Fiscal Years 2005-06 through 2016-17 -- Administration's Estimates**

<u>Year</u>	<u>Total</u>	<u>Change from Previous Year</u>	
		<u>Amount</u>	<u>Percent</u>
2005-06	\$6,045,300		
2006-07	6,008,600	-\$36,700	-0.6%
2007-08	7,727,100	1,718,500	28.6
2008-09	7,366,600	-360,500	-4.7
2009-10	7,919,500	552,900	7.5
2010-11	8,296,200	376,700	4.8
2011-12	8,694,000	397,800	4.8
2012-13	9,966,600	1,272,600	14.6
2013-14	8,443,900	-1,522,700	-15.3
2014-15 (est.)	10,727,900	2,284,000	27.0
2015-16 (est.)	11,187,800	459,900	4.3
2016-17 (est.)	11,667,500	479,700	4.3

**Fiscal Effect of Administration's Reestimate**

	<u>2015-16</u>	<u>2016-17</u>	<u>2015-17</u>
Base	\$10,804,900	\$10,804,900	\$21,609,800
Estimated Reimbursement Costs	\$11,187,800	\$11,667,500	\$22,855,300
Change to Base (Funding Change in Bill)	\$382,900	\$862,600	\$1,245,500

Based on a review of the program's funding history through fiscal year 2012-13 and the method DHS used to project future program costs, the administration's cost to continue estimates appear reasonable. For this reason, the Committee could adopt the Governor's recommendation to increase base funding by \$382,900 GPR in 2015-16 and by \$862,600 GPR in 2016-17 to fund projected reimbursement payments, based on current law (Alternative A1).

5. Recent changes in the program have made it more difficult to predict future program costs. After the administrative responsibility for the program changed from counties to the state in 2012 as part of broad changes to income maintenance functions, DHS acquired direct knowledge of the claiming process and was able to improve standardization of reimbursement policies. As part of this transition, DHS paid approximately 14 months of program costs in state fiscal year 2011-12, resulting in higher than average costs. In 2013-14, total program costs decreased, due to a reduction in claims requests and a reduction in the average cost per claim. DHS attributes the reduction in average claims costs in that year to a change in the reimbursement claims form that eliminated errors in reporting expenses by funeral home directors, and stricter policy enforcement by DHS.

6. Through February, 2015, DHS has paid approximately \$5.8 million in reimbursement

claims from the amount budgeted in 2014-15 (\$10,804,900), or an average of \$725,000 per month. As this figure represents eight months of claims, if these months were representative of average claim costs for the entire year, total reimbursements in 2014-15 could be estimated to be approximately \$8.7 million, rather than \$10,727,900, as the administration's model currently projects.

7. By using the more recent information on program costs, one could produce an alternative estimate of future program costs. One method would be to assume a 10% annual growth in total reimbursement costs for the period from 2009-10 through 2016-17, as shown in Table 3.

**TABLE 3**

**WFCAP Total Reimbursement Payments  
Fiscal Years 2009-10 through 2016-17 -- Alternative Estimate**

<u>Year</u>	<u>Total</u>	<u>Change from Previous Year</u>	
		<u>Amount</u>	<u>Percent</u>
2009-10	7,919,500	552,900	7.5
2010-11	8,296,200	376,700	4.8
2011-12	8,694,000	397,800	4.8
2012-13	9,966,600	1,272,600	14.6
2013-14	8,443,900	-1,522,700	-15.3
2014-15 (est.)	9,288,300	844,400	10.0
2015-16 (est.)	10,217,100	928,800	10.0
2016-17 (est.)	11,238,800	1,021,700	10.0

**Fiscal Effect of Alternative Estimate**

	<u>2015-16</u>	<u>2016-17</u>	<u>2015-17</u>
Base	\$10,804,900	\$10,804,900	\$21,609,800
Estimated Reimbursement Costs	\$10,217,100	\$11,238,800	\$21,455,900
Change to Base	-\$587,800	\$433,900	-\$153,900
Change to Bill	-\$970,700	-\$428,700	-\$1,399,400

8. Based on these assumptions, estimated reimbursements would total \$10,217,100 GPR in 2015-16 and \$11,238,800 GPR in 2016-17. If the Committee wished to adopt this alternative estimate, funding in the bill could be reduced by \$970,700 GPR in 2015-16 and \$428,700 GPR in 2016-17 (Alternative A2). However, as the program is an entitlement program, if the amount of funding budgeted for the program in the bill is insufficient to fully fund eligible reimbursement requests, DHS would be required to seek additional expenditure authority from the Joint Committee on Finance or the Legislature.

