



## Legislative Fiscal Bureau

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

June 23, 2010

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Children and Families: Section 13.10 Request to Transfer Funds to Support Level 1 Foster Care and Child Care Fraud Detection and Prevention -- Agenda Item VI

### REQUEST

*Level 1 Foster Care.* The Department of Children and Families (DCF) requests a transfer of \$1,416,800 FED in 2010-11 from its economic support federal block grant aids appropriation [s. 20.437(2)(md)] to the federal aids; community aids appropriation in the Department of Health Services [s. 20.435(7)(o)] to reflect the transfer of funds from the temporary assistance for needy families (TANF) block grant to the social services block grant (SSBG).

*Child Care Fraud Detection and Prevention.* DCF requests a transfer of \$3,200,000 FED in 2010-11 from its economic support federal block grant aids appropriation [s. 20.437(2)(md)] to its economic support federal block grant operations appropriation [s. 20.437(2)(mc)] to reflect an increase in TANF funds for the administrative costs of child care fraud detection and prevention activities.

### LEVEL 1 FOSTER CARE

#### Background

*Out-of-Home Care Placements Prior to 2009 Wisconsin Act 28.* If, after investigating an allegation of abuse or neglect, child welfare staff determines that a child cannot remain safely at home, the child is removed from the home and placed in out-of-home care. Out-of-home care includes children in foster homes, group homes, residential care centers, children living with a relative under court order (court-ordered kinship care), and other placements, such as short-term placements in secure detention facilities or hospitals.

If placement is with a relative, other than a parent, and the relative is not a licensed foster parent, then the relative may qualify for the kinship care program. In addition, there have been two levels of foster homes: foster care and treatment foster care. Under foster care, a family provides care and maintenance for four or fewer children or, if necessary to enable a sibling group to remain together, six or fewer children in the family's home. In treatment foster care, a family or, if DCF grants an exception, private agency staff for shift-staffed homes, provides care, maintenance, and structured, professional treatment for four or fewer children. Treatment foster parents or staff receive additional training to care for the higher needs of the children placed in treatment foster homes. These needs may be medical, physical, developmental, or emotional.

Table 1 shows the monthly payment amount for kinship care providers and the basic allowance for foster care providers based on the age of the child as of January 1, 2010, and as of January 1, 2011. Treatment foster care providers receive additional amounts based on the child's needs.

**TABLE 1**  
**Monthly Basic Maintenance Payment for Kinship Care Providers  
and Foster Care Providers Based on Age  
Calendar Years 2010 and 2011**

	<u>CY 2010</u>	<u>CY 2011</u>
Kinship Care Providers	\$215	\$220
Foster Care Providers		
<u>Age of Child</u>		
0 to 4	\$ 349	\$ 366
5 to 11	381	400
12 to 14	433	455
15 to 18	452	475

*Funding for Out-of-Home Care Placements.* With the exception of the costs of providing child welfare services in Milwaukee County and serving children in state foster care, counties support the costs of providing child welfare and child protective services with a combination of state, federal, and local funding. Children and family aids is the primary source of state and federal funding to counties for child welfare services, other than services provided in Milwaukee County. Funding for children and family aids consists of: (a) state GPR funds; (b) Title IV-E of the Social Security Act; (c) Title IV-B of the Social Security Act; (d) the SSBG; and (e) the TANF block grant.

Title IV-E provides entitlement matching funds to states for a portion of the cost of services for Title IV-E eligible children who are placed in out-of-home care and the associated

administrative, child placement, and training costs. However, out-of-home care costs may not be reimbursed under Title IV-E unless the child is placed in a licensed out-of-home care placement. Kinship care providers are not licensed and, therefore, not entitled to reimbursement under Title IV-E.

In addition, a state may use up to 10% of its TANF block grant allocation for purposes that are consistent with the requirements of the SSBG. Federal law specifies that any funds states use in this manner are subject to the federal SSBG requirements, not to TANF block grant requirements. The state currently transfers 4.27% annually from the TANF block grant to the SSBG.

