

(SEOT) (D-NOTE)

1999 - 2000 LEGISLATURE

LRB-04924 2
TAY:pgt&jlg:jf
RMR

DOA:.....Sajna - Child care copayment determination
FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, if a Wisconsin works (W-2) agency (the agency responsible for administering W-2 in a particular region) determines that a person is eligible for a child care subsidy, the W-2 agency must refer that person to the county department of social services or the county department of human services (county department). The county department determines, in accordance with a schedule developed by the department of workforce development (DWD), the amount of the person's copayment for child care; provides a child care subsidy, either in the form of a voucher or a direct payment to the child care provider; and helps the person identify available and appropriate child care. The county department also sets maximum reimbursement rates for child care providers and certifies certain child care providers. Finally, under current law, a county department is responsible for conducting a background investigation of child care providers prior to certifying them.

This bill permits DWD to require either a county department or a W-2 agency to administer the child care subsidy program. Under the bill, whichever entity administers the program is responsible for determining the copayment amount, providing the subsidy, conducting background investigations on and certifying child care providers and identifying available and appropriate child care for subsidy recipients. County departments, however, retain the responsibility for setting maximum reimbursement rates for child care providers.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.651 (1) of the statutes is renumbered 48.651 (1m) and 48.651
2 (1m) (intro.) and (a), as renumbered, are amended to read:

3 48.651 (1m) (intro.) Each ~~county department~~ certifying agency shall certify,
4 according to the standards adopted by the department of workforce development
5 under s. 49.155 (1d), each day care provider reimbursed for child care services
6 provided to families determined eligible under s. 49.155 (1m), unless the provider is
7 a day care center licensed under s. 48.65 or is established or contracted for under s.
8 120.13 (14). Each ~~county~~ certifying agency may charge a fee to cover the costs of
9 certification. To be certified under this section, a person must meet the minimum
10 requirements for certification established by the department of workforce
11 development under s. 49.155 (1d), meet the requirements specified in s. 48.685 and
12 pay the fee specified in this section. The ~~county~~ certifying agency shall certify the
13 following categories of day care providers:

14 (a) Level I certified family day care providers, as established by the department
15 of workforce development under s. 49.155 (1d). No ~~county~~ certifying agency may
16 certify a provider under this paragraph if the provider is a relative of all of the
17 children for whom he or she provides care.

18 **SECTION 2.** 48.651 (1g) of the statutes is created to read:

19 48.651 (1g) In this section, “certifying agency” means a county department or
20 a Wisconsin works agency, as defined in s. 49.001 (9), whichever the department of

1 workforce development requires under s. 49.155 (3) (a) to administer the child care
2 subsidy program under s. 49.155.

3 **SECTION 3.** 48.651 (2m) of the statutes is amended to read:

4 48.651 (2m) Each ~~county department~~ certifying agency shall provide the
5 department with information about each person who is denied certification for a
6 reason specified in s. 48.685 (2) (a) 1. to 5.

7 **SECTION 4.** 48.653 of the statutes is amended to read:

8 **48.653 Information for day care providers.** The department shall provide
9 each day care center licensed under s. 48.65 and each ~~county~~ certifying agency, as
10 defined in s. 48.651 (1g), providing child welfare services with a brochure containing
11 information on basic child care and the licensing and certification requirements for
12 day care providers. Each ~~county agency~~ certifying agency shall provide each day care
13 provider that it certifies with a copy of the brochure.

14 **SECTION 5.** 48.685 (1) (a) of the statutes is renumbered 48.685 (1) (at).

15 **SECTION 6.** 48.685 (1) (am) of the statutes is created to read:

16 48.685 (1) (am) “Certifying agency” has the meaning given in s. 48.651 (1g).

17 **SECTION 7.** 48.685 (2) (a) (intro.) of the statutes is amended to read:

18 48.685 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
19 par. (ad) and sub. (5), the department may not license, or continue or renew the
20 license of, a person to operate an entity, a ~~county department~~ certifying agency may
21 not certify a day care provider under s. 48.651, a county department or a child welfare
22 agency may not license, or renew the license of, a foster home or treatment foster
23 home under s. 48.62 and a school board may not contract with a person under s.
24 120.13 (14), if the department, county department, child welfare agency, certifying
25 agency or school board knows or should have known any of the following:

1 **SECTION 8.** 48.685 (2) (ad) of the statutes is amended to read:

2 48.685 (2) (ad) The department, a county department or a child welfare agency
3 may license a foster home or treatment foster home under s. 48.62, a ~~county~~
4 ~~department~~ certifying agency may certify a day care provider under s. 48.651 and a
5 school board may contract with a person under s. 120.13 (14), conditioned on the
6 receipt of the information specified in par. (am) indicating that the person is not
7 ineligible to be certified or contracted with for a reason specified in par. (a) 1. to 5.

8 **SECTION 9.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

9 48.685 (2) (am) (intro.) Subject to subd. 5. and par. (bd), the department, a
10 county department, a child welfare agency, a certifying agency or a school board shall
11 obtain all of the following with respect to a person specified under par. (a) (intro.) and
12 a person specified under par. (ag) (intro.) who is a nonclient resident or prospective
13 nonclient resident of an entity and shall obtain the information specified in subds.
14 1. to 5. with respect to a person specified in par. (ag) (intro.) who is under 18 years
15 of age, but not under 12 years of age, and who is an employe, prospective employe,
16 contractor, prospective contractor, nonclient resident or prospective nonclient
17 resident of a day care center that is licensed under s. 48.65 or established or
18 contracted for under s. 120.13 (14) or of a day care provider that is certified under s.
19 48.651:

20 **SECTION 10.** 48.685 (2) (am) 5. of the statutes is amended to read:

21 48.685 (2) (am) 5. Information maintained by the department under this
22 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
23 to the person of a license, continuation or renewal of a license, certification or a
24 contract to operate an entity for a reason specified in par. (a) 1. to 5. and regarding
25 any denial to the person of employment at, a contract with or permission to reside

1 at an entity for a reason specified in par. (ag) 1. to 5. If the information obtained
2 under this subdivision indicates that the person has been denied a license,
3 continuation or renewal of a license, certification, a contract, employment or
4 permission to reside as described in this subdivision, the department, a county
5 department, a child welfare agency, a certifying agency or a school board need not
6 obtain the information specified in subsds. 1. to 4.

7 **SECTION 11.** 48.685 (2) (b) 4. of the statutes is amended to read:

8 48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under
9 18 years of age, but not under 12 years of age, who is an employe, prospective
10 employe, contractor, prospective contractor, nonclient resident or prospective
11 nonclient resident of a day care center that is licensed under s. 48.65 or established
12 or contracted for under s. 120.13 (14) or of a day care provider that is certified under
13 s. 48.651 and with respect to whom the department, a ~~county department~~ certifying
14 agency or a school board is required under par. (am) (intro.) to obtain the information
15 specified in par. (am) 1. to 5.

16 **SECTION 12.** 48.685 (2) (bd) of the statutes is amended to read:

17 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
18 department, a child welfare agency, a certifying agency or a school board is not
19 required to obtain the information specified in par. (am) 1. to 5., and an entity is not
20 required to obtain the information specified in par. (b) 1. a. to e., with respect to a
21 person under 18 years of age whose background information form under sub. (6) (am)
22 indicates that the person is not ineligible to be employed, contracted with or
23 permitted to reside at an entity for a reason specified in par. (ag) 1. to 5. and with
24 respect to whom the department, county department, child welfare agency, certifying
25 agency, school board or entity otherwise has no reason to believe that the person is

1 ineligible to be employed, contracted with or permitted to reside at an entity for any
2 of those reasons. This paragraph does not preclude the department, a county
3 department, a child welfare agency, a certifying agency or a school board from
4 obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect
5 to a person described in this paragraph who is a nonclient resident or a prospective
6 nonclient resident of an entity.

7 **SECTION 13.** 48.685 (2) (bm) of the statutes is amended to read:

8 48.685 (2) (bm) If the person who is the subject of the search under par. (am)
9 or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding
10 the date of the search that person has not been a resident of this state, the
11 department, county department, child welfare agency, certifying agency, school
12 board or entity shall make a good faith effort to obtain from any state in which the
13 person is a resident or was a resident within the 3 years preceding the date of the
14 search information that is equivalent to the information specified in par. (am) 1. or
15 (b) 1. a.

16 **SECTION 14.** 48.685 (3) (a) of the statutes is amended to read:

17 48.685 (3) (a) Every 4 years or at any time within that period that the
18 department, a county department, a child welfare agency, a certifying agency or a
19 school board considers appropriate, the department, county department, child
20 welfare agency, certifying agency or school board shall request the information
21 specified in sub. (2) (am) 1. to 5. for all persons who are licensed, certified or
22 contracted to operate an entity and for all persons specified in par. (ag) (intro.) [sub.
23 (2) (ag) (intro.)] who are nonclient residents of an entity and shall request the
24 information specified in sub. (2) (am) 1. to 5. for all persons under 18 years of age,
25 but not under 12 years of age, who are employes, contractors or nonclient residents

1 of a day care center that is licensed under s. 48.65 or established or contracted for
2 under s. 120.13 (4) or of a day care provider that is certified under s. 48.651.

