1997-98 SESSION COMMITTEE HEARING RECORDS

Committee Name:

Joint Committee for Review of Administrative Rules (JCR-AR)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

- *Appointments ... Appt*
-
- *Clearinghouse Rules ... CRule*
-
- *Committee Hearings ... CH*
-
- *Committee Reports ... CR*
-
- *Executive Sessions ... ES*
- *97hr_JCR-AR_ES_pt08b*
- *Hearing Records ... HR*
-
- *Miscellaneous ... Misc*
-
- *Record of Comm. Proceedings ... RCP*
-

September 3, 1997

Public Hearing & Exec.

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Joint Committee for Review of Administrative Rules

Backgrounder

Assembly Bill 254

JCRAR Authority to Extend Part of an Emergency Rule

History

The joint committee for review of administrative rules (JCRAR) voted unanimously on March 20, 1997 to introduce a bill that would amend s. 227. 24 and create s. 227.24 (2) am. As a result, AB 254 and its companion SB 149 were introduced respectively by JCRAR on April 9, 1997 and April 2, 1997. AB 254 was referred to JCRAR on April 9, where it was read for the first time. SB 149 was referred to the Committee on Economic Development, Housing and Government Operations on April 2. No action has been taken on either bills since.

Legislative Effect

Under current law, state administrative agencies may promulgate emergency rules under certain circumstances. These emergency rules remain in effect for 150 days unless they are extended by JCRAR (s. 227.24 (c)).

JCRAR is only authorized to extend the *entire* emergency rule and not *part* of the emergency rule. AB 254 authorizes JCRAR to extend part of an emergency rule while not extending the other part of the emergency rule. This bill also requires agencies to submit a written request for an extension for the effective period of the emergency rule or part of the emergency rule. The request must be submitted to the presiding officer of each house of the legislature no later than 30 days before the initial expiration date of the emergency rule.

AB 254 also requires JCRAR when extending an emergency rule or part of an emergency rule, to file a statement of its action with the presiding officer of each house of the legislature.

more

Executive Options Open to the Committee

- The joint committee can vote to recommend passage without making amendments.

- The joint committee can make amendments to the bill.

- The joint committee can vote against passage of the bill.

End

SENATOR RICHARD GROBSCHMIDT
CO-CHAIRMAN

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REPRESENTATIVE GLENN GROTHMAN
CO-CHAIRMAN

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

TO: Members, JCRAR

FROM: Sen. Grobschmidt & Rep. Grothman, Co-Chairs

DATE: September 2, 1997

RE: Clearinghouse Rule 97-023, relating to the administration of child care funds and required copayments.

BACKGROUND

The rule promulgated by the Department of Workforce Development establishes rates of copayments for parents who receive state child care assistance. Parents who are eligible to receive state assistance for child care include families whose gross income is equal to or less than 165% of the federal poverty level, and meet other non-financial standards. Those standards include - the parent is working and meets the financial eligibility guideline, the parent is not yet 20 years old and is enrolled in high school or a high school equivalency program, or the parent is taking part in W-2 subsidized employment or training.

In addition to establishing a copayment schedule, the rule as before the JCRAR also has a provision that allows the department to adjust the copayment levels set in the rule based on several factors. Those factors include:

- A change in child care prices or in the rates paid by county or tribal agencies.
- A change in the amount of funds available for child care assistance.
- A change in costs related to a change in the Consumer Price Index.
- A change in the federal poverty level.
- A change in economic factors affecting the cost of child care such as an increase in the demand for state child care financial assistance.

The rule as originally proposed did not require the agency to use rulemaking procedures when adjusting the copayment schedule. However, after consulting with the Senate Committee on Labor, Transportation and Financial Institutions, the department agreed to limit non-rule adjustments. The department's rule now specifies that any adjustments made to the copayment schedule will be published in the Wisconsin Administrative Register but will not be made through the rulemaking process unless the adjustment would increase copayments by more than 15%. For increases greater than 15% the department proposes using the emergency rule process. The rule also limits the ability of the department to adjust copayments by emergency rule by prohibiting the agency from making an emergency rule change in the schedule without first giving 30 day public notice.

THE OBJECTION

The Senate Committee on Labor, Transportation and Financial Institutions voted 4 in favor and 3 against, to object to the part of the rule that required rulemaking only when adjustments to the copayment schedule would increase copayments by more than 15%. As a result, the agency was allowed to promulgate the remaining provisions of the rule and the copayment schedule. The policy resulting from the partial objection is that the agency rule now requires adjustments of any amount to be done through rulemaking.

The standing committee objection was based on the concern that allowing the department to adopt adjustments in the copayment schedule apart from the rulemaking process would deprive the recipients, day care providers, the public and the legislature, the opportunity to comment on, and seek to modify, possible adjustments. The standing committee was also concerned that the department's policy on adjusting copayments did not incorporate limits on the frequency of adjustments. The committee found that non-rule adjustments could be arbitrary and capricious, or could impose an undue hardship.

THE DEPARTMENT'S POSITION

The department suggests it needs flexibility to adjust the copayment schedule without waiting the approximate 8 to 9 months necessary to complete the process of adopting a permanent rule change. The department foresees the need to make changes at least annually and argues that other factors that may prompt an adjustment can not be predicted. For example, the eligibility for child care assistance is being expanded to include all families that meet the financial eligibility criteria. At this time it is uncertain how many families might seek assistance and what impact those families will have on the

available funding. Also, the Governor's budget, as well as the budget bill approved by the Joint Committee on Finance, increases the income eligibility guideline to allow eligible families that already receive child care assistance to continue receiving help until their gross earnings are more than 200% of the federal poverty level. It is uncertain what impact that change will have on funding that is available for child care.

The department also notes that its modification that requires at least emergency rulemaking when adjustments would be greater than 15% retains public and legislative oversight for significant copayment schedule adjustments.

OPTIONS

Concurrence - The JCRAR could concur in the objection of the standing committee. If the JCRAR concurs with the objection, the JCRAR must introduce bills in each house within 30days of the objection to uphold its action.

Nonconcurrence - The JCRAR could nonconcur in the standing committee objection and allow the objected-to portion of the rule to be published.

Seek modifications

The JCRAR could suggest an alternative policy that could be adopted as a modification to the rule. The committee's review period for Clearinghouse Rule 97-023 expires on September 7, 1997. If the committee pursued this option the committee would need to obtain at least the department's agreement to consider modifications by that date.

DWD 56.08, Wis. Adm. Code

PROPOSED PERMANENT RULE RELATING TO THE ADMINISTRATION OF CHILD CARE FUNDS AND REQUIRED COPAYMENTS

Pursuant to the authority vested in the Wisconsin Department of Workforce Development by §§49.132(2)(b), (2r)(d), (4)(d) and (e)2 and (5)(e), and 49.155(5), Stats., the department proposes an order to renumber subchapter VII of HSS 55 and to create DWD 56.08, relating to the administration of child care funds and required parent copayments.

Analysis

The Department is authorized by s. 49.132(2)(b), (2r)(d), (4)(d) and (e)2 and (5)(e), Stats., to create a rule interpreting s. 49.155(5), Stats.

This rule contains a schedule of required copayments for parents who receive state child care funds. Under the schedule, a parent who receives a child care subsidy will not be required to pay more than 16% of gross income as a copayment. The copayments for licensed child care are 30% more than the copayments for certified child care.

