

1991 Senate Bill 77

Date of enactment: **March 28, 1991**Date of publication\*: **April 11, 1991**

# 1991 WISCONSIN ACT 6

**AN ACT** to *renumber* 46.40 (4) and 46.98 (1) (a); to *amend* 20.435 (7) (b), 20.435 (7) (o), 46.98 (3) (a), 46.98 (3) (bm), 46.98 (4) (b), 46.98 (4) (c) (intro.), 46.98 (4) (cm), 46.99 (5) (b), 49.50 (7c) (c), 49.50 (7j) (e) 1, 49.50 (7m) (jm) and 49.52 (1) (d); and to *create* 46.40 (4) (b), 46.98 (1) (ag), 46.98 (2g), 46.98 (2m) and 46.98 (2r) of the statutes, **relating to:** implementing the federal job opportunities and basic skills child care grant program, granting rule-making authority, providing an exemption from emergency rule procedures and making an appropriation.

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

**SECTION 1.** 20.435 (7) (b) of the statutes is amended to read:

20.435 (7) (b) *Community aids.* A sum sufficient not to exceed \$181,135,200 in fiscal year 1989-90 and \$239,811,400 in fiscal year 1990-91 and in each fiscal year thereafter, which shall consist of the amounts received under par. (of) plus amounts from the general fund sufficient to equal \$181,135,200 in fiscal year 1989-90 and \$239,811,400 in fiscal year 1990-91 and in each fiscal year thereafter for the provision or purchase of mental health and developmental disabilities services under ss. 51.42 and 51.437, for reimbursement to counties having a population of less than 500,000 for the cost of court attached intake services under s. 48.06 (4) and for shelter care under ss. 48.22 and 48.58, for reimbursement for the provision or purchase of social services under ss. 46.215 (1) and (2) and 46.22 (1), including foster care under s. 49.19 (10), child care under s. 46.98 (2) (a) 1. and (2g) and services under ss. 46.57, 46.87 and 46.985. Social services disbursements under s. 46.03 (20) (b) may be made from this appropriation. Distributions to private nonprofit child care providers under s. 46.98 (2) (a) 2. and to county aging units and private nonprofit organizations under s. 46.87 (3) (c) 4. and (4) may be made from this appropriation. Refunds received relating to payments made under s. 46.03 (20) (b) for the provi-

sion of services for which moneys are appropriated under this paragraph shall be returned to this appropriation. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department of health and social services may transfer funds between fiscal years under this paragraph. The department shall deposit into this appropriation funds it recovers under ss. 49.52 (2) (b) and 51.423 (15) from prior year audit adjustments including those resulting from audits of services under s. 46.26 or 46.27. Except for amounts authorized to be carried forward under s. 46.45, all funds recovered under ss. 49.52 (2) (b) and 51.423 (15) and all funds allocated under ss. 46.87 (3) (c) 4. and (4), 46.98 (2) (a) 2., 49.52 (1) (d) and 51.423 (2) and not spent or encumbered by counties, governing bodies of federally recognized American Indian tribes or nonprofit organizations by December 31 of each year shall lapse to the general fund on the succeeding January 1 unless carried forward to the next calendar year by the joint committee on finance. Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may credit or deposit into this appropriation and may transfer between calendar years funds it transfers from the appropriation under sub. (1) (b) for the purposes specified under ss. 46.266 and 49.45 (6g).

**SECTION 2.** 20.435 (7) (o) of the statutes is amended to read:

20.435 (7) (o) *Federal aid; community aids.* All federal moneys received in amounts pursuant to allocation plans developed by the department for the provision or

purchase of services authorized under par. (b) and s. 46.70, all federal moneys received as child welfare funds under 42 USC 620 to 626 as limited under s. 48.985, all federal moneys received as child care grants under 42 USC 603 (n) as allocated under s. 46.40 (4) (b) and distributed under s. 46.98 (2g) and all amounts transferred from par. (md) for distribution under s. 49.52 (1) (d) as provided under s. 49.80 (3) (a). Disbursements from this appropriation may be made directly to counties for social and mental hygiene services under s. 46.03 (20) (b) or 46.031 or directly to counties in accordance with federal requirements for the disbursal of federal funds or directly to tribal governing bodies under s. 46.70. The department shall, on December 31 of any year, transfer to sub. (6) (n) all of the funds allocated for day care services under s. 49.52 (1) (d), that are not spent or encumbered as of December 31 of any year by county departments under s. 46.215, 46.22 or 46.23.

**SECTION 3.** 46.40 (4) of the statutes is renumbered 46.40 (4) (a).

**SECTION 4.** 46.40 (4) (b) of the statutes is created to read:

46.40 (4) (b) 1. For distribution under s. 46.98 (2g) for child day care services under s. 46.98 (2m), the department shall allocate, from the amount under par. (a), not more than \$995,100 for 1990 and not more than \$1,990,200 for the first 6 months of 1991.