## **B. Coverage of Reimbursable Expenses under Life Insurance Policies**

9. Under the bill, if a recipient, the recipient's spouse, or another person owns a life insurance policy insuring the recipient's life and the face value (the "death benefit") of the policy is more than \$3,000, any amount that DHS is obligated to pay under WFCAP would be reduced by the amount by which the face value of the policy exceeds \$3,000. This provision would first apply to individuals receiving WFCAP program benefits who die on the bill's general effective date. Under current law, coverage under such policies is not considered when determining whether an individual has assets that could be used to fund funeral and cemetery costs.

10. To estimate the potential cost savings to the state of this proposal, DHS reviewed records of approximately 3,300 recipients in counties other than Milwaukee County for whom claims were submitted in CY 2013. Of these individuals, approximately 17% of recipients had life insurance policies, and 9% had life insurance policies with face value of \$3,000 or more. By reviewing the face value of these policies and applying the estimate to also include claims for Milwaukee County, DHS estimated annual costs could be reduced by approximately \$724,000 annually. The administration assumed that half of these savings (\$362,100) would be realized in 2015-16. The annualized estimated savings of \$724,000 represents approximately 6.2% of the total that DHS anticipates would be spent in 2016-17 without program changes (\$11,667,500).

11. In order to qualify for EBD MA, an individual may only have countable assets of \$2,000 or less. Whole life insurance policies are considered countable assets if their face value exceeds \$1,500, while term life insurance policies (policies which require continued premium payments) are not considered countable assets.

12. This proposal would be expected to reduce state costs by funding a greater portion of WFCAP eligible costs with life insurance benefits that would otherwise be provided to the decedent's family at the time of death.

13. As an example, the proposed dollar-for-dollar reduction would result in a decedent with a policy with a face value of \$4,000 receiving a maximum benefit of \$1,500, rather than a maximum benefit of \$2,500 (\$1,000 for cemetery expenses and \$1,500 for funeral services), as under current law. DHS would administer this provider by prorating the dollar-for-dollar reduction across the two reimbursement caps. Therefore, for an individual with a total maximum benefit of \$1,500 (a 40% reduction from the current total maximum benefit of \$2,500), the maximum reimbursement for cemetery expenses would be \$600, while the maximum reimbursement for funeral expenses would be \$900. To reduce potential disputes with providers with respect to this policy, the bill could be amended to direct DHS to use this methodology to establish lower maximum reimbursements limits in these cases (Alternative B-2).

14. Alternatively, the Committee could delete the provision in the bill and increase funding for the program by \$362,100 GPR in 2015-16 and \$724,100 GPR in 2016-17, to reflect that the savings the administration assumed would result from this provision would not be realized (Alternative B-3).

### C. Recovery of WFCAP Payments

15. The bill would require DHS to pursue recovery of WFCAP payments provided on behalf of a decedent. As all WFCAP reimbursement costs are funded with GPR, all recoveries would be deposited to the state's general fund. This treatment of recoveries differs from the current treatment of amounts recovered under the MA estate recovery program, under which the state may only retain the state's share of MA-eligible costs recovered under the program (currently, approximately 42%) and return the federally-funded share (approximately 58%) to the federal government. From the state's share, DHS pays 5% of the amount recovered to the county or tribal governing body that made the decedent's last determination of MA eligibility. Consequently, there is a fiscal incentive for the state to recover 100% GPR-supported WFCAP reimbursement costs first and then, if moneys remain in the estate, recover any MA-funded costs.

16. DHS estimated the annual amount that could be recovered by this change by reviewing reimbursement requests filed in the first half of calendar year 2013, which indicated that approximately 55% of individuals who benefited from WFCAP reimbursements had also received MA-funded long-term care services, which are subject to estate recovery. By applying the percentage of MA recipients for whom funds are recovered (approximately 36%) and the average WFCAP reimbursement (\$1,881), and discounting projected collections to reflect that the WFCAP population may have fewer resources, on average, than other former EBD-MA eligible recipients for whom recoveries are pursued, the administration estimated that approximately \$410,100 could be recovered annually with this change, beginning in 2016-17.