The rule also provides that the schedule may be adjusted in the future to reflect changes in costs or other economic factors. Adjustments to the schedule will be published in the Wisconsin Administrative Register. A new rule will be promulgated to make adjustments to the schedule involving an increase in copayments of 15% or more, and advance public notice of at least one month will be given before an emergency rule involving an increase of 15% or more is adopted.

PROPOSED ORDER

Pursuant to the authority vested in the Wisconsin Department of Workforce Development by ss. 49.132(2)(b), (2r)(d), (4)(d) and (e)2 and (5)(e), and 49.155(5), Stats., the department proposes an order to renumber subchapter VII of HSS 55 and to create DWD 56.08, relating to the administration of child care funds and required parent copayments.

SECTION 1. Subchapter VII of HSS 55 is renumbered ch. DWD 56.

SECTION 2. DWD 56.08 is created to read:

DWD 56.08 Parent copayments. (1) SCHEDULE. The department shall set a schedule for parent copayment responsibilities which meets the following criteria:

(a) All families will have a copayment responsibility.

(b) Copayment amounts will be based on family size, family gross income, the number of children in a given family in child care, and the type of child care selected.

(c) The initial schedule is Table DWD 56.08(1)(c).

Note: Table DWD 56.08(1)(c) is reproduced at the end of this document.

(2) APPLICATION. (a) The copayment schedule applies to the following parents:

1. Parents who receive low-income child care funds under s. 49.132(3) and (4), Stats.

2. Parents who receive at-risk child care funds under s. 49.132(2m) and (2r), Stats.

3. Parents who receive child care funds as former AFDC recipients under s. 49.191(2), Stats.

4. Parents who receive child care funds as participants in the food stamp employment and training program under s. 49.124, Stats., to the extent permitted by federal statutes and rules.

(b) This subsection applies to all parents who receive child care financial assistance under s. 49.141(2)(b), Stats.

(c) This subsection applies before the sunset of s. 49.132, Stats., takes effect in accordance with ss. 49.132(6), Stats.

(3) ADJUSTMENTS. (a) The department may adjust the amounts in the schedule to reflect the following factors:

1. A change in child care prices or in the rates paid by county or tribal agencies.

2. A change in the amount of funds available for child care assistance.

3. A change in costs due to a change in the consumer price index.

4. A change in the federal poverty level.

5. A change in economic factors affecting the cost of child care to the state, such as an increase in the demand for child care financial assistance under s. 49.141(2)(b), Stats.

(b) The department shall publish adjustments to the copayment schedule in the Wisconsin administrative register.

(c) If the department proposes to make adjustments to the copayment schedule that would increase parental copayments by 15% or more, the department shall promulgate an administrative rule to make such adjustments, and the department shall not issue an emergency rule to implement such adjustments before providing advance public notice of at least one month.

[Table DWD 56.08(1)(c) appears here.]

(End)

DWD Table 56.08(1)(c)

Child Care Co-Payment Schedule for Licensed and Certified Care

Look down the column of the appropriate family size until you find the gross family monthly income level at or just less than the family income. Look to the right to find the appropriate co-payment by family and type of care.

[----------Gross Monthly Family Income----------]

	FAMILY SIZE:									WEEKLY LICENSED CARE CO-PAY AMOUNT KIDS IN SUBSIDIZED CARE:					WEEKLY CERTIFIED CARE CO-PAY AMOUNT KIDS IN SUBSIDIZED CARE:				
	2	3	4	5	6	7	8	9	10 or more	1	2	3	4	5 or more	1	2	3	4	5 or more
70% FPL	$ 619	$ 778	$ 937	$1,095	$1,254	$1,413	$1,571	$1,730	$ 1,889	$5	$9	$14	$18	$23	$3	$6	$10	$13	$16
75% FPL	$ 663	$ 833	$1,004	$1,173	$1,343	$1,514	$1,683	$1,853	$ 2,024	$5	$11	$16	$21	$26	$4	$7	$11	$15	$18
80% FPL	$ 707	$ 889	$1,070	$1,251	$1,433	$1,614	$1,795	$1,977	$ 2,158	$8	$13	$18	$24	$29	$6	$9	$13	$17	$20
85% FPL	$ 751	$ 944	$1,137	$1,329	$1,522	$1,715	$1,907	$2,100	$ 2,293	$11	$16	$21	$26	$32	$7	$11	$15	$18	$22
90% FPL	$ 796	$ 1,000	$1,204	$1,408	$1,612	$1,816	$2,020	$2,224	$ 2,428	$13	$20	$26	$33	$39	$9	$14	$18	$23	$28
95% FPL	$ 840	$ 1,055	$1,271	$1,486	$1,701	$1,917	$2,132	$2,347	$ 2,563	$16	$24	$32	$39	$48	$11	$17	$22	$28	$33
100% FPL	$ 884	$ 1,111	$1,338	$1,564	$1,791	$2,018	$2,244	$2,471	$ 2,698	$18	$26	$34	$42	$50	$13	$18	$24	$30	$35
105% FPL	$ 928	$ 1,167	$1,405	$1,642	$1,881	$2,119	$2,356	$2,595	$ 2,833	$21	$29	$37	$45	$53	$15	$20	$26	$31	$37
110% FPL	$ 972	$ 1,222	$1,472	$1,720	$1,970	$2,220	$2,468	$2,718	$ 2,968	$24	$32	$39	$48	$55	$17	$22	$28	$33	$39
115% FPL	$ 1,017	$ 1,278	$1,539	$1,799	$2,060	$2,321	$2,581	$2,842	$ 3,103	$26	$34	$42	$50	$58	$18	$24	$30	$35	$41
120% FPL	$ 1,061	$ 1,333	$1,606	$1,877	$2,149	$2,422	$2,693	$2,965	$ 3,238	$29	$37	$45	$53	$61	$20	$26	$31	$37	$42
125% FPL	$ 1,105	$ 1,389	$1,673	$1,955	$2,239	$2,523	$2,805	$3,089	$ 3,373	$32	$39	$48	$55	$63	$22	$28	$33	$39	$44
130% FPL	$ 1,149	$ 1,444	$1,739	$2,033	$2,328	$2,623	$2,917	$3,212	$ 3,507	$34	$44	$53	$62	$71	$24	$30	$37	$43	$50
135% FPL	$ 1,193	$ 1,500	$1,806	$2,111	$2,418	$2,724	$3,029	$3,336	$ 3,642	$37	$48	$58	$69	$79	$26	$33	$41	$48	$55
140% FPL	$ 1,238	$ 1,555	$1,873	$2,190	$2,507	$2,825	$3,142	$3,459	$ 3,777	$39	$50	$61	$71	$82	$28	$35	$42	$50	$57
145% FPL	$ 1,282	$ 1,611	$1,940	$2,268	$2,597	$2,926	$3,254	$3,583	$ 3,912	$42	$53	$63	$74	$84	$30	$37	$44	$52	$59
150% FPL	$ 1,326	$ 1,667	$2,007	$2,346	$2,687	$3,027	$3,366	$3,707	$ 4,047	$45	$55	$66	$76	$87	$31	$39	$46	$54	$61
155% FPL	$ 1,370	$ 1,722	$2,074	$2,424	$2,776	$3,128	$3,478	$3,830	$ 4,182	$48	$58	$69	$79	$90	$33	$41	$48	$55	$63
160% FPL	$ 1,414	$ 1,778	$2,141	$2,502	$2,866	$3,229	$3,590	$3,954	$ 4,317	$50	$61	$71	$82	$92	$35	$42	$50	$57	$65
165% FPL	$ 1,459	$ 1,833	$2,208	$2,581	$2,955	$3,330	$3,703	$4,077	$ 4,452	$51	$63	$74	$84	$95	$36	$44	$52	$59	$66
	^^^----------165% of the Federal Poverty Level----------^^^																		
170% FPL	$ 1,503	$ 1,889	$2,275	$2,659	$3,045	$3,431	$3,815	$4,201	$ 4,587	$53	$66	$76	$87	$98	$37	$46	$54	$61	$68
175% FPL	$ 1,547	$ 1,944	$2,342	$2,737	$3,134	$3,532	$3,927	$4,324	$ 4,722	$54	$68	$79	$90	$100	$38	$48	$55	$63	$70
180% FPL	$ 1,591	$ 2,000	$2,408	$2,815	$3,224	$3,632	$4,039	$4,448	$ 4,856	$56	$70	$82	$92	$103	$39	$50	$57	$65	$72
185% FPL	$ 1,635	$ 2,055	$2,475	$2,893	$3,313	$3,733	$4,151	$4,571	$ 4,991	$58	$72	$84	$95	$105	$40	$52	$59	$66	$74
190% FPL	$ 1,680	$ 2,111	$2,542	$2,972	$3,403	$3,834	$4,264	$4,695	$ 5,126	$59	$74	$87	$98	$108	$42	$54	$61	$68	$76
195% FPL	$ 1,724	$ 2,166	$2,609	$3,050	$3,492	$3,935	$4,376	$4,818	$ 5,261	$61	$76	$90	$100	$111	$43	$55	$63	$70	$78
199% FPL	$ 1,759	$ 2,211	$2,663	$3,112	$3,564	$4,016	$4,466	$4,917	$ 5,369	$63	$78	$92	$103	$113	$44	$57	$65	$72	$79
	<<<----------200% of the Federal Poverty Level---------->>>																		
204% FPL	$ 1,803	$ 2,266	$2,730	$3,191	$3,654	$4,117	$4,578	$5,041	$ 5,504	$ 64	$ 84	$ 95	$ 105	$ 116	$ 45	$ 59	$ 66	$ 74	$ 81
209% FPL	$ 1,848	$ 2,322	$2,796	$3,269	$3,743	$4,218	$4,690	$5,164	$ 5,639	$ 66	$ 86	$ 97	$ 107	$ 118	$ 46	$ 60	$ 68	$ 75	$ 83
214% FPL	$ 1,892	$ 2,378	$2,863	$3,347	$3,833	$4,319	$4,802	$5,288	$ 5,774	$ 68	$ 88	$ 99	$ 110	$ 121	$ 47	$ 62	$ 69	$ 77	$ 84
217% FPL	$ 1,918	$ 2,411	$2,903	$3,394	$3,886	$4,379	$4,869	$5,362	$ 5,855	$ 69	$ 91	$ 101	$ 112	$ 123	$ 48	$ 63	$ 71	$ 79	$ 86