The federal SSBG is distributed to states on the basis of population to provide services directed toward at least one of five goals: (a) to prevent, reduce, or eliminate economic dependency; (b) to achieve or maintain self-sufficiency; (c) to prevent neglect, abuse, or exploitation of children and adults; (d) to prevent or reduce inappropriate institutional care; and (e) to secure admission or referral for institutional care when other forms of care are not appropriate.

*2009 Wisconsin Act 28.* Act 28 requires DCF to create and implement a new graduated foster care licensing system. Act 28 requires DCF to promulgate rules to provide levels of care that a foster home is certified to provide, establish a standardized assessment tool to assess the needs of a child and determine the level of care that is required, and provide 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.

One aspect of this new graduated foster care licensing system is the licensing of court-ordered kinship care providers as level 1 foster care providers. By licensing these providers, out-of-home care costs associated with these level 1 providers would be eligible for reimbursement under Title IV-E. Act 28 reduced funding by \$6.5 million GPR in 2010-11 and increased funding by \$6.5 million FED in 2010-11 to reflect that court-ordered kinship care providers would be licensed and, therefore, eligible for reimbursement for administrative costs under Title IV-E.

Under Act 28, the new level 1 foster care providers, as well as the first \$215 of each monthly payment for kinship care cases that convert to level 2 or higher, will continue to be paid with TANF funds.

*Graduated Foster Care Licensing System.* In response to the requirements of Act 28 with respect to the new graduated foster care licensing system, DCF anticipates implementing rules on levels of care in two phases. In the first phase, a process for certification of foster homes at level 1 and level 2 is established. To this end, an emergency rule has been in effect since January 1, 2010, that creates a process for certification of foster homes at level 1 and level 2. The second phase will implement another rule that creates the requirements for foster homes with certification levels above level 2, establish the customized assessment tool, and provide the process to determine monthly rates of reimbursement above the basic maintenance payment under levels of care. DCF anticipates that this second phase will be implemented in 2011.

According to the first phase emergency rule, a licensing agency may grant a level 1 certification only to a foster home with a child-specific license. A "child-specific license" is a license that is issued to a relative of a child or an individual who has a previous existing relationship with the child or the child's family. A foster parent who operates a foster home with a level 1 certification must receive a minimum of six hours of pre-placement training within six months after the date of initial licensure. Relative caregivers who do not become licensed (voluntary, rather than court-ordered, kinship care providers) may still qualify for the kinship care program. The basic maintenance payment for the level 1 foster homes and the kinship care providers is the same as that of kinship care providers under Table 1.

Level 2 foster homes require the same amount of pre-placement training as level one, but also require a minimum of 30 hours of initial licensing training during the initial licensing period and completion of 10 hours of ongoing training in each 12-month period of licensure subsequent to the initial licensing period. Level 2 applicants must also submit at least three favorable reference letters written by persons unrelated to the applicant. The basic maintenance payment is the same as the age-related payments under Table 1.

### **Analysis**

Act 28 assumed that newly licensed former kinship care providers would continue to be paid with TANF funds. While eligible for Title IV-E reimbursement for administrative costs (estimated at \$6.5 million), these foster care providers would not receive Title IV-E reimbursement for basic maintenance costs. Title IV-E reimbursement (federal funds) would not be allowed for payments made with TANF funds (other federal funds).

As a result, DCF requests that the TANF funding for basic maintenance payments that would have been paid to the former kinship care providers that become licensed be, instead, transferred to the SSBG in DHS. DHS, in turn, would pass the additional SSBG funds back to DCF to distribute to county departments of human/social services as additional SSBG funding for children and family aids. Because counties would have additional SSBG funds, they would correspondingly spend less of their own local funding and have that funding available to provide basic maintenance payments to level 1 and higher foster care providers that were formerly kinship care providers. These expenditures for basic maintenance would then be eligible for Title IV-E reimbursement. DCF estimates that this transfer would generate an additional \$368,400 in federal Title IV-E reimbursement funds in 2010-11.

The transfer of an additional \$1,416,800 in TANF funds to the SSBG would bring the percentage of TANF funds transferred to 4.72%. As noted above, a maximum of 10% may be transferred. The transfer would result in a reduction of \$1,416,800 in TANF funds for kinship care and increase the amount of TANF used for the SSBG by the same amount.