3 **SECTION 15.** 48.685 (3m) of the statutes is amended to read:

4 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
5 county department, a child welfare agency, a certifying agency or a school board has
6 obtained the information required under sub. (2) (am) or (3) (a) with respect to a
7 person specified in sub. (2) (a) (intro.) and that person is also an employe, contractor
8 or nonclient resident of an entity, the entity is not required to obtain the information
9 specified in sub. (2) (b) 1. or (3) (b) with respect to that person.

10 **SECTION 16.** 48.685 (5) (a) of the statutes is amended to read:

11 48.685 (5) (a) The department may license to operate an entity, a county
12 ~~department~~ certifying agency may certify under s. 48.651, a county department or
13 a child welfare agency may license under s. 48.62 and a school board may contract
14 with under s. 120.13 (14) a person who otherwise may not be licensed, certified or
15 contracted with for a reason specified in sub. (2) (a) 1. to 5., and an entity may employ,
16 contract with or permit to reside at the entity a person who otherwise may not be
17 employed, contracted with or permitted to reside at the entity for a reason specified
18 in sub. (2) (ag) 1. to 5., if the person demonstrates to the department, the county
19 department, the child welfare agency or the school board by clear and convincing
20 evidence and in accordance with procedures established by the department by rule
21 that he or she has been rehabilitated.

22 **SECTION 17.** 48.685 (5c) (bm) of the statutes is created to read:

23 48.685 (5c) (bm) Any person who is permitted but fails under sub. (5) (a) to
24 demonstrate to a Wisconsin works agency, as defined in s. 49.001 (9), that he or she
25 has been rehabilitated may appeal to the secretary of workforce development or his

1 or her designee. Any person who is adversely affected by a decision of the secretary
2 or his or her designee under this paragraph has a right to a contested case hearing
3 under ch. 227.

4 **SECTION 18.** 48.685 (5m) of the statutes is amended to read:

5 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
6 a person to operate an entity, a county department or a child welfare agency may
7 refuse to license a foster home or treatment foster home under s. 48.62, and an entity
8 may refuse to employ, contract with or permit to reside at the entity a person specified
9 in sub. (2) (ag) (intro.) if the person has been convicted of an offense that the
10 department has not defined as a “serious crime” by rule promulgated under sub. (7)
11 (a), or specified in the list established by rule under sub. (7) (b), but that is, in the
12 estimation of the department, child welfare agency, or entity, substantially related
13 to the care of a client. Notwithstanding s. 111.335, the department may refuse to
14 license a person to operate a day care center, a ~~county department~~ certifying agency
15 may refuse to certify a day care provider under s. 48.651, a school board may refuse
16 to contract with a person under s. 120.13 (14), a day care center that is licensed under
17 s. 48.65 or established or contracted for under s. 120.13 (14) and a day care provider
18 that is certified under s. 48.651 may refuse to employ, contract with or permit to
19 reside at the day care center or day care provider a person specified in sub. (2) (ag)
20 (intro.) if the person has been convicted of or adjudicated delinquent on or after his
21 or her 12th birthday for an offense that the department has not defined as a “serious
22 crime” by rule promulgated under sub. (7) (a), or specified in the list established by
23 rule under sub. (7) (b), but that is, in the estimation of the department, ~~county~~
24 department certifying agency, school board, day care center or day care provider
25 substantially related to the care of a client.

1 **SECTION 19.** 48.685 (6) (a) of the statutes is amended to read:

2 48.685 (6) (a) The department shall require any person who applies for
3 issuance, continuation or renewal of a license to operate an entity, a county
4 department certifying agency shall require any day care provider who applies for
5 initial certification under s. 48.651 or for renewal of that certification, a county
6 department or a child welfare agency shall require any person who applies for
7 issuance or renewal of a license to operate a foster home or treatment foster home
8 under s. 48.62 and a school board shall require any person who proposes to contract
9 with the school board under s. 120.13 (14) or to renew a contract under that
10 subsection, to complete a background information form that is provided by the
11 department.

12 **SECTION 20.** 48.685 (6) (b) of the statutes is renumbered 48.685 (6) (b) 1. and
13 amended to read:

14 48.685 (6) (b) 1. For persons specified under in par. (a) who are licensed by the
15 department, for persons specified in par. (am) 1. who are under 18 years of age, but
16 not under 12 years of age, and who are employes, prospective employes, contractors
17 or prospective contractors of a day care center that is licensed under s. 48.65 or
18 established or contracted for under s. 120.13 (4) or of a day care provider that is
19 certified under s. 48.651, for persons specified in par. (am) 2. who are nonclient
20 residents or prospective nonclient residents of an entity that is licensed by the
21 department, and for other persons specified by the department by rule, the entity
22 shall send the background information form to the department. For all other persons
23 specified in par. (am) 1., the entity shall maintain the background information form
24 on file for inspection by the department, county department, child welfare agency,
25 certifying agency or school board, whichever is applicable.

1 2. For persons specified ~~under~~ in par. (a) who are licensed ~~or certified~~ by a
2 county department, for persons specified in par. (am) 2. who are nonclient residents
3 or prospective nonclient residents of an entity that is licensed ~~or certified~~ by a county
4 department and for other persons specified by the department by rule, the entity
5 shall send the background information form to the county department.

6 3. For persons specified ~~under~~ in par. (a) who are licensed by a child welfare
7 agency, for persons specified in par. (am) 2. who are nonclient residents or prospective
8 nonclient residents of an entity that is licensed by a child welfare agency and for
9 other persons specified by the department by rule, the entity shall send the
10 background information form to the child welfare agency.

11 5. For persons specified ~~under~~ in par. (a) who are contracted with by a school
12 board, for persons specified in par. (am) 2. who are nonclient residents or prospective
13 nonclient residents of an entity that is contracted with by a school board and for other
14 persons specified by the department by rule, the entity shall send the background
15 information form to the school board. ~~For all other persons specified under par. (am)~~
16 ~~1., the entity shall maintain the background information form on file for inspection~~
17 ~~by the department, county department, child welfare agency or school board,~~
18 ~~whichever is applicable.~~

19 **SECTION 21.** 48.685 (6) (b) 4. of the statutes is created to read:

20 48.685 (6) (b) 4. For persons specified in par. (a) who are certified by a certifying
21 agency, for persons specified in par. (am) 2. who are nonclient residents or prospective
22 nonclient residents of an entity that is certified by a certifying agency and for other
23 persons specified by the department by rule, the entity shall send the background
24 information form to the certifying agency.

25 **SECTION 22.** 48.685 (8) of the statutes is amended to read:

1 48.685 (8) The department, a county department, a child welfare agency, a
2 certifying agency or a school board may charge a fee for obtaining the information
3 required under sub. (2) (am) or (3) (a). The fee may not exceed the reasonable cost
4 of obtaining the information. No fee may be charged to a nurse's assistant, as defined
5 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be
6 inconsistent with federal law.

7 **SECTION 23.** 49.155 (1) (ad) of the statutes is created to read:

8 49.155 (1) (ad) "Administering agency" means the county department or the
9 Wisconsin works agency that is required by the department under sub. (3) (a) to
10 administer child care assistance under this section.

11 **SECTION 24.** 49.155 (1) (aj) of the statutes is created to read:

12 49.155 (1) (aj) "County department" means a county department under s.
13 46.215, 46.22 or 46.23.

14 **SECTION 25.** 49.155 (1) (am) of the statutes is amended to read:

15 49.155 (1) (am) "Level I certified family day care provider" means a day care
16 provider certified under s. 48.651 (~~1~~) (1m) (a).

17 **SECTION 26.** 49.155 (1) (b) of the statutes is amended to read:

18 49.155 (1) (b) "Level II certified family day care provider" means a day care
19 provider certified under s. 48.651 (~~1~~) (1m) (b).

20 **SECTION 27.** 49.155 (3) (title) of the statutes is amended to read:

21 49.155 (3) (title) ~~COUNTY~~ CHILD CARE ADMINISTRATION.

22 **SECTION 28.** 49.155 (3) (a) of the statutes is repealed and recreated to read:

23 49.155 (3) (a) The department may require either a Wisconsin works agency
24 or a county department to administer child care assistance under this section. If the
25 department requires a county department to administer child care assistance under

1 this section, the Wisconsin works agency shall refer an individual who has been
2 determined eligible under sub. (1m) to the county department for child care
3 assistance.

4 **SECTION 29.** 49.155 (3) (b) (intro.) of the statutes is amended to read:

5 49.155 (3) (b) (intro.) ~~The county department under s. 46.215, 46.22 or 46.23~~
6 ~~shall administer child care assistance under this section. In administering child care~~
7 ~~assistance under this section, the county department under s. 46.215, 46.22 or 46.23~~
8 administering agency shall do all of the following:

9 ~~SECTION 30. 49.155 (3) (b) 3. of the statutes is repealed.~~

10 **SECTION 31.** 49.155 (3m) (a) of the statutes is amended to read:

11 49.155 (3m) (a) The department shall reimburse child care providers or shall
12 distribute funds to ~~county departments under s. 46.215, 46.22 or 46.23~~
13 administering agencies for child care services provided under this section and to
14 private nonprofit agencies that provide child care for children of migrant workers.