TO:

JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES

Senator Richard Grobschmidt
Representative Glenn Grothman
Co-Chairs

From:

DEPARTMENT OF REGULATION AND LICENSING
Marlene A. Cummings
Secretary

REPORT OF INVESTIGATION OF ALLEGATIONS THAT CEMETERIANS ARE PERFORMING DUTIES THAT ONLY FUNERAL DIRECTORS ARE AUTHORIZED TO PERFORM

September 1, 1997

DEPARTMENT OF REGULATION AND LICENSING

INVESTIGATION OF ALLEGATIONS THAT CEMETERIANS ARE PERFORMING DUTIES THAT ONLY FUNERAL DIRECTORS ARE AUTHORIZED TO PERFORM

PURPOSE AND SCOPE:

On July 1, 1997, the JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES directed the Funeral Directors Examining Board ". . . to investigate allegations that cemeterians are performing duties that only funeral directors are authorized to perform . . ."

In response to that directive, Secretary Marlene A. Cummings directed that Division of Enforcement investigation supervisor Michael Whalen review all cemetery complaints received by the Department of Regulation and Licensing from January 1, 1996 to the present.

[**Note:** This report does not include a summary of any complaints alleging that insurance agents are performing duties that only funeral directors are authorized to perform, because the committee directed the Commissioner of Insurance to conduct an investigation of insurance agent conduct.]

INVESTIGATIVE STEPS:

1) Review of all cemetery complaints received from January 1, 1996 - August 26, 1997:

All cemetery complaints received and closed since January 1, 1996 were reviewed. There are 12 complaints in this category. None of those complaints include allegations that cemeterians performed duties that only funeral directors are authorized to perform.

since January 1, 1996, 21 cemetery complaints have been received and opened for investigation. 20 of those complaints do not include allegations that cemeterians performed duties that only funeral directors are authorized to perform.

File reference number 97 RLC 013 includes allegations that a cemetery salesperson represented himself to be employed by a funeral home. That investigation was completed on August 26, 1997 and will be forwarded to the assigned advisor for an opinion and recommendation. It is likely the complaint will not be pursued to discipline because there may have been a violation but no known harm to the public. Also, the activity was discontinued when a funeral director complained about the problem to the respondent employer.

2) Interview of persons who purportedly had knowledge of persons performing funeral director duties without a license:

Two individuals who appeared for Rule 96-183 and one individual who appeared against the rule before the Joint Committee for Review of Administrative Rules on June 30, 1997, were identified by Department of Regulation and Licensing personnel as individuals who said they knew about cemeterians performing duties that only funeral directors are authorized to perform. These three funeral directors were interviewed. Additionally, four more funeral directors, who were identified by the first three as individuals with possible knowledge were also interviewed. None of the individuals interviewed had any specific knowledge of an instance where cemetery or cemetery employee performed duties that only funeral directors are authorized to perform. Generally, all the funeral directors interviewed are aware that cemetery sales people have, at times, made representations to consumers that the cemeteries can "take care of everything else" except removal of a body and embalming. In conclusion, none of the funeral directors interviewed are aware of a specific instance where a cemetery employee signed a death certificate, embalmed a body, or directed funeral burial services.

3) Review of other Department of Regulation and Licensing, Division of Enforcement available information and complaint files.

Three closed 1995 complaint files with Nicolet Memorial Gardens in Green Bay as Respondent, contain an allegation that Nicolet Memorial Gardens distributed and published a casket price list which referred to the cemetery as a "funeral establishment." The Respondent stated that the document was prepared only for internal use and was formatted from a funeral establishment document and the Respondent failed to delete the "funeral establishment" reference. The list was immediately revised with the funeral establishment reference deleted. These three cases were closed in 1995 for no violation.

CONCLUSION:

The Department of Regulation and Licensing has very limited information about allegations that cemeterians are performing duties that only funeral directors are authorized to perform. Based on the information contained in the complaints on file and the information obtained from the seven Funeral Directors interviewed, this does not appear to be a problem of an especially serious nature. However, we will continue processing complaints received from the public and compiling relevant data. In the event you require any additional information, please contact us.