2. For distribution under s. 46.98 (2g) for child day care services under s. 46.98 (2m), the department shall allocate, from the federal child care grant moneys received under 42 USC 603 (n) and appropriated under s. 20.435 (7) (o), not more than \$1,469,300 for 1990 and not more than \$2,938,500 for the first 6 months of 1991.

**SECTION 5.** 46.98 (1) (a) of the statutes is renumbered 46.98 (1) (am).

**SECTION 6.** 46.98 (1) (ag) of the statutes is created to read:

46.98 (1) (ag) “At risk of becoming eligible for aid to families with dependent children” means having a family income that is equal to or less than 75% of the state median income as determined by the department annually.

**SECTION 8.** 46.98 (2g) of the statutes is created to read:

46.98 (2g) DISTRIBUTION OF FEDERAL AND MATCHING STATE DAY CARE FUNDS. (a) In addition to the funds distributed under sub. (2), the department shall, for the purposes specified in sub. (2m), distribute the funds allocated for child day care services under s. 46.40 (4) (b) to county departments under ss. 46.215, 46.22 and 46.23.

(b) The department shall promulgate rules establishing a procedure to be used annually to establish a formula for the distribution of funds under par. (a).

**SECTION 9.** 46.98 (2m) of the statutes is created to read:

46.98 (2m) USE OF FEDERAL AND MATCHING STATE DAY CARE FUNDS. (a) Funds distributed under sub. (2g) may only be used for the purposes specified in this subsection. The funds shall be used to provide care for all or part of a day for children under age 13 of persons who need child care to be able to work, who are not receiving aid to families with dependent children and who are at risk of becoming eligible for aid to families with dependent children if child care under this subsection is not provided.

(b) A county may use up to 5% of the funds distributed under sub. (2g) to its county department under s. 46.215, 46.22 or 46.23 for the costs of administering the program under this subsection.

(c) From the funds distributed under sub. (2g), a county may provide child care services itself, purchase child care services from a child care provider, provide vouchers to an eligible parent for the payment of child care services provided by a child care provider, reimburse an eligible parent for payments made by the parent to a child care provider or a relative for child care services, adopt, with the approval of the department, any other arrangement that the county considers appropriate or use any combination of these methods to provide child care. An eligible parent may choose whether the care will be provided by a child care provider or by a relative, as defined in s. 48.02 (15).

(d) 1. No funds distributed under sub. (2g) may be used solely to prevent or remedy child abuse or neglect, to alleviate stress in the family or to preserve the family unit.

2. No funds distributed under sub. (2g) may be used for the start-up, maintenance or expansion of child care facilities, for the recruitment, education and training of persons providing child care or for the monitoring or certifying of child care providers.

**SECTION 10.** 46.98 (2r) of the statutes is created to read:

46.98 (2r) ELIGIBILITY FOR FEDERAL AND STATE MATCHING DAY CARE FUNDS. (a) A parent who needs child care for a child under 13 years of age to be able to work, who is not receiving aid to families with dependent children and who is at risk of becoming eligible for aid to families with dependent children is eligible to receive aid from the funds distributed under sub. (2g).

(b) A parent who receives aid under sub. (2m) is liable for the cost of child care received, payable in accordance with a sliding scale formula provided by the department that is based on the parent’s ability to pay.

(c) If funds distributed under sub. (2g) are insufficient to meet the needs of all eligible parents, a county shall give first priority to parents who are working and who have within the last 24 months lost eligibility for the payment of child care costs from the appropriation under s. 20.435 (7) (cn).

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(d) Each county shall annually set a maximum rate that it will pay for child care services provided to eligible parents. The department shall annually review each county's rate and shall approve it if it meets the criteria specified in regulations issued by the federal secretary of health and human services. The department shall promulgate rules establishing criteria that conform to the regulations issued by the federal secretary of health and human services and establishing procedures for approving county rates.

**SECTION 11.** 46.98 (3) (a) of the statutes is amended to read:

46.98 (3) (a) Funds distributed under sub. (2) may only be used for the purposes specified in this ~~section~~ subsection. The funds shall be used to provide care for children under age 12 for all or part of a day during which a child's parent is gainfully employed and to provide care for children under age 12 as a service to prevent or remedy child abuse or neglect, to assist families in stress or to preserve a family unit.

**SECTION 12.** 46.98 (3) (bm) of the statutes is amended to read:

46.98 (3) (bm) Funds distributed under sub. (2) (a) 1. may not be used for the costs of administering the program under this ~~section~~ subsection, except that a county may use up to 3% of the funds distributed to it under sub. (2) (a) 1. for the costs of recruiting child care providers and of certification under s. 48.651.

**SECTION 13.** 46.98 (4) (b) of the statutes is amended to read:

46.98 (4) (b) Parents receiving aid under ~~this section sub. (3)~~ whose family income is equal to or greater than 50% of the state median income are liable for the cost of child care received, payable in accordance with a schedule developed by the department based on ability to pay. Payment may be waived for persons receiving aid under par. (a) 4.