15 **SECTION 32.** 49.155 (3m) (c) of the statutes is amended to read:

16 49.155 (3m) (c) From the funds distributed under par. (a), ~~a county an~~
17 administering agency may provide child care services itself, purchase child care
18 services from a child care provider, provide vouchers to an eligible parent for the
19 payment of child care services provided by a child care provider, reimburse an eligible
20 parent for payments made by the parent to a child care provider for child care
21 services, adopt, with the approval of the department, any other arrangement that the
22 county considers appropriate or use any combination of these methods to provide
23 child care.

24 **SECTION 33.** 49.155 (3m) (d) of the statutes is amended to read:

1 49.155 (3m) (d) No funds distributed under par. (a) may be used to provide care
2 for a child by a person who resides with the child, unless the ~~county~~ administering
3 agency determines that the care is necessary because of a special health condition
4 of the child.

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13 4
→

5 **SECTION 34.** 49.155 (7) (a) of the statutes is renumbered 49.155 (7), and 49.155
6 (7) (intro.), (a) and (b), as renumbered, are amended to read:

7 49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (intro.) The department or
8 ~~the county department under s. 46.215, 46.22 or 46.23~~ administering agency may
9 refuse to pay a child care provider for child care provided under this section if any
10 of the following applies to the child care provider, employe or person living on the
11 premises where child care is provided:

12 (a) The person has been convicted of a felony or misdemeanor that the
13 department or ~~county department~~ administering agency determines substantially
14 relates to the care of children.

15 (b) The person is the subject of a pending criminal charge that the department
16 or ~~county department~~ administering agency determines substantially relates to the
17 care of children.

18 (END)

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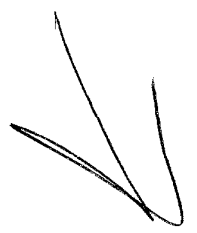
Section #. 49.155 (6) (a) ^X of the statutes is amended to read:

✓ administering agency

49.155 (6) (a) Subject to review and approval by the department, each ~~county~~ [✓] shall establish the maximum reimbursement rate for licensed child care services provided under this section. ~~A county~~ shall set the rate so that at least 75% of the number of places for children within the licensed capacity of all child care providers in that county can be purchased at or below that maximum rate.

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252.

An administering agency ✓



Section #. 49.155 (6) (b) ^X of the statutes is amended to read:

✓
administering agency

49.155 (6) (b) Subject to review and approval by the department, each ~~county~~ ^{administering agency} shall set a maximum reimbursement rate for Level I certified family day care providers for services provided to eligible individuals under this section. The maximum rate set under this paragraph may not exceed 75% of the rate established under par. (a).

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252.



Section #. 49.155 (6) (c) of the statutes is amended to read:

49.155 (6) (c) Subject to review and approval by the department, each ~~county~~ ^{✓ administering agency} shall set a maximum reimbursement rate for Level II certified family day care providers for services provided to eligible individuals under this section. The maximum rate set under this paragraph may not exceed 50% of the rate established under par. (a).

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252.

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13-4

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0492/2dn

TAY...:.....

Jlg

Jennifer Sajna:

The original instructions for this draft indicated that rate setting was to remain a county function. The instructions for the redraft imply that it was never intended that the counties retain that function as a matter of certainty (unless the county is an administrative agency). I point this out not as an admonishment but only to ensure that the department's request for this redraft still comports with your intent.

In addition, the department asks in its redrafting instructions that I "include a reference to s. 49.134 (1) (b)" and that I "add the phrase 'as determined by the department.'" Where am I to include those references? What purpose is the reference to s. 49.134 (1) (b) to serve? What will be "determined by the department"?

Tina A. Yacker
Legislative Attorney
261-6927

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0492/2dn

TAY:jlg:km

December 23, 1998

Jennifer Sajna:

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Tina A. Yacker
Legislative Attorney
261-6927

Yacker, Tina

From: Sajna, Jennifer [jennifer.sajna@doa.state.wi.us]
Sent: Tuesday, January 05, 1999 3:43 PM
To: Yacker, Tina
Subject: Stat language changes

I wanted to get this down on paper -- As we discussed on the phone last week, I need the following changes per my briefing with the Gov:

1) Child Care and Basic Ed -- drop to 3 months of required unsubsidized employment prior to qualifying for the child care subsidy -- I already got this revision.

2) Child Care Copayment Determination -- Make the W-2 agencies (all) not the counties responsible the functions covered in this draft. 492

3) SSI C-supp -- \$200 for the 1st kid and \$115 thereafter -- I already got this revision.

4) Wage paying CSJ -- In place of the current language establishing these as a pilot - add this as an ongoing tier in the W-2 "career ladder" - available for all W-2 agencies. Limit the number of slots that can be created by adding language something like "up to 2500 slots per year, as allocated between the W-2 agencies by DWD". They would pay the minimum wage for 30 hours of required work activities and there would be no additional education and training component. The 24 month time limit would stay the same. Explicitly exempt them from eligibility from the state EITC and Homestead tax credits.

I still owe you language on the following items:

- 1) Privatization of the collection of public assistance debt
- 2) Changing the income test for child care from gross to net
- 3) TANF and CCDF allocations.

I hope to have something for you on these 3 items by the end of the week. Call if you have questions. Jenny



(Soon)
State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0492/3

TAY:pjt&jlg:km

RMK

WDD EA request sheet

administration by W-2 agencies

wpo: 1 updated request sheet to change Title

DOA:.....Sajna - Child care copayment determination

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

do not gen

1 AN ACT ...; relating to: the budget.

**Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES**

CHILDREN

Under current law, if a Wisconsin works (W-2) agency (the agency responsible for administering W-2 in a particular region) determines that a person is eligible for a child care subsidy, the W-2 agency must refer that person to the county department of social services or the county department of human services (county department). The county department determines, in accordance with a schedule developed by the department of workforce development (DWD), the amount of the person's copayment for child care; provides a child care subsidy, either in the form of a voucher or a direct payment to the child care provider; and helps the person identify available and appropriate child care. The county department also sets maximum reimbursement rates for child care providers and certifies certain child care providers. Finally, under current law, a county department is responsible for conducting a background investigation of child care providers prior to certifying them.

This bill ~~permits DWD to require either a county department or a W-2 agency to administer the child care subsidy program. Under the bill, whichever entity administers the program is~~ responsible for determining the copayment amount, providing the subsidy, conducting background investigations on and certifying child care providers and identifying available and appropriate child care for subsidy recipients. ~~County departments, however, retain the responsibility for setting maximum reimbursement rates for child care providers.~~

the W-2 agencies care

7

State amend ✓

For further information see the local fiscal estimate, which will be printed as an appendix to this bill.

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

1

SECTION 1. 48.651 (1) of the statutes is renumbered 48.651 (1m) and 48.651

2 (1m) (intro.) and (a), as renumbered, are amended to read:

3 48.651 (1m) (intro.) Each county department ~~certifying~~ ^{Wisconsin works} agency shall certify,
4 according to the standards adopted by the department of workforce development
5 under s. 49.155 (1d), each day care provider reimbursed for child care services
6 provided to families determined eligible under s. 49.155 (1m), unless the provider is

7 a day care center licensed under s. 48.65 or is established or contracted for under s.
8 120.13 (14). Each county ~~certifying~~ ^{Wisconsin Works} agency may charge a fee to cover the costs of

9 certification. To be certified under this section, a person must meet the minimum
10 requirements for certification established by the department of workforce
11 development under s. 49.155 (1d), meet the requirements specified in s. 48.685 and
12 pay the fee specified in this section. The county ~~certifying~~ ^{Wisconsin works} agency shall certify the
13 following categories of day care providers:

14 (a) Level I certified family day care providers, as established by the department
15 of workforce development under s. 49.155 (1d). No county ~~certifying~~ ^{Wisconsin works} agency may
16 certify a provider under this paragraph if the provider is a relative of all of the
17 children for whom he or she provides care.

18 **SECTION 2.** 48.651 (1g) of the statutes is created to read:

19 48.651 (1g) In this section, "~~certifying~~ ^{Wisconsin works} agency" means a county department or
20 a Wisconsin works agency, as defined in s. 49.001 (9), ~~whichever the department of~~

has the meaning given

1 workforce development requires under s. 49.155 (3) (a) to administer the child care
2 subsidy program under s. 49.155

3 SECTION 3. 48.651 (2m) of the statutes is amended to read:

4 48.651 (2m) Each county department ~~certifying~~ ^{Wisconsin works} agency shall provide the
5 department with information about each person who is denied certification for a
6 reason specified in s. 48.685 (2) (a) 1. to 5.

7 SECTION 4. 48.653 of the statutes is amended to read:

8 48.653 Information for day care providers. The department shall provide
9 each day care center licensed under s. 48.65 and each county ~~certifying~~ ^{Wisconsin works} agency, as
10 defined in s. 48.651 (1g), providing child welfare services with a brochure containing
11 information on basic child care and the licensing and certification requirements for
12 day care providers. Each county agency ~~certifying~~ ^{Wisconsin works} shall provide each day care
13 provider that it certifies with a copy of the brochure.