DCF plans to phase-in the licensing process for the court-ordered kinship care providers over a one-year period and assumes that 90% of the court-ordered kinship care providers will become

licensed under the new graduated foster care licensing system. According to the emergency rule, new court-ordered kinship care applicants after January 1, 2010, must apply for a license. Existing court-ordered kinship care providers must apply for a license prior to or at the time of the reassessment or review of eligibility in calendar year 2010. DCF indicates that the process to convert court-ordered kinship care providers to level 1 licensed foster care providers began in April, 2010, and it is expected that the phase-in for level 1 foster care providers will be completed in March, 2011. The estimated basic maintenance costs for these providers would total \$1,416,800 in 2010-11.

In the request, DCF does not seek additional funding. Rather, DCF would transfer TANF funds that have been allocated for kinship care to the SSBG in order to generate additional federal funding. The Committee could deny the request. However, the additional \$368,400 FED would not be reimbursed under Title IV-E if the request is denied.

## **CHILD CARE FRAUD DETECTION AND PREVENTION**

### **Background**

The child care and development block grant (CCDBG) provides funds for child care services for low-income families and to improve the quality and supply of child care for all families. The state uses CCDBG funds for child care state administrative costs, child care licensing activities, child care quality and availability improvement programs, and direct child care subsidies. Under Act 28, it was estimated that the CCDBG funds for the state would total \$86.3 million in 2010-11. These funds were allocated as follows: (a) \$3.1 million for child care state administration; (b) \$5.8 million for child care licensing activities; (c) \$5.4 million for quality and availability improvement programs; and (d) the remainder (\$72.0 million) to fund direct child care subsidies. It is estimated that direct child care subsidies will total approximately \$342 million in 2010-11.

Both the CCDBG and the TANF block grant are deposited into two appropriations. One appropriation is for administrative costs, the economic support federal block grant operations appropriation [s. 20.437(2)(mc)], and the other is for aid, the economic support federal block grant aids appropriation [s. 20.437(2)(md)]. Expenditures for child care state administration and child care licensing activities are funded from the "operations" appropriation [s. 20.437(2)(mc)]. Expenditures for quality and availability improvement programs and direct child care subsidies are funded from the "aids" appropriation [s. 20.437(2)(md)].

The CCDBG may also be used for additional child care oversight activities. The Legislature has enacted a variety of measures to expand and enhance state oversight of the Wisconsin Shares child care subsidy program. These measures include: (a) the authority to create a licensed child care attendance monitor system; (b) the establishment of a child care program integrity unit; (c) the expansion of the child care fraud statutes to authorize DCF to refuse to pay child care providers under certain circumstances; (d) the requirement that at least 60% of children in the care of licensed child care providers be unrelated to the providers; (e) additional attendance record requirements; (f)

the authority for DCF to respond in a variety of ways if a child care provider submits false, misleading, or irregular information, fails to comply with the terms of Wisconsin Shares, or has been charged or convicted of certain offenses; (g) the requirement that DCF establish and adjust the number of authorized hours per child; (h) a limit to the number of hours that a child may receive child care under Wisconsin Shares; (i) an expansion of background check requirements of child care providers; (j) prohibiting certification or licensing of child care providers who have been convicted of a serious crime or fail to rehabilitate after conviction of certain crimes; and (k) a requirement to report suspected public assistance fraud.

In response to these additional requirements, the Department of Administration (DOA) has approved the creation of 15.0 permanent FED FTE positions, 4.0 project FED FTE positions, and 15.0 LTE positions in the economic support federal block grant operations appropriation [s. 20.437(2)(mc)].

### **Analysis**

In addition to creating positions, DOA has also reallocated funding, as described in the overview paper, in the amount of \$3,200,000 in 2010-11 from the savings in child care subsidies to fund these positions and some contracted services.