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STATE REPRESENTATIVE
Rosemary Potter
DEMOCRATIC CAUCUS CHAIR

September 2, 1997

Senator Richard Grobschmidt
Representative Glenn Grothman
Co-Chairmen, Committee on the
Joint Review of Administrative Rules
404 North Hamilton Street
Madison, Wisconsin

Dear Chairmen Grobschmidt and Grothman,

Thank you for accepting these comments regarding Clearinghouse Rule 97-023, relating to the administration of child care funds and required parental co-payments.

The premise underlying attention to childcare issues in welfare reform is that if parents know their children are safe and well-cared for, they will go back to work at a much higher success rate.

However, in late August, the *Milwaukee Journal-Sentinel* reported on their extensive investigation into childcare being used by Milwaukee's welfare reform participants. Among other problems, the *Journal-Sentinel* documented low-income children being cared for too frequently in lower-cost, sub-standard and sometimes dangerous situations. Childcare experts believe that an important reason low-income parents are choosing lower-cost, and often lower-quality, childcare is that when they do, their co-payments are lower than if they were using licensed care.

Obviously the cost of parental co-payments is driving many parents' childcare choices, and the results are not good for children. For this reason we must carefully scrutinize the process the Department uses to raise co-payment levels, as well the amounts of the co-payments themselves.

That process of careful scrutiny, occurring here today and known as legislative oversight, is what CR 97-023 proposes to bypass. Not only does the rule grant the Department of Workforce Development (DWD) discretion, it grants discretion with no specific time limits. Under the questioned portion of this rule, not only can the Department raise co-payment levels at will up to 15%, they can apparently do it when and as often as desired.

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Proposals to increase the co-payments should go through the rulemaking process in order to allow public input and legislative oversight. At a minimum, co-payment increases should be subject to rule-making when they are equal to increases in the cost-of-living or, at most, 5% per year over existing levels.

I recognize that the rule as it now stands represents some modifications by the Department to their original rate-setting proposal for co-payments. However, I concur with the members of the Senate Labor Committee, who have objected that these changes still grant too much latitude to the Department to determine co-payment levels.

I understand also that the rule-making process is long, but that's for a good reason, especially in this case. It will serve the purpose of providing time for adequate legislative and public scrutiny of whether the existing co-payments structure burdensome to W-2 participants. Let's retain our legislative prerogative on this sensitive issue that so directly influences the quality of care children receive.

Thank you so much for your careful consideration of this very important question.

Sincerely,

Rosemary Potter

Rosemary Potter
STATE REPRESENTATIVE
20TH ASSEMBLY DISTRICT

RP/mbg

Attachment

online
MILWAUKEE JOURNAL SENTINEL
NEWS

Day-care mess spurs calls for change, aid

County, activists say state must do more; bank helps launch advice hot line

By Margo Huston
of the Journal Sentinel staff

August 28, 1997

Milwaukee County officials and activists on welfare issues said Wednesday that wide-ranging reforms in the system of subsidized child care were needed to assure success in welfare reform.

"We need to clean up our system," said County Board Chairman Karen Ordinans. And, she said, the state needs to put more resources into training providers and supervising the quality of care.

"We do not have the local tax levy available to provide these additional services."

Ordinans said the board needed to monitor steps begun by Human Services Department officials in response to a Journal Sentinel investigation of home child-care providers in Milwaukee County.

"We want to appropriately compensate day-care providers, but we cannot tolerate abuses of the system," she said.

The newspaper found child-care providers who were being paid for taking care of far more children than state regulations allow, providers who were being paid before being certified to care for children, minimal oversight of child-care providers, and miscommunication between state and local agencies that allowed suspect providers to stay in business.

The newspaper received several dozen calls from readers, many relating their own trials with child care and their concerns for their children and other people's children under Wisconsin Works, or W-2, the program that will replace welfare in the state. One reader wanted to donate books to a provider mentioned in the series. A licensed family child-care provider said he could not understand why so many poor families are choosing unlicensed certified care over more regulated licensed care.

Anne Arnesen, director of the Wisconsin Council on Children and Families, a private group that has been critical of aspects of W-2, said Wednesday that quality child-care was "the missing piece of welfare reform." She said that the co-payment the state requires of parents encourages families to choose unlicensed care.

"We need money and we need standards so that people can be trained and have resources to run good day care," Arnesen said. "We ought to have our public policy begin to revolve

around good day care."

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The Parents' Quality Care HELPline -- 263-8397 -- is operating from 10 a.m. to 4 p.m., Monday through Friday.

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SENATOR RICHARD GROBSCHMIDT
CO-CHAIRMAN

Room 404 • Hamilton
Madison, WI 53707
Phone: 608-266-7505

REPRESENTATIVE GLENN GROTHMAN
CO-CHAIRMAN

Room 125 West, • State Capitol
Madison, WI 53703
Phone: 608-264-8486

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

TO: Members, JCRAR

FROM: Sen. Grobschmidt & Rep. Grothman, Co-Chairs

DATE: September 2, 1997

RE: Clearinghouse Rule 97-023, relating to the administration of child care funds and required copayments.

BACKGROUND

The rule promulgated by the Department of Workforce Development establishes rates of copayments for parents who receive state child care assistance. Parents who are eligible to receive state assistance for child care include families whose gross income is equal to or less than 165% of the federal poverty level, and meet other non-financial standards. Those standards include - the parent is working and meets the financial eligibility guideline, the parent is not yet 20 years old and is enrolled in high school or a high school equivalency program, or the parent is taking part in W-2 subsidized employment or training.

In addition to establishing a copayment schedule, the rule as before the JCRAR also has a provision that allows the department to adjust the copayment levels set in the rule based on several factors. Those factors include:

- A change in child care prices or in the rates paid by county or tribal agencies.
- A change in the amount of funds available for child care assistance.
- A change in costs related to a change in the Consumer Price Index.
- A change in the federal poverty level.
- A change in economic factors affecting the cost of child care such as an increase in the demand for state child care financial assistance.

The rule as originally proposed did not require the agency to use rulemaking procedures when adjusting the copayment schedule. However, after consulting with the Senate Committee on Labor, Transportation and Financial Institutions, the department agreed to limit non-rule adjustments. The department's rule now specifies that any adjustments made to the copayment schedule will be published in the Wisconsin Administrative Register but will not be made through the rulemaking process unless the adjustment would increase copayments by more than 15%. For increases greater than 15% the department proposes using the emergency rule process. The rule also limits the ability of the department to adjust copayments by emergency rule by prohibiting the agency from making an emergency rule change in the schedule without first giving 30 day public notice.

THE OBJECTION

The Senate Committee on Labor, Transportation and Financial Institutions voted 4 in favor and 3 against, to object to the part of the rule that required rulemaking only when adjustments to the copayment schedule would increase copayments by more than 15%. As a result, the agency was allowed to promulgate the remaining provisions of the rule and the copayment schedule. The policy resulting from the partial objection is that the agency rule now requires adjustments of any amount to be done through rulemaking.