14 SECTION 5. 48.685 (1) (a) of the statutes is renumbered 48.685 (1) (at).

15 SECTION 6. 48.685 (1) ~~(am)~~ ^e of the statutes is created to read:

16 48.685 (1) ~~(am)~~ ^e "Certifying ^{Wisconsin works} agency" has the meaning given in s. ^{49.001 (9)} ~~48.651 (1g)~~ [✓]

17 SECTION 7. 48.685 (2) (a) (intro.) of the statutes is amended to read:

18 48.685 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
19 par. (ad) and sub. (5), the department may not license, or continue or renew the
20 license of, a person to operate an entity, a county department ~~certifying~~ ^{Wisconsin works} agency may
21 not certify a day care provider under s. 48.651, a county department or a child welfare
22 agency may not license, or renew the license of, a foster home or treatment foster
23 home under s. 48.62 and a school board may not contract with a person under s.
24 120.13 (14), if the department, county department, child welfare agency, ~~certifying~~
25 ~~agency~~ or school board knows or should have known any of the following:

Wisconsin works

Wisconsin works

1 **SECTION 8.** 48.685 (2) (ad) of the statutes is amended to read:

2 48.685 (2) (ad) The department, a county department or a child welfare agency
3 may license a foster home or treatment foster home under s. 48.62, a county
4 department ~~certifying agency~~ may certify a day care provider under s. 48.651 and a
5 school board may contract with a person under s. 120.13 (14), conditioned on the
6 receipt of the information specified in par. (am) indicating that the person is not
7 ineligible to be certified or contracted with for a reason specified in par. (a) 1. to 5.

8 **SECTION 9.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

9 48.685 (2) (am) (intro.) Subject to subd. 5. and par. (bd), the department, a
10 county department, a child welfare agency, ~~a certifying agency~~ or a school board shall
11 obtain all of the following with respect to a person specified under par. (a) (intro.) and
12 a person specified under par. (ag) (intro.) who is a nonclient resident or prospective
13 nonclient resident of an entity and shall obtain the information specified in subds.
14 1. to 5. with respect to a person specified in par. (ag) (intro.) who is under 18 years
15 of age, but not under 12 years of age, and who is an employe, prospective employe,
16 contractor, prospective contractor, nonclient resident or prospective nonclient
17 resident of a day care center that is licensed under s. 48.65 or established or
18 contracted for under s. 120.13 (14) or of a day care provider that is certified under s.
19 48.651:

20 **SECTION 10.** 48.685 (2) (am) 5. of the statutes is amended to read:

21 48.685 (2) (am) 5. Information maintained by the department under this
22 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
23 to the person of a license, continuation or renewal of a license, certification or a
24 contract to operate an entity for a reason specified in par. (a) 1. to 5. and regarding
25 any denial to the person of employment at, a contract with or permission to reside

Wisconsin Works

1 at an entity for a reason specified in par. (ag) 1. to 5. If the information obtained
2 under this subdivision indicates that the person has been denied a license,
3 continuation or renewal of a license, certification, a contract, employment or
4 permission to reside as described in this subdivision, the department, a county
5 department, a child welfare agency, ~~a certifying agency~~ or a school board need not
6 obtain the information specified in subds. 1. to 4.

7 **SECTION 11.** 48.685 (2) (b) 4. of the statutes is amended to read:

8 48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under
9 18 years of age, but not under 12 years of age, who is an employe, prospective
10 employe, contractor, prospective contractor, nonclient resident or prospective
11 nonclient resident of a day care center that is licensed under s. 48.65 or established
12 or contracted for under s. 120.13 (14) or of a day care provider that is certified under
13 s. 48.651 and with respect to whom the department, a county department ~~certifying~~
14 ~~agency~~ or a school board is required under par. (am) (intro.) to obtain the information
15 specified in par. (am) 1. to 5.

16 **SECTION 12.** 48.685 (2) (bd) of the statutes is amended to read:

17 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
18 department, a child welfare agency, ~~a certifying agency~~ or a school board is not
19 required to obtain the information specified in par. (am) 1. to 5., and an entity is not
20 required to obtain the information specified in par. (b) 1. a. to e., with respect to a
21 person under 18 years of age whose background information form under sub. (6) (am)
22 indicates that the person is not ineligible to be employed, contracted with or
23 permitted to reside at an entity for a reason specified in par. (ag) 1. to 5. and with
24 respect to whom the department, county department, child welfare agency, ~~certifying~~
25 ~~agency~~, school board or entity otherwise has no reason to believe that the person is

Wisconsin Works

1 ineligible to be employed, contracted with or permitted to reside at an entity for any
2 of those reasons. This paragraph does not preclude the department, a county
3 department, a child welfare agency, a ~~certifying~~ agency or a school board from
4 obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect
5 to a person described in this paragraph who is a nonclient resident or a prospective
6 nonclient resident of an entity.

7 **SECTION 13.** 48.685 (2) (bm) of the statutes is amended to read:

8 48.685 (2) (bm) If the person who is the subject of the search under par. (am)
9 or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding
10 the date of the search that person has not been a resident of this state, the
11 department, county department, child welfare agency, ~~certifying~~ agency, school
12 board or entity shall make a good faith effort to obtain from any state in which the
13 person is a resident or was a resident within the 3 years preceding the date of the
14 search information that is equivalent to the information specified in par. (am) 1. or
15 (b) 1. a.

16 **SECTION 14.** 48.685 (3) (a) of the statutes is amended to read:

17 48.685 (3) (a) Every 4 years or at any time within that period that the
18 department, a county department, a child welfare agency, a ~~certifying~~ agency or a
19 school board considers appropriate, the department, county department, child
20 welfare agency, ~~certifying~~ agency or school board shall request the information
21 specified in sub. (2) (am) 1. to 5. for all persons who are licensed, certified or
22 contracted to operate an entity and for all persons specified in par. (ag) (intro.) [sub.
23 (2) (ag) (intro.)] who are nonclient residents of an entity and shall request the
24 information specified in sub. (2) (am) 1. to 5. for all persons under 18 years of age,
25 but not under 12 years of age, who are employes, contractors or nonclient residents

Wisconsin works

1 of a day care center that is licensed under s. 48.65 or established or contracted for
2 under s. 120.13 (4) or of a day care provider that is certified under s. 48.651.

3 **SECTION 15.** 48.685 (3m) of the statutes is amended to read:

4 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
5 county department, a child welfare agency, ~~a certifying agency~~ or a school board has
6 obtained the information required under sub. (2) (am) or (3) (a) with respect to a
7 person specified in sub. (2) (a) (intro.) and that person is also an employe, contractor
8 or nonclient resident of an entity, the entity is not required to obtain the information
9 specified in sub. (2) (b) 1. or (3) (b) with respect to that person.

10 **SECTION 16.** 48.685 (5) (a) of the statutes is amended to read:

11 48.685 (5) (a) The department may license to operate an entity, a county
12 department ~~certifying agency~~ may certify under s. 48.651, a county department or
13 a child welfare agency may license under s. 48.62 and a school board may contract
14 with under s. 120.13 (14) a person who otherwise may not be licensed, certified or
15 contracted with for a reason specified in sub. (2) (a) 1. to 5., and an entity may employ,
16 contract with or permit to reside at the entity a person who otherwise may not be
17 employed, contracted with or permitted to reside at the entity for a reason specified
18 in sub. (2) (ag) 1. to 5., if the person demonstrates to the department, the county
19 department, the child welfare agency or the school board by clear and convincing
20 evidence and in accordance with procedures established by the department by rule
21 that he or she has been rehabilitated.

22 **SECTION 17.** 48.685 (5c) (bm) of the statutes is created to read:

23 48.685 (5c) (bm) Any person who is permitted but fails under sub. (5) (a) to
24 demonstrate to a Wisconsin works agency, ~~as defined in s. 49.001 (9m)~~ that he or she
25 has been rehabilitated may appeal to the secretary of workforce development or his

1 or her designee. Any person who is adversely affected by a decision of the secretary
2 or his or her designee under this paragraph has a right to a contested case hearing
3 under ch. 227.

4 **SECTION 18.** 48.685 (5m) of the statutes is amended to read:

5 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
6 a person to operate an entity, a county department or a child welfare agency may
7 refuse to license a foster home or treatment foster home under s. 48.62, and an entity
8 may refuse to employ, contract with or permit to reside at the entity a person specified
9 in sub. (2) (ag) (intro.) if the person has been convicted of an offense that the
10 department has not defined as a “serious crime” by rule promulgated under sub. (7)
11 (a), or specified in the list established by rule under sub. (7) (b), but that is, in the
12 estimation of the department, child welfare agency, or entity, substantially related
13 to the care of a client. Notwithstanding s. 111.335, the department may refuse to
14 license a person to operate a day care center, a county department ~~certifying~~ agency
15 may refuse to certify a day care provider under s. 48.651, a school board may refuse
16 to contract with a person under s. 120.13 (14), a day care center that is licensed under
17 s. 48.65 or established or contracted for under s. 120.13 (14) and a day care provider
18 that is certified under s. 48.651 may refuse to employ, contract with or permit to
19 reside at the day care center or day care provider a person specified in sub. (2) (ag)
20 (intro.) if the person has been convicted of or adjudicated delinquent on or after his
21 or her 12th birthday for an offense that the department has not defined as a “serious
22 crime” by rule promulgated under sub. (7) (a), or specified in the list established by
23 rule under sub. (7) (b), but that is, in the estimation of the department, county
24 department ~~certifying~~ agency, school board, day care center or day care provider
25 substantially related to the care of a client.