These funds have been reallocated within the economic support federal block grant "aids" appropriation [s. 20.437(2)(md)] for the purposes listed. However, administrative costs for child care fraud detection and prevention activities would be funded from the economic support federal block grant "operations" appropriation [s. 20.437(2)(mc)]. Therefore, even though the funding is available for child care fraud detection and prevention activities, DCF requests that the funds be transferred from the economic support federal block grant aids appropriation [s. 20.437(2)(md)] to the economic support federal block grant operations appropriation [s. 20.437(2)(mc)] in order to fund the positions already authorized by DOA for this purpose.

Table 2 shows how the funding would be allocated for the child care fraud detection and prevention activities.

**TABLE 2**

**Funding for Child Care Fraud Detection and Prevention Activities**

<u>Position</u>	<u>Number of Positions</u>	<u>Salary with Furlough</u>	<u>Fringe with Furlough</u>	<u>Supplies and Services</u>	<u>Total</u>
<b>Full-Time Permanent Employees</b>					
DCF Manager	1.00	\$72,600	\$35,000	\$20,000	\$127,600
Area Administrator	3.00	151,200	72,900	60,000	284,100
Licensing/Certification Specialists	4.00	184,500	89,100	80,000	353,600
IS Business Automation Senior	1.00	62,700	30,300	20,000	113,000
Licensing/Permit Program Associate	1.00	33,800	16,400	20,000	70,200
Human Services Area Coordinator	<u>5.00</u>	<u>262,200</u>	<u>126,600</u>	<u>100,000</u>	<u>488,800</u>
Total	15.00	\$767,000	\$370,300	\$300,000	\$1,437,300
<b>Full-Time Project Positions</b>					
Operations Program Associate	1.00	\$33,700	\$16,300	\$20,000	\$70,000
Auditor	<u>3.00</u>	<u>154,800</u>	<u>74,800</u>	<u>60,000</u>	<u>289,600</u>
Total	4.00	\$188,500	\$91,100	\$80,000	\$359,600
<b>Limited-Term Employees</b>					
Licensing/Certification Specialists	10.00	\$207,400	\$15,800	\$100,000	\$323,200
Attorneys	<u>5.00</u>	<u>350,000</u>	<u>26,800</u>	<u>50,000</u>	<u>426,800</u>
Total	15.00	\$557,400	\$42,600	\$150,000	\$750,000
<u>Service</u>	<u>Total</u>				
<b>Contracts and Services</b>					
Attendance Reviews	\$295,000				
Surveillance	160,000				
Audit Services	49,500				
Asset Recovery	49,500				
IT Programming	<u>99,100</u>				
Total	\$653,100				
<b>Total Costs</b>	<b>\$3,200,000</b>				

The Committee could deny the request. However, DCF is required to perform additional child care fraud detection and prevention activities. Without funding for the additional authorized positions, DCF may not be able to adequately perform these activities. On the other hand, DCF may have the flexibility to still be able to fund these activities without Committee approval by reallocating funds from other appropriations used to support TANF-related expenditures.

## **AUTOMATED ATTENDANCE TRACKING SYSTEM AND QUALITY RATING AND IMPROVEMENT SYSTEM**

Although not requested in DCF's section 13.10 request, DCF has indicated that they wish to seek Committee approval to transfer the administrative costs associated with the automated attendance tracking system (\$1,000,000) and the quality rating and improvement system (\$892,400) from the TANF and CCDBG aids appropriation to the operations appropriation. Funding for these purposes has been approved through the reallocation process noted in the overview paper. However, these funds are located in the economic support federal block grant aids appropriation [s. 20.437(2)(md)]. DCF indicates that the funds would need to be transferred to the economic support federal block grant operations appropriation [s. 20.437(2)(mc)] to increase the expenditure authority for these additional administrative expenses.

*Automated Attendance Tracking System.* Provisions of 2009 Wisconsin Act 2 initially authorized DCF to implement a system to monitor child care attendance in licensed child care centers, the automated attendance tracking system (AATS). Act 28 provided additional funding for this system of \$500,000 GPR annually, but placed the funding in the Committee's general program supplementation appropriation and required DCF to request these funds under s. 13.10 of the statutes with a detailed plan of how the swipe card system would work and how the funds, if released, would be spent.

DCF is currently evaluating responses to its AATS request for proposals (RFP) and expects to award a contract in July, 2010. The contract start date is currently estimated to be August 1, 2010.