The standing committee objection was based on the concern that allowing the department to adopt adjustments in the copayment schedule apart from the rulemaking process would deprive the recipients, day care providers, the public and the legislature, the opportunity to comment on, and seek to modify, possible adjustments. The standing committee was also concerned that the department's policy on adjusting copayments did not incorporate limits on the frequency of adjustments. The committee found that non-rule adjustments could be arbitrary and capricious, or could impose an undue hardship.

THE DEPARTMENT'S POSITION

The department suggests it needs flexibility to adjust the copayment schedule without waiting the approximate 8 to 9 months necessary to complete the process of adopting a permanent rule change. The department foresees the need to make changes at least annually and argues that other factors that may prompt an adjustment can not be predicted. For example, the eligibility for child care assistance is being expanded to include all families that meet the financial eligibility criteria. At this time it is uncertain how many families might seek assistance and what impact those families will have on the

available funding. Also, the Governor's budget, as well as the budget bill approved by the Joint Committee on Finance, increases the income eligibility guideline to allow eligible families that already receive child care assistance to continue receiving help until their gross earnings are more than 200% of the federal poverty level. It is uncertain what impact that change will have on funding that is available for child care.

The department also notes that its modification that requires at least emergency rulemaking when adjustments would be greater than 15% retains public and legislative oversight for significant copayment schedule adjustments.

OPTIONS

Concurrence - The JCRAR could concur in the objection of the standing committee. If the JCRAR concurs with the objection, the JCRAR must introduce bills in each house within 30days of the objection to uphold its action.

Nonconcurrence - The JCRAR could nonconcur in the standing committee objection and allow the objected-to portion of the rule to be published.

Seek modifications

The JCRAR could suggest an alternative policy that could be adopted as a modification to the rule. The committee's review period for Clearinghouse Rule 97-023 expires on September 7, 1997. If the committee pursued this option the committee would need to obtain at least the department's agreement to consider modifications by that date.

STATE REPRESENTATIVE
Rosemary Potter
DEMOCRATIC CAUCUS CHAIR

September 2, 1997

Senator Richard Grobschmidt
Representative Glenn Grothman
Co-Chairmen, Committee on the
Joint Review of Administrative Rules
404 North Hamilton Street
Madison, Wisconsin

Dear Chairmen Grobschmidt and Grothman,

Thank you for accepting these comments regarding Clearinghouse Rule 97-023, relating to the administration of child care funds and required parental co-payments.

The premise underlying attention to childcare issues in welfare reform is that if parents know their children are safe and well-cared for, they will go back to work at a much higher success rate.

However, in late August, the *Milwaukee Journal-Sentinel* reported on their extensive investigation into childcare being used by Milwaukee's welfare reform participants. Among other problems, the *Journal-Sentinel* documented low-income children being cared for too frequently in lower-cost, sub-standard and sometimes dangerous situations. Childcare experts believe that an important reason low-income parents are choosing lower-cost, and often lower-quality, childcare is that when they do, their co-payments are lower than if they were using licensed care.

Obviously the cost of parental co-payments is driving many parents' childcare choices, and the results are not good for children. For this reason we must carefully scrutinize the process the Department uses to raise co-payment levels, as well the amounts of the co-payments themselves.

That process of careful scrutiny, occurring here today and known as legislative oversight, is what CR 97-023 proposes to bypass. Not only does the rule grant the Department of Workforce Development (DWD) discretion, it grants discretion with no specific time limits. Under the questioned portion of this rule, not only can the Department raise co-payment levels at will up to 15%, they can apparently do it when and as often as desired.

■ *Office: P.O. Box 8953*
Madison, WI 53708
(608) 266-8588

■ *Home: 3113 South Pennsylvania Avenue*
Milwaukee, WI 53207
(414) 481-9252

■ *Toll-free Legislative Hotline*
1-800-362-9472
■ *FAX (608) 266-7038*

Proposals to increase the co-payments should go through the rulemaking process in order to allow public input and legislative oversight. At a minimum, co-payment increases should be subject to rule-making when they are equal to increases in the cost-of-living or, at most, 5% per year over existing levels.

I recognize that the rule as it now stands represents some modifications by the Department to their original rate-setting proposal for co-payments. However, I concur with the members of the Senate Labor Committee, who have objected that these changes still grant too much latitude to the Department to determine co-payment levels.

I understand also that the rule-making process is long, but that's for a good reason, especially in this case. It will serve the purpose of providing time for adequate legislative and public scrutiny of whether the existing co-payments structure burdensome to W-2 participants. Let's retain our legislative prerogative on this sensitive issue that so directly influences the quality of care children receive.

Thank you so much for your careful consideration of this very important question.

Sincerely,

Rosemary Potter

Rosemary Potter
STATE REPRESENTATIVE
20TH ASSEMBLY DISTRICT

RP/mbg

Attachment

online
MILWAUKEE JOURNAL SENTINEL
NEWS

Day-care mess spurs calls for change, aid

County, activists say state must do more; bank helps launch advice hot line

By Margo Huston
of the Journal Sentinel staff

August 28, 1997

Milwaukee County officials and activists on welfare issues said Wednesday that wide-ranging reforms in the system of subsidized child care were needed to assure success in welfare reform.

"We need to clean up our system," said County Board Chairman Karen Ordinans. And, she said, the state needs to put more resources into training providers and supervising the quality of care.

"We do not have the local tax levy available to provide these additional services."

Ordinans said the board needed to monitor steps begun by Human Services Department officials in response to a Journal Sentinel investigation of home child-care providers in Milwaukee County.

"We want to appropriately compensate day-care providers, but we cannot tolerate abuses of the system," she said.

The newspaper found child-care providers who were being paid for taking care of far more children than state regulations allow, providers who were being paid before being certified to care for children, minimal oversight of child-care providers, and miscommunication between state and local agencies that allowed suspect providers to stay in business.

The newspaper received several dozen calls from readers, many relating their own trials with child care and their concerns for their children and other people's children under Wisconsin Works, or W-2, the program that will replace welfare in the state. One reader wanted to donate books to a provider mentioned in the series. A licensed family child-care provider said he could not understand why so many poor families are choosing unlicensed certified care over more regulated licensed care.

Anne Arnesen, director of the Wisconsin Council on Children and Families, a private group that has been critical of aspects of W-2, said Wednesday that quality child-care was "the missing piece of welfare reform." She said that the co-payment the state requires of parents encourages families to choose unlicensed care.

"We need money and we need standards so that people can be trained and have resources to run good day care," Arnesen said. "We ought to have our public policy begin to revolve

around good day care."

Under W-2, home child-care providers do not need any training at all to care for poor children and be paid for that care by the county, using state and federal tax dollars.

"Our youngest children have to be in quality child care that allows them to develop as they should," Arnesen said.

County Supervisor Roger Quindel, chairman of the Health and Human Needs Committee, said: "We've got to get the state to deal with the reality of Milwaukee.

"We're on record, over and over, that this lower tier of child care is risky and unnecessary and only adds to the insecurity of people who have to go to work," he said. "I'm supportive of people working, but that doesn't mean their children have to be in a situation that other people would never leave their own children in."

Ramon Wagner, director of Community Advocates, a non-profit agency that helps low-income families receive social services, said leaders from county and state government and the private sector need to create a network to oversee the community's child-care services under W-2.