Wisconsin works

Wisconsin Works

1 **SECTION 19.** 48.685 (6) (a) of the statutes is amended to read:

2 48.685 (6) (a) The department shall require any person who applies for
3 issuance, continuation or renewal of a license to operate an entity, a ~~county~~
4 ~~department certifying agency~~ shall require any day care provider who applies for
5 initial certification under s. 48.651 or for renewal of that certification, a county
6 department or a child welfare agency shall require any person who applies for
7 issuance or renewal of a license to operate a foster home or treatment foster home
8 under s. 48.62 and a school board shall require any person who proposes to contract
9 with the school board under s. 120.13 (14) or to renew a contract under that
10 subsection, to complete a background information form that is provided by the
11 department.

12 **SECTION 20.** 48.685 (6) (b) of the statutes is renumbered 48.685 (6) (b) 1. and
13 amended to read:

14 48.685 (6) (b) 1. For persons specified under in par. (a) who are licensed by the
15 department, for persons specified in par. (am) 1. who are under 18 years of age, but
16 not under 12 years of age, and who are employes, prospective employes, contractors
17 or prospective contractors of a day care center that is licensed under s. 48.65 or
18 established or contracted for under s. 120.13 (4) or of a day care provider that is
19 certified under s. 48.651, for persons specified in par. (am) 2. who are nonclient
20 residents or prospective nonclient residents of an entity that is licensed by the
21 department, and for other persons specified by the department by rule, the entity
22 shall send the background information form to the department. For all other persons
23 specified in par. (am) 1., the entity shall maintain the background information form
24 on file for inspection by the department, county department, child welfare agency,
25 certifying agency or school board, whichever is applicable.

1 2. For persons specified ~~under~~ in par. (a) who are licensed ~~or certified~~ by a
 2 county department, for persons specified in par. (am) 2. who are nonclient residents
 3 or prospective nonclient residents of an entity that is licensed ~~or certified~~ by a county
 4 department and for other persons specified by the department by rule, the entity
 5 shall send the background information form to the county department.

6 3. For persons specified ~~under~~ in par. (a) who are licensed by a child welfare
 7 agency, for persons specified in par. (am) 2. who are nonclient residents or prospective
 8 nonclient residents of an entity that is licensed by a child welfare agency and for
 9 other persons specified by the department by rule, the entity shall send the
 10 background information form to the child welfare agency.

11 5. For persons specified ~~under~~ in par. (a) who are contracted with by a school
 12 board, for persons specified in par. (am) 2. who are nonclient residents or prospective
 13 nonclient residents of an entity that is contracted with by a school board and for other
 14 persons specified by the department by rule, the entity shall send the background
 15 information form to the school board. ~~For all other persons specified under par. (am)~~
 16 ~~1., the entity shall maintain the background information form on file for inspection~~
 17 ~~by the department, county department, child welfare agency or school board,~~
 18 ~~whichever is applicable.~~

19 **SECTION 21.** 48.685 (6) (b) 4. of the statutes is created to read:

20 48.685 (6) (b) 4. For persons specified in par. (a) who are certified by a ~~certifying~~
 21 agency, for persons specified in par. (am) 2. who are nonclient residents or prospective
 22 nonclient residents of an entity that is certified by a ~~certifying~~ agency and for other
 23 persons specified by the department by rule, the entity shall send the background
 24 information form to the ~~certifying~~ agency.

Wisconsin Work 58

25 **SECTION 22.** 48.685 (8) of the statutes is amended to read:

Wisconsin works

1 48.685 (8) The department, a county department, a child welfare agency, a
2 ~~certifying agency~~ or a school board may charge a fee for obtaining the information
3 required under sub. (2) (am) or (3) (a). The fee may not exceed the reasonable cost
4 of obtaining the information. No fee may be charged to a nurse's assistant, as defined
5 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be
6 inconsistent with federal law.

7 **SECTION 23.** 49.155 (1) (ad) of the statutes is created to read:
8 49.155 (1) (ad) "Administering agency" means the county department or the
9 Wisconsin works agency that is required by the department under sub. (3) (a) to
10 administer child care assistance under this section.

INSERT
11-11

11 **SECTION 24.** 49.155 (1) (aj) of the statutes is created to read:
12 49.155 (1) (aj) "County department" means a county department under s.
13 46.215, 46.22 or 46.23.

14 **SECTION 25.** 49.155 (1) (am) of the statutes is amended to read:
15 49.155 (1) (am) "Level I certified family day care provider" means a day care
16 provider certified under s. 48.651 (1) (1m) (a).

17 **SECTION 26.** 49.155 (1) (b) of the statutes is amended to read:
18 49.155 (1) (b) "Level II certified family day care provider" means a day care
19 provider certified under s. 48.651 (1) (1m) (b).

20 **SECTION 27.** 49.155 (3) (title) of the statutes is amended to read:
21 49.155 (3) (title) COUNTY CHILD CARE ADMINISTRATION.

Fix
Component

22 **SECTION 28.** 49.155 (3) (a) of the statutes is repealed and recreated to read:
23 49.155 (3) (a) The department may require either a Wisconsin works agency
24 or a county department to administer child care assistance under this section. If the
25 department requires a county department to administer child care assistance under

9

1 this section, the Wisconsin works agency shall refer an individual who has been
2 determined eligible under sub. (1m) to the county department for child care
3 assistance.

4 **SECTION 29.** 49.155 (3) (b) (intro.) of the statutes is amended to read:
5 49.155 (3) (b) (intro.) The county department under s. 46.215, 46.22 or 46.23
6 shall administer child care assistance under this section. In administering child care
7 assistance under this section, the county department under s. 46.215, 46.22 or 46.23
8 administering ^{Wisconsin works} agency shall do all of the following:

9 **SECTION 30.** 49.155 (3m) (a) of the statutes is amended to read:
10 49.155 (3m) (a) The department shall reimburse child care providers or shall
11 distribute funds to county departments under s. 46.215, 46.22 or 46.23
12 administering agencies for child care services provided under this section and to
13 private nonprofit agencies that provide child care for children of migrant workers.

14 **SECTION 31.** 49.155 (3m) (c) of the statutes is amended to read:
15 49.155 (3m) (c) From the funds distributed under par. (a), ^{plain} a county ~~or~~
16 administering agency may provide child care services itself, purchase child care
17 services from a child care provider, provide vouchers to an eligible parent for the
18 payment of child care services provided by a child care provider, reimburse an eligible
19 parent for payments made by the parent to a child care provider for child care
20 services, adopt, with the approval of the department, any other arrangement that the
21 county considers appropriate or use any combination of these methods to provide
22 child care.

23 **SECTION 32.** 49.155 (3m) (d) of the statutes is amended to read:
24 49.155 (3m) (d) No funds distributed under par. (a) may be used to provide care
25 for a child by a person who resides with the child, unless the county administering

Wisconsin works

Wisconsin works

1 agency determines that the care is necessary because of a special health condition
2 of the child.

3 **SECTION 33.** 49.155 (6) (a) of the statutes is amended to read:

4 49.155 (6) (a) Subject to review and approval by the department, each county
5 ~~administering agency~~ shall establish the maximum reimbursement rate for licensed
6 child care services provided under this section. ^{plan} A county ~~An administering agency~~
7 shall set the rate so that at least 75% of the number of places for children within the
8 licensed capacity of all child care providers in that county can be purchased at or
9 below that maximum rate.

10 **SECTION 34.** 49.155 (6) (b) of the statutes is amended to read:

11 49.155 (6) (b) Subject to review and approval by the department, each county
12 ~~administering agency~~ shall set a maximum reimbursement rate for Level I certified
13 family day care providers for services provided to eligible individuals under this
14 section. The maximum rate set under this paragraph may not exceed 75% of the rate
15 established under par. (a).

16 **SECTION 35.** 49.155 (6) (c) of the statutes is amended to read:

17 49.155 (6) (c) Subject to review and approval by the department, each county
18 ~~administering agency~~ shall set a maximum reimbursement rate for Level II certified
19 family day care providers for services provided to eligible individuals under this
20 section. The maximum rate set under this paragraph may not exceed 50% of the rate
21 established under par. (a).

22 **SECTION 36.** 49.155 (7) (a) of the statutes is renumbered 49.155 (7), and 49.155

23 (7) (intro.), (a) and (b), as renumbered, are amended to read:

24 49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (intro.) The department or
25 the county department under s. 46.215, 46.22 or 46.23 ~~administering agency~~ may

1 refuse to pay a child care provider for child care provided under this section if any
2 of the following applies to the child care provider, employe or person living on the
3 premises where child care is provided:

4 (a) The person has been convicted of a felony or misdemeanor that the
5 department or ~~county department administering agency~~ determines substantially
6 relates to the care of children.

7 (b) The person is the subject of a pending criminal charge that the department
8 or ~~county department administering agency~~ determines substantially relates to the
9 care of children.

(END)

10

INSERT 14-10

Wisconsin works

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0492/3ins
TAY.....

insert 11-11

SECTION 1. 49.143 (2) (em) ^X of the statutes is amended to read:

49.143 (2) (em) ~~Determine eligibility for~~ Certify child care providers under s. 48.651 and administer child care assistance under s. 49.155 [✓] and refer eligible families to county departments under s. 46.215, 46.22 or 46.23 for child care services.