Instead of requesting the GPR funds in the Committee's appropriation, DCF has reallocated \$1,000,000 FED in 2010-11 from underspending in Wisconsin Shares to fund the AATS. However, DCF would need to have these funds transferred from the economic support federal block grant aids appropriation [s. 20.437(2)(md)] to the economic support federal block grant operations appropriation [s. 20.437(2)(mc)] for the administrative costs of the AATS.

The Committee could approve the transfer of these funds in addition to the request to transfer \$3,200,000 for child care fraud detection and prevention activities in order for DCF to be able to administer the AATS once a proposal has been accepted for implementation. However, as the intent under Act 28 was to require DCF to return to the Committee to provide a detailed plan of how the swipe card system would work and how the funds would be spent, the Committee may choose not to transfer these funds. Instead, whether DCF spends GPR or federal funds on the AATS, DCF could be required to return to the Committee with the detailed plan in order for the Committee to either release the GPR funds or to approve the transfer of the federal funds from the aids appropriation to the operations appropriation.

*Quality Rating and Improvement System.* Provisions of Act 28 require DCF to seek approval before the implementation of a quality rating and improvement system (QRIS). This issue is

addressed in a separate paper. If the Committee approves the QRIS plan, DCF would seek to transfer additional funds of \$892,400 FED in 2010-11 from the economic support federal block grant aids appropriation [s. 20.437(2)(md)] to the economic support federal block grant operations appropriation [s. 20.437(2)(mc)] to support 3.0 FED FTE positions (\$316,900 FED), information technology programming (\$300,000), communications (\$120,000), and evaluation of the QRIS (\$155,500). DOA has already created the 3.0 FED FTE positions for the QRIS. However, the positions cannot be filled unless the QRIS plan is approved by the Committee. Table 3 shows the positions and the funding associated with these positions for the QRIS.

**TABLE 3**

**Positions and Funding Associated with Positions for QRIS  
2010-11**

<u>Position</u>	<u>Position Number</u>	<u>Salary with Furlough</u>	<u>Fringe with Furlough</u>	<u>Supplies and Services</u>	<u>Total</u>
Human Services Supervisor	1.00	\$68,600	\$33,100	\$20,700	\$122,400
Program and Policy Analyst	<u>2.00</u>	<u>100,800</u>	<u>48,700</u>	<u>45,000</u>	<u>194,500</u>
Total	3.00	\$169,400	\$81,800	\$65,700	\$316,900

If the Committee approves the QRIS plan, the Committee could transfer \$892,400 FED from the aids appropriation to the operations appropriation in addition to the \$3,200,000 in DCF's request to support additional administrative activities related to the QRIS. However, if the Committee does not approve the QRIS plan, then the transfer of these funds would be unnecessary.

**FISCAL EFFECT**

Other than the costs of the QRIS, none of the changes requested would have a fiscal effect on the TANF balance because funds that have already been allocated would shift from one appropriation to another. However, approval of the transfer of funds from the TANF block grant to the SSBG would increase Title IV-E federal funding for child welfare programs by \$368,400 in 2010-11. The costs of the QRIS are addressed in a separate paper.

**ALTERNATIVES**

1. Approve the administration's request to transfer TANF funds in the amount of \$1,416,800 FED in 2010-11 to the SSBG in DHS.
2. Approve the administration's request to transfer CCDBG funds in the amount of \$3,200,000 FED in 2010-11 from the TANF and CCDBG aids appropriation to the TANF and

CCDBG operations appropriation to fund additional, approved positions for child care fraud detection and prevention activities.

3. Transfer \$1,000,000 FED in 2010-11 from the TANF and CCDBG aids appropriation to the TANF and CCDBG operations appropriation to fund the administrative costs of the AATS.

4. Transfer \$892,400 FED in 2010-11 from the TANF and CCDBG aids appropriation to the TANF and CCDBG operations appropriation to fund the administrative costs of the QRIS.

4. Deny the request to transfer TANF funds to the SSBG.

5. Deny the request to transfer CCDBG funds from the aids appropriation to the operations appropriation for child care fraud detection and prevention activities.

Prepared by: Kim Swissdorf