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Frates, Splaingard, *et al* state, "36 **(67%)** of the children were cared for by families or friends, with only occasional outside nursing assistance. 8 (5%) of the families received assistance from nursing aides or other trained attendants, and another 8 (5%) received full-time home care by RN's" (p. 853). The article states, "The most important part of discharge planning is to identify a parent or guardian who is capable of learning all the facets of care the child requires..." (p. 855). It mentions children placed in nursing homes "because of family refusal to care for them" (p. 853). Again, the norm here both in fact and in ideal is for *families to provide some cares to their ventilator-assisted children*. That is in fact the "established medical opinion" and standard practice both in and beyond Wisconsin (again refuting the Pinneke v. Preisser argument in Petitioners' Memorandum.) BHCF PA adjudications are in accord with that norm, and with WI Medicaid guidelines. We ask parents to provide only a few hours each day, and some additional hours on their non-work days. This is reasonable and customary practice. (Out of some 400 WI families with PDN-eligible children, fewer than 30 request more than 16 hours/day of PDN.)

The larger context of other states' Medicaid coverage for PDN is also relevant. First, WI is among a minority of states which even have the federally optional PDN benefit. It follows then that the majority of families in the U.S. are caring for their medically-needy children by themselves or with non-nursing assistive personnel. WI Medicaid has chosen to have the PDN benefit to help families and foster families care for these children safely at home. 90% of states with PDN restrict PDN to children to less than 24 hours/day, with limited exceptions (such as a few weeks post hospital discharge). Given this larger context, it is impossible to argue that 24 hours/day of PDN to children is in fact medically necessary, or that it is in accord with standard practice or established opinion. That is, in effect, what the petitioners are arguing for in this appeal.

Continuation of Payment Pending Appeal

The Petitioners' Memorandum concludes with a complaint that the BHCF has in this decision violated the recipient's federally-mandated right to payment pending appeal. There appears to be a conflation here of WI Medicaid prior authorization with continuation of payment pending appeal. PA decisions must be in accord with WI Medicaid guidelines, while the continuation of payment pending appeal is outside of PA. We cannot grant PA's based on *possible* fair hearing requests with unpredictable time frames.

More specifically, Ms. Lorant charges that the BHCF has violated petitioners' right to continued payment pending appeal, because the 45-day letter was sent instead of the 10-day letter. Only the 10-day letter states that WI Medicaid will continue to pay for services pending an appeal decision; the 45-day letter does not. In this case, BHCF thought the 45-day letter was the appropriate letter to send. We leave this decision up to the hearing officer's legal expertise, but will explain our decision. First, we have not been prior authorizing 24 hours/day of PDN for Antonio Gaines for some time, so the continuation of payment clause did not apply. In the PA's immediately preceding the ones currently being appealed, the providers submitted documentation that the Grieveldingers were providing at least a few hours of Tony's cares each day. The PA's were approved with a note that 24 hours/day was not being authorized, and to correct future plans of care to show PDN in hours per day and per week. (See attached copies of those PA's, with schedule of cares, adjudicated in October 1996. Please note that the PA's were returned once, and then approved with comments.) Second, the total hours per week were approved as requested.

If the Grieveldingers in fact require more than 110 hours per week of PDN to assist them in Tony's cares, they should have their providers request additional hours. Margaret Guthneck explained this to one of Tony's independent nurses. (In fact, amendment requests for additional hours can be backdated to the original PA start date if submitted within two weeks of the adjudication date.)

Summary

The BHCF has authorized up to 20 hours/day of PDN, and up to 110 hours/week of PDN for Antonio Gaines. Tony's foster parents need provide only a few hours of care each day. As explained above, the 110 hours/week was authorized because it was requested; if the Grieveldingers need more than 110 hours/week, they should request more hours with an explanation. But it is the considered view of the BHCF that more than 20 hours/day of PDN for Antonio Gaines exceeds medical necessity, and thus cannot be prior authorized.

Thank you for the opportunity to respond to the additional information submitted during this hearing process. We hope this explains the reason for the BHCF's position, and shows it to be in accord with WI Medicaid guidelines. If you have any questions, please call Ann M. Pooler at 608 267-9590. Thank you.

Sincerely,

Ann M. Pooler, RN *(for* Margaret Guthneck, RN)
Nurse Consultant
Bureau of Health Care Financing

Alan S. White
Chief, Medicaid Audit Section
Bureau of Health Care Financing

Attachment

cc: Kim and Luke Grieveldinger (N48 W16443 Lone Oak Lane, Menomonee Falls, WI 53051)

PT:	A	B	C	D	E	F	G
VENT	NO	YES	NO	NO	NO	YES	NO
TRACH	NO	YES	NO	NO	YES	YES	NO
GT PUMP	YES YES	YES YES	YES YES	NG NO	YES YES	YES NO	YES
POLY MEDS	YES	YES	YES	YES	YES	YES	YES
AEROSOL	YES	YES	PRN/ILL	PRN/ILL	YES	YES	YES
CPT	YES	YES	NO	PRN/ILL	YES	YES	YES
OXYGEN	YES	YES	YES	PRN	YES	YES	
THERAPY	YES	YES	YES	NO	YES	YES	
SUCTION DEEP ORAL	 YES YES	 YES YES	 YES YES	 PRN/ILL YES	 YES YES	 YES YES	 YES YES
MOBILITY	0	YES	YES	YES	YES	0	0
① INDEP.	—	—	—	—	YES	—	—
② DEPEND.	YES	Yes	YES	YES	HELP	YES	Yes
ROM	YES	YES	YES	NO	YES	YES	YES
CARE GIVERS	2?	2	?	2	2	1	2
PROBLEM	YES		YES	YES	YES	YES	NO
OTHER FAMILY	YES	YES	YES	YES	YES	NO	YES
OTHER MEDIA	NO	?	YES	YES	YES	YES	YES
AGENCY	YES	NO	NO	NO	NO	NO	NO
OTHER SKILLED CARES			CATH Q 3-4 HOURS				
Hrs per day/ Days per wk	20/7	16/5	NONE	20/7	10/7	144 hr wk/0 school 149 hr	24/7

Submitted by Arlene Nelessen at 9/3/97 JCRAR hearing on BHCF policies on PDN.

nt of a child with high tech medical needs. I have the ability to care for my child, I am not a low cost provider. For 7 years I was allowed to be a patent ng that time if you had asked me about the system, I would not have had much I now have plenty to say about the system, little of it good! In the past the cian would write a prescription and the state would review it. Most of the time the e would follow through on the physicians orders. Sometime there would be small odifications. Over all the system worked.

A year ago we sent a PA request for 133 hours. The BHCF stated that "133 seems high". We were told to reduce the hours and the PA was approved for only 8 weeks. After that our hours were reduce to 110 hours per week. This number of hours covers sleep, work and going to school, but littie else. That left us little flexibility. We did not agree with this. We were not informed of any rights, we were unaware we could refuse this and get an appeal if modified. We did as requested by the BHCF.

We had the ability to move the hours around a 2 week time frame and if needed we could have 24 hours. This was not a good period. We became more and more fatigued. Then after 6 months the BHCF modified our PA. It became weekly and no 24 hours were allowed. With 2 week or monthly scheduling we could plan and move hours around to meet the needs of the Tony and the family. If a nurse was sick or couldn't come we moved those hours to another day or the next week. Now that flexibility was to be taken away. We decided to go for before a hearing examiner.