History: 1995 a. 216, 289; 1997 a. 27, 36, 236, 318.

insert 14-10

SECTION 9357. Initial applicability; workforce development [✓]

(1) CHILD CARE ADMINISTRATION. [✓] The treatment of sections 48.651 (1) [✓] and (2m) [✓], 48.653, [✓] 48.685 (2) (a) (intro.) [✓], (ad) [✓], (am) (intro.) [✓] and 5. [✓], (b) ^{4.} (bd) [✓] and (bm) [✓], (3) (a) [✓], (3m) [✓], (5) (a) [✓], (5c) (bm) [✓], (5m) [✓], (6) (a) ~~48.685~~ and (8), 49.143 (2) (em) [✓] ^{and} 49.155 (1) (am) [✓] and (b) [✓], (3) (a) [✓] and (b) (intro.) [✓], (3m) (a) [✓], (c) [✓] and (d) [✓], (6) (a) [✓], (b) [✓] and (c) [✓] and (7) (a) of the statutes [✓] and the creation of ^{section} 48.685 (6) (b) 4. ^{of the statutes} first apply to Wisconsin works agencies that entered into or renew contracts on the effective date of this subsection. [✓]

the renumbering and amendment of section 48.685(6)(b) of the statutes

2002

WPO! NOTE That Redraft should be run fr. 12

1999 - 2000 LEGISLATURE

LRB-0492/14

TAY:pgt&jlg:km
pt

Redraft NOT run

DOA:.....Sajna - Child care copayment determination

FOR 1999-01 BUDGET - NOT READY FOR INTRODUCTION

1 AN ACT ^{don't gen. CAT.} relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, if a Wisconsin works (W-2) agency (the agency responsible for administering W-2 in a particular region) determines that a person is eligible for a child care subsidy, the W-2 agency must refer that person to the county department of social services or the county department of human services (county department). The county department determines, in accordance with a schedule developed by the department of workforce development (DWD), the amount of the person's copayment for child care; provides a child care subsidy, either in the form of a voucher or a direct payment to the child care provider; and helps the person identify available and appropriate child care. The county department also sets maximum reimbursement rates for child care providers and certifies certain child care providers. Finally, under current law, a county department is responsible for conducting a background investigation of child care providers prior to certifying them.

This bill permits DWD to require either a county department or a W-2 agency to administer the child care subsidy program. Under the bill, whichever entity administers the program is responsible for determining the copayment amount, providing the subsidy, conducting background investigations on and certifying child care providers and identifying available and appropriate child care for subsidy recipients. County departments, however, retain the responsibility for setting maximum reimbursement rates for child care providers.

except that in counties with a population of 500,000 or more, DWD must require a W-2 agency to administer the child care subsidy program in that county

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.651 (1) of the statutes is renumbered 48.651 (1m),[^] and 48.651
2 (1m) (intro.) and (a),[✓] as renumbered, are amended to read:

3 48.651 (1m) (intro.) Each ~~county department~~ certifying agency shall certify,
4 according to the standards adopted by the department of workforce development
5 under s. 49.155 (1d), each day care provider reimbursed for child care services
6 provided to families determined eligible under s. 49.155 (1m), unless the provider is
7 a day care center licensed under s. 48.65 or is established or contracted for under s.
8 120.13 (14). Each ~~county~~ certifying agency may charge a fee to cover the costs of
9 certification. To be certified under this section, a person must meet the minimum
10 requirements for certification established by the department of workforce
11 development under s. 49.155 (1d), meet the requirements specified in s. 48.685 and
12 pay the fee specified in this section. The ~~county~~ certifying agency shall certify the
13 following categories of day care providers:

14 (a) Level I certified family day care providers, as established by the department
15 of workforce development under s. 49.155 (1d). No ~~county~~ certifying agency may
16 certify a provider under this paragraph if the provider is a relative of all of the
17 children for whom he or she provides care.

18 **SECTION 2.** 48.651 (1g)[✓] of the statutes is created to read:

19 48.651 (1g) In this section, “certifying agency” means a county department or
20 a Wisconsin works agency, as defined in s. 49.001 (9),[✓] whichever the department of

1 workforce development requires under s. 49.155 (3) (a) to administer the child care
2 subsidy program under s. 49.155.

3 SECTION 3. 48.651 (2m) of the statutes is amended to read:

4 48.651 (2m) Each ~~county department~~ certifying agency shall provide the
5 department with information about each person who is denied certification for a
6 reason specified in s. 48.685 (2) (a) 1. to 5.

7 SECTION 4. 48.653 of the statutes is amended to read:

8 **48.653 Information for day care providers.** The department shall provide
9 each day care center licensed under s. 48.65 and each ~~county~~ certifying agency, as
10 defined in s. 48.651 (1g), providing child welfare services with a brochure containing
11 information on basic child care and the licensing and certification requirements for
12 day care providers. Each ~~county agency~~ certifying agency shall provide each day care
13 provider that it certifies with a copy of the brochure.

14 SECTION 5. 48.685 (1) (a) of the statutes is renumbered 48.685 (1) (at).

15 SECTION 6. 48.685 (1) (am) of the statutes is created to read:

16 48.685 (1) (am) "Certifying agency" has the meaning given in s. 48.651 (1g).

17 SECTION 7. 48.685 (2) (a) (intro.) of the statutes is amended to read:

18 48.685 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
19 par. (ad) and sub. (5), the department may not license, or continue or renew the
20 license of, a person to operate an entity, a ~~county department~~ certifying agency may
21 not certify a day care provider under s. 48.651, a county department or a child welfare
22 agency may not license, or renew the license of, a foster home or treatment foster
23 home under s. 48.62 and a school board may not contract with a person under s.
24 120.13 (14), if the department, county department, child welfare agency, certifying
25 agency or school board knows or should have known any of the following:

1 **SECTION 8.** 48.685 (2) (ad) [✓] of the statutes is amended to read:

2 48.685 (2) (ad) The department, a county department or a child welfare agency
3 may license a foster home or treatment foster home under s. 48.62, a ~~county~~
4 ~~department~~ certifying agency may certify a day care provider under s. 48.651 and a
5 school board may contract with a person under s. 120.13 (14), conditioned on the
6 receipt of the information specified in par. (am) indicating that the person is not
7 ineligible to be certified or contracted with for a reason specified in par. (a) 1. to 5.

8 **SECTION 9.** 48.685 (2) (am) (intro.) [✓] of the statutes is amended to read:

9 48.685 (2) (am) (intro.) Subject to subd. 5. and par. (bd), the department, a
10 county department, a child welfare agency, a certifying agency or a school board shall
11 obtain all of the following with respect to a person specified under par. (a) (intro.) and
12 a person specified under par. (ag) (intro.) who is a nonclient resident or prospective
13 nonclient resident of an entity and shall obtain the information specified in subds.
14 1. to 5. with respect to a person specified in par. (ag) (intro.) who is under 18 years
15 of age, but not under 12 years of age, and who is an employe, prospective employe,
16 contractor, prospective contractor, nonclient resident or prospective nonclient
17 resident of a day care center that is licensed under s. 48.65 or established or
18 contracted for under s. 120.13 (14) or of a day care provider that is certified under s.
19 48.651:

20 **SECTION 10.** 48.685 (2) (am) [✓] 5. of the statutes is amended to read:

21 48.685 (2) (am) 5. Information maintained by the department under this
22 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
23 to the person of a license, continuation or renewal of a license, certification or a
24 contract to operate an entity for a reason specified in par. (a) 1. to 5. and regarding
25 any denial to the person of employment at, a contract with or permission to reside

1 at an entity for a reason specified in par. (ag) 1. to 5. If the information obtained
2 under this subdivision indicates that the person has been denied a license,
3 continuation or renewal of a license, certification, a contract, employment or
4 permission to reside as described in this subdivision, the department, a county
5 department, a child welfare agency, a certifying agency or a school board need not
6 obtain the information specified in subds. 1. to 4.

7 **SECTION 11.** 48.685 (2) (b) [✓]4. of the statutes is amended to read:

8 48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under
9 18 years of age, but not under 12 years of age, who is an employe, prospective
10 employe, contractor, prospective contractor, nonclient resident or prospective
11 nonclient resident of a day care center that is licensed under s. 48.65 or established
12 or contracted for under s. 120.13 (14) or of a day care provider that is certified under
13 s. 48.651 and with respect to whom the department, a ~~county department~~ certifying
14 agency or a school board is required under par. (am) (intro.) to obtain the information
15 specified in par. (am) 1. to 5.

16 **SECTION 12.** 48.685 (2) (bd) [✓](bd) of the statutes is amended to read:

17 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
18 department, a child welfare agency, a certifying agency or a school board is not
19 required to obtain the information specified in par. (am) 1. to 5., and an entity is not
20 required to obtain the information specified in par. (b) 1. a. to e., with respect to a
21 person under 18 years of age whose background information form under sub. (6) (am)
22 indicates that the person is not ineligible to be employed, contracted with or
23 permitted to reside at an entity for a reason specified in par. (ag) 1. to 5. and with
24 respect to whom the department, county department, child welfare agency, certifying
25 agency, school board or entity otherwise has no reason to believe that the person is

1 ineligible to be employed, contracted with or permitted to reside at an entity for any
2 of those reasons. This paragraph does not preclude the department, a county
3 department, a child welfare agency, a certifying agency or a school board from
4 obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect
5 to a person described in this paragraph who is a nonclient resident or a prospective
6 nonclient resident of an entity.