17. Pursuing recoveries for reimbursements made under the WFCAP program would reduce amounts available for recovery under the MA estate recovery program. For this reason, the bill would increase MA benefits funding by \$168,100 GPR and \$242,000 FED to offset an anticipated reduction of MA benefits funded from estate recovery collections (-\$410,000 PR). However, the administration assumed general fund collections would total \$242,000 in 2016-17, rather than \$410,000. If the Committee approves this proposal, estimated general fund revenue should be increased by \$168,000 in 2016-17 to reflect estimates of total recoveries (Alternative C-1).

18. The administration has requested several clarifying statutory changes to this provision to better reflect the Governor's intent.

*Definition of "Nonclient Surviving Spouse."* As introduced, the bill would define a "nonclient surviving spouse," for purposes of benefits recovery, to mean any person who was married to a client while the client was receiving, or when the client received services or aid for which the cost may be recovered and who survived the client. The administration has requested that this definition be clarified to reflect that any marriage ends in the death of a spouse, and therefore no benefits under WFCAP are provided while the decedent is married.

The administration requests that the definition of "nonclient surviving spouse" in the bill be revised to mean any person who was married to a client while the client was receiving, or when the client received services or aid for which the costs may be recovered, or benefits that the client eligible for aid provided under the program for which the costs may be recoverable and who

survived the client.

*Undue Hardship Claims -- WFCAP Exemption.* As introduced, the bill includes a reference to a wrong subsection with respect to hardship cases. The administration requests that the bill be amended to clarify that the Department's rule making authority for determining whether a recovery would work an undue hardship is limited to recoveries for benefits provided under the Wisconsin chronic disease program, not for recoveries for benefits provided under WFCAP.

*Recoveries of Nonprobate Properties.* As introduced, the bill references recoveries pursued under s. 49.682 of the statutes, which relates to recoveries made by filing claims in estates that are being administered under court supervision. The administration requests that this provision be amended to permit DHS to pursue recoveries of non-probate property and estates that are administered by transfer by affidavit, so that both methods of recovery would apply.

## **ALTERNATIVES**

### **A. Cost to Continue Current Program**

A1. Approve the Governor's recommendation to provide \$382,900 GPR in 2015-16 and \$862,600 GPR in 2016-17 to fund projected increases in the cost of reimbursing funeral homes, cemeteries, and crematories, based on current law.

A2. Reduce funding in the bill by \$970,700 GPR in 2015-16 and by \$428,700 GPR in 2016-17 to reflect an alternative estimate of funding that will be required to fund program costs in the 2015-17 biennium, based on current law.

<b>ALT A2</b>	<b>Change to Bill</b>
GPR	- \$1,399,400

### **B. Coverage of Reimbursable Expenses under Life Insurance Policies**

B1. Approve the provisions in the bill to provide that, if a recipient, the recipient's spouse, or another person owns a life insurance policy insuring the recipient's life and the face value of the policy is more than \$3,000, any amount that DHS is obligated to pay under WFCAP would be reduced by one dollar for every dollar by which the face value of the policy exceeds \$3,000. Approve the Governor's recommendation to reduce base funding for the program by \$362,100 GPR in 2015-16 and by \$724,100 GPR in 2016-17 to reflect estimates of the reduction in reimbursable costs that would result from this change.

B2. Modify the bill to require DHS to administer this provision by prorating the dollar-for-dollar reduction across the reimbursement cap for cemetery expenses and the reimbursement cap for funeral and burial costs.

B3. Delete provision.



<b>ALT B3</b>	<b>Change to Bill</b>
GPR	\$1,086,200

**C. Estate Recovery of WFCAP Benefits**

C1. Approve all of the statutory changes in the bill relating to the recovery of WFCAP payments through claims in the decedent's estate and the estate of the decedent's spouse. In addition, increase estimates of general fund revenues that would result from these claims by \$168,000 in 2016-17 to reflect a reestimate of the revenue that would be collected. Finally, incorporate the administration's requested modifications, as described in Discussion Point 18, into the bill.

<b>ALT C1</b>	<b>Change to Bill</b>
GPR-REV	\$168,000

C2. Delete provision. Reduce GPR-Revenue estimates by \$242,000 in 2016-17. Reduce funding for MA benefits by \$168,000 GPR and \$242,000 FED in 2016-17 and increase funding for MA benefits supported by estate recovery revenues by \$410,000 PR in 2016-17.

<b>ALT C2</b>	<b>Change to Bill</b>
GPR-REV	- \$242,000
GPR	- \$168,000
FED	- 242,000
PR	<u>410,000</u>
Total	\$0

Prepared by: Charles Morgan