At the hearing Kim related some of the hard times we had with the diminished hours and 2 week limit on flexibility. In there response to this the BHCF points out that "the 110 hour/week was authorized because it was requested". This was what we did per there request, because we worked with them they make it sound like our fault.*(see 5/97, pg. 6 and 7).*

Then the BHCF takes this one step further and states "The excessively long caregiving shifts claimed by the Greiveldinger appear unsafe, and appear to reflect inappropriate scheduling of PDN hours." *(see August 6, 1997 page 4 and 5)* When you only have hours to cover work, sleep and the child's schooling needs what flexibility do you have. We did some sleeping in shifts and other things but life will not follow a set schedule.

They also sited our home study to show we didn't need flexibility. I have 17 points from this home study that I feel misrepresents Tony. I will cover 2 that they point out, but I have add information with all the points for you to review. Tony's doctors have stated that he receives 70% of his nutrition though his g-tube all this fluids and all his meds. In the home study they state "The orally feedings are supplemented with 5 bolus feedings a day..." This is incorrect the bolus feedings are supplemented by the oral feeding and if sick all food is by g-tube. In there response to our need for flexibility they change it and state "He is able to take oral foods and liquids. He is fed by G-tube when ill or when hot weather may necessitate extra liquids." This is totally incorrect and dose not represent his medical necessity. This statement is now on all his paper work and I

don't know how to get it corrected. They cannot get his basic nutritional needs correct. The entire home visit is written not to assess the needs of the child but to minimize his needs. They state his ventilator needs only from the perspective of his best days not his normal day. There no mention of the fact he was on his vent. His tubing temperature was checked and the water in the tubing drained. He required help moving the vent cart from one room to another. It has been 4 mouths since our hearing and we sill have not received and answer

24 hour care!

The BHCF states 3 reasons why 24 hour care is not medically necessary.
1...when a parent is present and able to provide cares.....
Just because one of us is there dose not mean we are able to provide cares.
2...All parents , as parents, must be present....
This sounds like a rule and in a perfect world it maybe possible, but in this world it doesn't always work out that way.
3... It is standard practice for parents to be taught.....
Dose this mean they can control our daily schedule and make us work any time they see fit.
...not solely for the convenience of the family
How is solely being defined. This doesn't mean that the connivance of the family cannot be consider.

Lose of flexibility means the BHCF will tell the families what they will do and when they will do it. They have required us to give them our daily schedule. Hours of care will only cover work and sleep and only specific days and times. This we are told will save money by not having care givers in the home when parents are available. But any time life changes this schedule, we will be required to submit paperwork justifying the need for the care giver. They have added 14 new people to review all this paper work. These are not minimum wage jobs, if you do the math it is adding great bureaucratic cost. To pay for this they are removing direct patient care and adding people that will not care for patients only manage the lives of the families.

Think about it, you are running late, you know the person watching your child will stay, but wait. Now you will go over your daily hour limit. You must justify having them stay. The state may choose not to pay them. Will they stay next time? What will you do? Why not have them stay and adjust the hours later in the month, as long as you stay within your total monthly hours. No they will not allow this simple flexibility which we had in the past.

I believe

That where possible people should be in their homes and not in institutions. This may cost more. But the quality of our lives is important.

That as in the past families should receive help to care for loved ones.

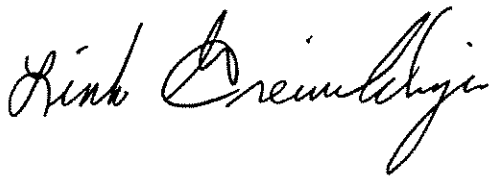
That it is the attending physician and not bureaucrats that should determine the cares

needed.

That families should have the right to determine the time they will care for there loved ones and have flexibility in there schedules.

I look forward to hearing the people that are her to speck for the BHCF. It would be good to hear how some people have had positive outcomes when working with them.

The people of Wisconsin can take great pride in the fact that this quality of life was made possible by their tax dollars.



MAIL TO:
E.D.S. FEDERAL CORPORATION
PRIOR AUTHORIZATION UNIT
6406 BRIDGE ROAD
SUITE 88
MADISON, WI 53784-0088

out 7-26 C

PRIOR AUTHORIZATION REQUEST FORM

PA/RF (DO NOT WRITE IN THIS SPACE)

ICN #
A.T. #
P.A. # 0696448

1 PROCESSING TYPE: 120

2 RECIPIENT'S MEDICAL ASSISTANCE ID NUMBER: 3990266220

3 RECIPIENT'S NAME (LAST, FIRST, MIDDLE INITIAL): Gaines, Antonio

4 RECIPIENT ADDRESS (STREET, CITY, STATE, ZIP CODE): 359A Lexington Ct. Milwaukee, WI 53072

5 DATE OF BIRTH: 122088

6 SEX: M [X] F [ ]

8 BILLING PROVIDER TELEPHONE NUMBER: (414) 542-8411

7 BILLING PROVIDER NAME, ADDRESS, ZIP CODE:
Jennifer A. Allen
1701 Michigan Ave.
Waukesha, WI 53188

9 BILLING PROVIDER NO.: 39954900

10 DX: PRIMARY: V46.1 Ventilator Dependen

11 DX: SECONDARY: 742.1 Cerebral Atrophy

12 START DATE OF SOI:

13 FIRST DATE RX:

PROCEDURE CODE	15 MOD	16 POS	17 TOS	18 DESCRIPTION OF SERVICE	19 QR	20 CHARGES
W9042	01	0,4	1	RN-PDN up to 12 hours a day X 52 weeks	3120	$30.00/hr

Up to 12 hours per day not to exceed 12 hours in 24 hours or 60 hours per week not to exceed 60 hours in a 7 day period all recipients combined.

TOTAL CHARGE

21

An approved authorization does not guarantee payment. Reimbursement is contingent upon eligibility of the recipient and provider at the time the service is provided and the completeness of the claim information. Payment will not be made for services initiated prior to approval or after authorization expiration date. Reimbursement will be in accordance with Wisconsin Medical Assistance Program payment methodology and Policy. If the recipient is enrolled in a Medical Assistance HMO at the time a prior authorized service is provided, WMAP reimbursement will be allowed only if the service is not covered by the HMO.

23 8/1/96 DATE

24 Jennifer A. Allen REQUESTING PROVIDER SIGNATURE

backdate to start 080196 end 000000

(DO NOT WRITE IN THIS SPACE)

AUTHORIZATION:

[✓] APPROVED — 8-1-96 GRANT DATE — 9-26-96 EXPIRATION DATE — 8 wks — PROCEDURE(S) AUTHORIZED: W9042 (01) — QUANTITY AUTHORIZED: 480

[ ] MODIFIED — REASON:

[ ] DENIED — REASON:

[ ] RETURN — REASON:

① X Ref Term PA as appears continued PON @ 133° seems high - as POC indicates recip. is on vent mainly @ night Medical necessity for continued high hours must be discussed @ peds pulmonologist @ CHOW + orders from to ② Appears that 96° on school day only + 120 on weekends SRS would be sufficient. ③ MA does not pay for respite - must consider diff. funding source - ④ Name of case coordinator must be incorporated into next POC ⑤ Subsequent or renewal PA's will not be backdated - must be

8-8-96 DATE

Medicaid Liaison CONSULTANT/ANALYST SIGNATURE

Sent to EDS Prior to grp Elect 100 this P.A.