7 **SECTION 13.** 48.685 (2) (bm) of the statutes is amended to read:

8 48.685 (2) (bm) If the person who is the subject of the search under par. (am)
9 or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding
10 the date of the search that person has not been a resident of this state, the
11 department, county department, child welfare agency, certifying agency, school
12 board or entity shall make a good faith effort to obtain from any state in which the
13 person is a resident or was a resident within the 3 years preceding the date of the
14 search information that is equivalent to the information specified in par. (am) 1. or
15 (b) 1. a.

16 **SECTION 14.** 48.685 (3) (a) of the statutes is amended to read:

17 48.685 (3) (a) Every 4 years or at any time within that period that the
18 department, a county department, a child welfare agency, a certifying agency or a
19 school board considers appropriate, the department, county department, child
20 welfare agency, certifying agency or school board shall request the information
21 specified in sub. (2) (am) 1. to 5. for all persons who are licensed, certified or
22 contracted to operate an entity and for all persons specified in par. (ag) (intro.) [sub.
23 (2) (ag) (intro.)] who are nonclient residents of an entity and shall request the
24 information specified in sub. (2) (am) 1. to 5. for all persons under 18 years of age,
25 but not under 12 years of age, who are employes, contractors or nonclient residents

1 of a day care center that is licensed under s. 48.65 or established or contracted for
2 under s. 120.13 (4) or of a day care provider that is certified under s. 48.651.

3 **SECTION 15.** 48.685 (3m) of the statutes is amended to read:

4 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
5 county department, a child welfare agency, a certifying agency or a school board has
6 obtained the information required under sub. (2) (am) or (3) (a) with respect to a
7 person specified in sub. (2) (a) (intro.) and that person is also an employe, contractor
8 or nonclient resident of an entity, the entity is not required to obtain the information
9 specified in sub. (2) (b) 1. or (3) (b) with respect to that person.

10 **SECTION 16.** 48.685 (5) (a) of the statutes is amended to read:

11 48.685 (5) (a) The department may license to operate an entity, a ~~county~~
12 department certifying agency may certify under s. 48.651, a county department or
13 a child welfare agency may license under s. 48.62 and a school board may contract
14 with under s. 120.13 (14) a person who otherwise may not be licensed, certified or
15 contracted with for a reason specified in sub. (2) (a) 1. to 5., and an entity may employ,
16 contract with or permit to reside at the entity a person who otherwise may not be
17 employed, contracted with or permitted to reside at the entity for a reason specified
18 in sub. (2) (ag) 1. to 5., if the person demonstrates to the department, the county
19 department, the child welfare agency or the school board by clear and convincing
20 evidence and in accordance with procedures established by the department by rule
21 that he or she has been rehabilitated.

22 **SECTION 17.** 48.685 (5c) (bm) of the statutes is created to read:

23 48.685 (5c) (bm) Any person who is permitted but fails under sub. (5) (a) to
24 demonstrate to a Wisconsin works agency, as defined in s. 49.001 (9), that he or she
25 has been rehabilitated may appeal to the secretary of workforce development or his

1 or her designee. Any person who is adversely affected by a decision of the secretary
2 or his or her designee under this paragraph has a right to a contested case hearing
3 under ch. 227.

4 **SECTION 18.** 48.685 (5m) of the statutes is amended to read:

5 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
6 a person to operate an entity, a county department or a child welfare agency may
7 refuse to license a foster home or treatment foster home under s. 48.62, and an entity
8 may refuse to employ, contract with or permit to reside at the entity a person specified
9 in sub. (2) (ag) (intro.) if the person has been convicted of an offense that the
10 department has not defined as a “serious crime” by rule promulgated under sub. (7)
11 (a), or specified in the list established by rule under sub. (7) (b), but that is, in the
12 estimation of the department, child welfare agency, or entity, substantially related
13 to the care of a client. Notwithstanding s. 111.335, the department may refuse to
14 license a person to operate a day care center, a ~~county department~~ certifying agency
15 may refuse to certify a day care provider under s. 48.651, a school board may refuse
16 to contract with a person under s. 120.13 (14), a day care center that is licensed under
17 s. 48.65 or established or contracted for under s. 120.13 (14) and a day care provider
18 that is certified under s. 48.651 may refuse to employ, contract with or permit to
19 reside at the day care center or day care provider a person specified in sub. (2) (ag)
20 (intro.) if the person has been convicted of or adjudicated delinquent on or after his
21 or her 12th birthday for an offense that the department has not defined as a “serious
22 crime” by rule promulgated under sub. (7) (a), or specified in the list established by
23 rule under sub. (7) (b), but that is, in the estimation of the department, ~~county~~
24 department certifying agency, school board, day care center or day care provider
25 substantially related to the care of a client.

1 **SECTION 19.** 48.685 (6) (a) of the statutes is amended to read:

2 48.685 (6) (a) The department shall require any person who applies for
3 issuance, continuation or renewal of a license to operate an entity, a county
4 ~~department~~ certifying agency shall require any day care provider who applies for
5 initial certification under s. 48.651 or for renewal of that certification, a county
6 department or a child welfare agency shall require any person who applies for
7 issuance or renewal of a license to operate a foster home or treatment foster home
8 under s. 48.62 and a school board shall require any person who proposes to contract
9 with the school board under s. 120.13 (14) or to renew a contract under that
10 subsection, to complete a background information form that is provided by the
11 department.

12 **SECTION 20.** 48.685 (6) (b) of the statutes is renumbered 48.685 (6) (b) 1. and
13 amended to read:

14 48.685 (6) (b) 1. For persons specified ~~under~~ in par. (a) who are licensed by the
15 department, for persons specified in par. (am) 1. who are under 18 years of age, but
16 not under 12 years of age, and who are employes, prospective employes, contractors
17 or prospective contractors of a day care center that is licensed under s. 48.65 or
18 established or contracted for under s. 120.13 (4) or of a day care provider that is
19 certified under s. 48.651, for persons specified in par. (am) 2. who are nonclient
20 residents or prospective nonclient residents of an entity that is licensed by the
21 department, and for other persons specified by the department by rule, the entity
22 shall send the background information form to the department. For all other persons
23 specified in par. (am) 1., the entity shall maintain the background information form
24 on file for inspection by the department, county department, child welfare agency,
25 certifying agency or school board, whichever is applicable.

1 2. For persons specified ~~under~~ in par. (a) who are licensed ~~or certified~~ by a
2 county department, for persons specified in par. (am) 2. who are nonclient residents
3 or prospective nonclient residents of an entity that is licensed ~~or certified~~ by a county
4 department and for other persons specified by the department by rule, the entity
5 shall send the background information form to the county department.

6 3. For persons specified ~~under~~ in par. (a) who are licensed by a child welfare
7 agency, for persons specified in par. (am) 2. who are nonclient residents or prospective
8 nonclient residents of an entity that is licensed by a child welfare agency and for
9 other persons specified by the department by rule, the entity shall send the
10 background information form to the child welfare agency.

11 5. For persons specified ~~under~~ in par. (a) who are contracted with by a school
12 board, for persons specified in par. (am) 2. who are nonclient residents or prospective
13 nonclient residents of an entity that is contracted with by a school board and for other
14 persons specified by the department by rule, the entity shall send the background
15 information form to the school board. ~~For all other persons specified under par. (am)~~
16 ~~1., the entity shall maintain the background information form on file for inspection~~
17 ~~by the department, county department, child welfare agency or school board,~~
18 ~~whichever is applicable.~~

19 **SECTION 21.** 48.685 (6) (b) 4. [✓] of the statutes is created to read:

20 48.685 (6) (b) 4. For persons specified in par. (a) [✓] who are certified by a certifying
21 agency, for persons specified in par. (am) [✓] 2. who are nonclient residents or prospective
22 nonclient residents of an entity that is certified by a certifying agency and for other
23 persons specified by the department by rule, the entity shall send the background
24 information form to the certifying agency.

25 **SECTION 22.** 48.685 (8) [✓] of the statutes is amended to read:

1 48.685 (8) The department, a county department, a child welfare agency, a
2 certifying agency or a school board may charge a fee for obtaining the information
3 required under sub. (2) (am) or (3) (a). The fee may not exceed the reasonable cost
4 of obtaining the information. No fee may be charged to a nurse’s assistant, as defined
5 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be
6 inconsistent with federal law.

✓
✓
INSERT
11-6
→

7 SECTION 23. 49.155 (1) (ad) of the statutes is created to read:

8 49.155 (1) (ad) “Administering agency” means the county department or the
9 Wisconsin works agency that is required by the department under sub. (3) (a) [✓] to [✓] or (am)
10 administer child care assistance under this section.

11 SECTION 24. 49.155 (1) (aj) of the statutes is created to read:

12 49.155 (1) (aj) “County department” means a county department under s.
13 46.215, 46.22 or 46.23.

14 SECTION 25. 49.155 (1) (am) of the statutes is amended to read:

15 49.155 (1) (am) “Level I certified family day care provider” means a day care
16 provider certified under s. 48.651 (1) (1m) (a).

17 SECTION 26. 49.155 (1) (b) of the statutes is amended to read:

18 49.155 (1) (b) “Level II certified family day care provider” means a day care
19 provider certified under s. 48.651 (1) (1m) (b).