**SECTION 14.** 46.98 (4) (c) (intro.) of the statutes is amended to read:

46.98 (4) (c) (intro.) If funds distributed under ~~this section sub. (3)~~ are insufficient to meet the needs of all eligible parents, a county shall:

**SECTION 15.** 46.98 (4) (cm) of the statutes is amended to read:

46.98 (4) (cm) If funds distributed under ~~this section sub. (3)~~ are insufficient to meet the needs of all eligible parents, a county may, after providing aid to individuals under par. (c), give 4th priority to parents who are eligible to receive aid under par. (a) 1. and who are working.

**SECTION 16.** 46.99 (5) (b) of the statutes is amended to read:

46.99 (5) (b) The county department specified under par. (a) shall pay the school board from its child day care allocation under s. 46.40 (4) ~~(a)~~ an amount equal to the amount offered to the school board by the department under sub. (2). If the school district is located in more

than one county, the department shall determine the amount each county department shall pay the school board, based on the school district's population in each county.

**SECTION 17.** 49.50 (7c) (c) of the statutes is amended to read:

49.50 (7c) (c) The department may provide funds to pay child care costs of individuals who secure unsubsidized employment following participation in the employment search program and lose eligibility for aid to families with dependent children because of earned income. The funds shall be used to provide care for a child for all or part of a day during which the individual works. The child care services must be provided by a child care provider as defined in s. 46.98 (1) ~~(a)~~ (am). The department shall establish a formula for assistance under this paragraph based on ability to pay. The payment rates for child care services under this paragraph shall be determined as provided under s. 46.98 (4) (d).

**SECTION 18.** 49.50 (7j) (e) 1. of the statutes is amended to read:

49.50 (7j) (e) 1. From the appropriation under s. 20.435 (7) ~~(em)~~ (cn), the department shall provide funds to pay child care costs of individuals who secure unsubsidized employment following participation in the program and lose eligibility for aid to families with dependent children because of earned income. The funds shall be used to provide care for children for all or part of a day during which the individual works. The child care services must be provided by a child care provider as defined in s. 46.98 (1) ~~(a)~~ (am). The department shall establish a formula for assistance under this paragraph based on ability to pay. The rates for child care services under this paragraph shall be determined as provided under s. 46.98 (4) (d).

**SECTION 19.** 49.50 (7m) (jm) of the statutes is amended to read:

49.50 (7m) (jm) From the appropriation under s. 20.435 (7) (cn), the department shall use available funds to pay child care costs of individuals who secure unsubsidized employment following participation in a program under this subsection and lose eligibility for aid to families with dependent children because of earned income. The funds shall be used to provide care for children for all or part of a day during which the individual works. The child care services must be provided by a child care provider as defined in s. 46.98 (1) ~~(a)~~ (am). The department shall establish a formula for assistance under this paragraph based on ability to pay. The rates for child care services under this paragraph shall be determined as provided under s. 46.98 (4) (d).

**SECTION 20.** 49.52 (1) (d) of the statutes is amended to read:

49.52 (1) (d) From the appropriations under s. 20.435 (7) (b) and (o), the department shall allocate the funding for social services, including funding for foster care of a

child receiving aid under s. 49.19, to county departments under ss. 46.215, 46.22 and 46.23 as provided under s. 46.40. County matching funds are required for the allocations under s. 46.40 (1) to ~~(3)~~, (4) (a), (8), (9), (11) and (12). Before January 1, 1988, the ratio of state and federal funds to county matching funds shall equal 91 to 9. Beginning January 1, 1988, each county's required match for a year equals 9.89% of the total of the county's allocations for that year for which matching funds are required plus the amount the county was required by s. 46.26 (2) (c), 1985 stats., to spend for juvenile delinquency-related services from its allocation for 1987. Matching funds may be from county tax levies, federal and state revenue sharing funds or private donations to the county that meet the requirements specified in s. 51.423 (5). Private donations may not exceed 25% of the total county match. If the county match is less than the amount required to generate the full amount of state and federal funds allocated for this period, the decrease in the amount of state and federal funds equals the difference between

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the required and the actual amount of county matching funds.

**SECTION 20m. Nonstatutory provisions.** Using the procedure under section 227.24 of the statutes, the department of health and social services shall promulgate rules necessary to administer the program of federal and matching state child care funds distributed under section 46.98 (2g) of the statutes, as created by this act, including rules establishing a formula for the distribution of those funds and rules establishing criteria and procedures for approving the maximum rates under section 46.98 (2r) (d) of the statutes, as created by this act, that county departments of human services or social services under section 46.215, 46.22 or 46.23 of the statutes will pay for child care services. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency.

**SECTION 21. Effective date.** This act takes effect retroactively to October 1, 1990.