MAIL TO:
EDS FEDERAL CORPORATION
PRIOR AUTHORIZATION UNIT
6406 BRIDGE ROAD
SUITE 88
MADISON, WI 53784-0088

10-3 Out ~~KN~~ C 829

PRIOR AUTHORIZATION REQUEST FORM

PA/RF (DO NOT WRITE IN THIS SPACE)

ICN #
A.T. # A
P.A. #0699754

1 PROCESSING TYPE: 120

2 RECIPIENT'S MEDICAL ASSISTANCE ID NUMBER: 3990262320	4 RECIPIENT ADDRESS (STREET, CITY, STATE, ZIP CODE): 359A. Lexington Ct. Pewaukee, WI 53072
3 RECIPIENT'S NAME (LAST, FIRST, MIDDLE INITIAL): Gaines, Antonio	
5 DATE OF BIRTH: 12/20/88 — 6 SEX: M [X] F [ ]	8 BILLING PROVIDER TELEPHONE NUMBER: (414) 542-7857
7 BILLING PROVIDER NAME, ADDRESS, ZIP CODE: Jennifer A. Allen, 1509 Pine St, Waukesha, WI 53188	9 BILLING PROVIDER NO.: 399-54900
	10 DX: PRIMARY: V46.1 Ventilator Dependence
	11 DX: SECONDARY: 345.90 Congenital central hypoventilation synd.
	12 START DATE OF SOI: — 13 FIRST DATE RX:

14 PROCEDURE CODE	15 MOD	16 POS	17 TOS	18 DESCRIPTION OF SERVICE	19 QR	20 CHARGES
19042	(11)	0,4	1	Private Duty RN 12°/Day x 7days/wk x 52 wks	3120	$30.00/hr

Not to exceed 12°/24° period, 60°/7days for all recipients combined

TOTAL CHARGE 21

An approved authorization does not guarantee payment. Reimbursement is contingent upon eligibility of the recipient and provider at the time the service is provided and the completeness of the claim information. Payment will not be made for services initiated prior to approval or after authorization expiration date. Reimbursement will be in accordance with Wisconsin Medical Assistance Program payment methodology and Policy. If the recipient is enrolled in a Medical Assistance HMO at the time a prior authorized service is provided, WMAP reimbursement will be allowed only if the service is not covered by the HMO.

Start 092696
End 000000

23 9/4/96 DATE — 24 Jennifer A. Allen RN REQUESTING PROVIDER SIGNATURE

(DO NOT WRITE IN THIS SPACE)

26 wks

AUTHORIZATION:

[✓] APPROVED — GRANT DATE: 9-27-96 — EXPIRATION DATE: 3-28-97 — PROCEDURE(S) AUTHORIZED: W9042 (11) — QUANTITY AUTHORIZED: 1560°

(4) Current weaning of hrs. noted - all providers (5) changed so grant date continued - as to roll over ... Er PA

[ ] MODIFIED REASON: (1) Future PA-POC's must also indicate gen. hrs. of PDN in # hrs per day - as MA does not pay for 24° care for children - please have all aspects of hrs. in POC - but not "up to 24°" -

[ ] DENIED REASON: (2) There should be no PDN in home - other than nights when foster parent is able to provide cares - ie: foster mo. non-working hrs. & Antonio's non school days

9-18-96 → All concerns raised on last PA need to be addressed.

[X] RETURN REASON: Had expected to see more parental caregiving (more than 45 hrs/wk) on this PA. Pls review with CHOW, etc.

(6) Note case coord. activities all part of 12° in 24° & 60° in 7 days

(3) above need to be discussed with peds, pulm. & CHOW prior to next PA — (7) Renewal PA's will not be back

A. Pooley RN

10-21-96 DATE — [signature] CONSULTANT/ANALYST SIGNATURE

482-120

I would like to point out that Marlaine T. Cruz is not new to the BHCF. We were not sent a copy of this report for our review till we requested it. We requested it because it was being used in our hearing. If the BHCF wishes to say this report is only as good as the person being interview, then I would like to point out that if they are working with us they should send it to us for our review. We should not have to request it.

Item 1: There is no chair on Tony's vent cart
There is no nurse named Judy.
This paper work must be accurate to be useful, the person doing it must know what they are looking at and must keep good records, this item list shows that this is not happening.

Item 2: Tony is only plugged for baths. Was he using a thermovent or on the vent. Is the person doing the visit knowledgeable The nurses report show that he was placed on the vent because of low tone right after arriving home. This is not documented, why is that omitted.

Item 3: Why is this parson diagnosing Tony. Where did this come from. If correct why not informed. Dyslexia

Item 4: He is not taken off his vent at this time in the morning. He may be taken off to get to the toilet quickly and then returned to the vent. This is a time period of less then a minuet.

Item 5: This is totally incorrect his bolus feedings are supplemented with oral feedings He is not only iron deficient but over 50% of his nutrition is though bolus, all this medications and all of his fluids.

Item 6: His swallow study shows he is at high risk of aspiration. Kim could speak for an hour on this point alone. What is listed here is incomplete and for some strange reason the only thing in quotation marks.

Item 7: This is a guide line for us, he may be on the vent the entire day he requires constant observation.

Item 8: This would be on his best day of the year. why is it that they Keep minimizing his requirements

Item 9: This is a guide line for us, he may be on the vent the entire day he requires constant observation.

Item 10: Tegretol Phenobarb Depakene This area is so inaccurate I don't know where to start. Any discussion of his seizure needs to cover his pacratites. He was off this medication for a short time after that and the seizures came right back. This show how unstable he is and the level of constant qualified observation he needs. Why is this not documented. As Tony grows he will out grow the dose he is on, we may not

know this until another seizure. Who will be there for him?

Item 11: I work on some weekends, this is incorrect

Item 12: But now she will be going back to work 3 days a week. This changes constantly, this is why flexibility is needed for the families to fulfill the obligations being placed upon them. Why is this written only to minimize the requirements. This is not accurate. We worked with the state, this was a voluntary visit. This report is written to an agenda not to evaluate the family or patient.

Item 13: We know no one with a medically intense child that dose this.

Item 14: An aid is an interesting idea. But this leaves all interventions, all medial issues all observations to the parents. But most importunely for the patent how will Tony be able to have good nurses when needed. They have bills to pay they must find work. Reducing their hours means they will not be available for him.

Item 15: Tony was held back because of his cognitive delays. He was not ready to move into the second grade. We did not hold him back. He and our other son are not in the same class. They never were, we don't want them in the same room. Where dose this comes from, none of this is accurate.

Item 16: It is stated "At no time was he in distress or was there a need for suctioning. Why is there no mention of the fact he was on his vent. His tubing temperature was checked and the water in the tubing drained. He required help moving the vent cart (not chair) from one room to another. why is this omitted.This statement misrepresents Tony complete.

Item 17: It is stated "The nurse sat at the kitchen table during the interview of the mother, which lasted at least 1 1/2 hours." This omits that she was not there during the cares that took her and Tony to the other room, she was not there for an hour and a half as it implies. Also she gave report to Kim at 5:00. See the nurses report. This was a half hour before they left. She was there to help with Tony so Kim could do this interview. The last half hour was on her own time.