20 SECTION 27. 49.155 (3) (title) of the statutes is amended to read:

21 49.155 (3) (title) COUNTY CHILD CARE ADMINISTRATION.

22 SECTION 28. 49.155 (3) (a) of the statutes is repealed and recreated to read:

23 49.155 (3) (a) [✓] Except as provided in par. (am), ~~Wisconsin works~~ agency
_{plain ↗}
24 or a county department to administer child care assistance under this section. If the
25 department requires a county department to administer child care assistance under

section #

CR, 49.155(3)(am)

#49.155(3)(am)

in that county

In a county with a population of 500,000 or more, the department shall require a ~~Wisconsin works~~ agency to administer

1 this section, the ~~Wisconsin works~~ agency shall refer an individual who has been
2 determined eligible under sub. (1m) to the county department for child care
3 assistance.

child care assistance under this section.

4 SECTION 29. 49.155 (3) (b) (intro.) of the statutes is amended to read:

5 49.155 (3) (b) (intro.) The ~~county department under s. 46.215, 46.22 or 46.23~~
6 ~~shall administer child care assistance under this section. In administering child care~~
7 ~~assistance under this section, the county department under s. 46.215, 46.22 or 46.23~~
8 administering agency shall do all of the following:

9 SECTION 30. 49.155 (3m) (a) of the statutes is amended to read:

10 49.155 (3m) (a) The department shall reimburse child care providers or shall
11 distribute funds to ~~county departments under s. 46.215, 46.22 or 46.23~~
12 administering agencies for child care services provided under this section and to
13 private nonprofit agencies that provide child care for children of migrant workers.

14 SECTION 31. 49.155 (3m) (c) of the statutes is amended to read:

15 49.155 (3m) (c) From the funds distributed under par. (a), a ~~county an~~
16 administering agency may provide child care services itself, purchase child care
17 services from a child care provider, provide vouchers to an eligible parent for the
18 payment of child care services provided by a child care provider, reimburse an eligible
19 parent for payments made by the parent to a child care provider for child care
20 services, adopt, with the approval of the department, any other arrangement that the
21 county considers appropriate or use any combination of these methods to provide
22 child care.

23 SECTION 32. 49.155 (3m) (d) of the statutes is amended to read:

24 49.155 (3m) (d) No funds distributed under par. (a) may be used to provide care
25 for a child by a person who resides with the child, unless the county administering

1 agency determines that the care is necessary because of a special health condition
2 of the child.

3 **SECTION 33.** 49.155 (6) (a) of the statutes is amended to read:

4 49.155 (6) (a) Subject to review and approval by the department, each ~~county~~
5 administering agency shall establish the maximum reimbursement rate for licensed
6 child care services provided under this section. ~~A county~~ An administering agency
7 shall set the rate so that at least 75% of the number of places for children within the
8 licensed capacity of all child care providers in that county can be purchased at or
9 below that maximum rate.

10 **SECTION 34.** 49.155 (6) (b) of the statutes is amended to read:

11 49.155 (6) (b) Subject to review and approval by the department, each ~~county~~
12 administering agency shall set a maximum reimbursement rate for Level I certified
13 family day care providers for services provided to eligible individuals under this
14 section. The maximum rate set under this paragraph may not exceed 75% of the rate
15 established under par. (a).

16 **SECTION 35.** 49.155 (6) (c) of the statutes is amended to read:

17 49.155 (6) (c) Subject to review and approval by the department, each ~~county~~
18 administering agency shall set a maximum reimbursement rate for Level II certified
19 family day care providers for services provided to eligible individuals under this
20 section. The maximum rate set under this paragraph may not exceed 50% of the rate
21 established under par. (a).

22 **SECTION 36.** 49.155 (7) (a) of the statutes is renumbered 49.155 (7), and 49.155
23 (7) (intro.), (a) and (b), as renumbered, are amended to read:

24 49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (intro.) The department or
25 ~~the county department under s. 46.215, 46.22 or 46.23~~ administering agency may

1 refuse to pay a child care provider for child care provided under this section if any
2 of the following applies to the child care provider, employe or person living on the
3 premises where child care is provided:

4 (a) The person has been convicted of a felony or misdemeanor that the
5 department or ~~county department~~ administering agency determines substantially
6 relates to the care of children.

7 (b) The person is the subject of a pending criminal charge that the department
8 or ~~county department~~ administering agency determines substantially relates to the
9 care of children.

10 (END)

✓
INSERT
4-9 →

INSERT 11-6 ✓

Section #. 49.143 (2) (em) of the statutes is ^{renumbered 49.143(2)(em)1. and} amended to read:

1. Except as provided in subd. 2, determine
49.143 (2) (em) ~~Determine~~ eligibility for child care assistance under s. 49.155 and refer eligible families to county departments under s. 46.215, 46.22 or 46.23 for child care services.

History: 1995 a. 216, 289; 1997 a. 27, 36, 236, 318.

③
49.143 (2) (em) 2.

section #.
CR; 49.143 (2) (em) 2. ^{BAA} ₃ ^{if required under s. 49.155 (3) (a) or (am),}
certify child care providers under s. 48.651 and
administer child care assistance under s. 49.155.

certified family day care providers for services provided to eligible individuals under this section. The maximum rate set under this paragraph may not exceed 75% of the rate established under par. (a).

SECTION 33. 49.155 (6) (c) of the statutes is amended to read:

49.155 (6) (c) Subject to review and approval by the department, each county Wisconsin works agency shall set a maximum reimbursement rate for Level II certified family day care providers for services provided to eligible individuals under this section. The maximum rate set under this paragraph may not exceed 50% of the rate established under par. (a).

SECTION 34. 49.155 (7) (a) of the statutes is renumbered 49.155 (7), and 49.155 (7) (intro.), (a) and (b), as renumbered, are amended to read:

49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (intro.) The department or ~~the county department under s. 46.215, 46.22 or 46.23~~ Wisconsin works agency may refuse to pay a child care provider for child care provided under this section if any of the following applies to the child care provider, employe or person living on the premises where child care is provided:

(a) The person has been convicted of a felony or misdemeanor that the department or ~~county department~~ Wisconsin works agency determines substantially relates to the care of children.

(b) The person is the subject of a pending criminal charge that the department or ~~county department~~ Wisconsin works agency determines substantially relates to the care of children.

SECTION 9357. Initial applicability; workforce development.

(1) CHILD CARE ADMINISTRATION. The treatment of sections 48.651 (1) and (2m), 48.653, 48.685 (1)(am), (2) (a) (intro.), (ad), (am) (intro.) and 5., (b) 4., (bd) and (bm), (3) (a), (14) ✓



(3m), (5) (a), (5c) (bm), (5m), (6) (a) and (8) ^{and 49.143 (2) (em)} and 49.155 (1) (am) and
 (b), (3) (a) and (b) (intro.), (3m) (a), (c) and (d), (6) (a), (b) and (c) and (7) (a) of the ^(am) and
 statutes, the renumbering and amendment of section ^S48.685 (6) (b) of the statutes
 and the creation of section ^{and 49.143 (2) (em) 2.} 48.685 (6) (b) 4. of the statutes first apply to Wisconsin
 works agencies that entered into or renew contracts on the effective date of this
 subsection.

END
 [end of insert]



Today
State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-0492/A 5
TAY:pgt&jlg:ijs
pgt
RMR [same]

DOA:.....Sajna – Child care administration by W-2 agencies
FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

1 *don't gen. cat.*
AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
CHILDREN

Under current law, if a Wisconsin works (W-2) agency (the agency responsible for administering W-2 in a particular region) determines that a person is eligible for a child care subsidy, the W-2 agency must refer that person to the county department of social services or the county department of human services (county department). The county department determines, in accordance with a schedule developed by the department of workforce development (DWD), the amount of the person's copayment for child care; provides a child care subsidy, either in the form of a voucher or a direct payment to the child care provider; and helps the person identify available and appropriate child care. The county department also sets maximum reimbursement rates for child care providers and certifies certain child care providers. Finally, under current law, a county department is responsible for conducting a background investigation of child care providers prior to certifying them.

This bill permits DWD to require either a county department or a W-2 agency to administer the child care subsidy program, except that in counties with a population of 500,000 or more, DWD must require a W-2 agency to administer the child care subsidy program in that county. Under the bill, whichever entity administers the program is responsible for determining the copayment amount, providing the subsidy, conducting background investigations on and certifying child

care providers and identifying available and appropriate child care for subsidy recipients. County departments, however, retain the responsibility for setting maximum reimbursement rates for child care providers.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

1 **SECTION 1.** 48.651 (1) of the statutes is renumbered 48.651 (1m), and 48.651
2 (1m) (intro.) and (a), as renumbered, are amended to read:

3 48.651 (1m) (intro.) ~~Each county department~~ certifying agency shall certify,
4 according to the standards adopted by the department of workforce development
5 under s. 49.155 (1d), each day care provider reimbursed for child care services
6 provided to families determined eligible under s. 49.155 (1m), unless the provider is
7 a day care center licensed under s. 48.65 or is established or contracted for under s.
8 120.13 (14). ~~Each county~~ certifying agency may charge a fee to cover the costs of
9 certification. To be certified under this section, a person must meet the minimum
10 requirements for certification established by the department of workforce
11 development under s. 49.155 (1d), meet the requirements specified in s. 48.685 and
12 pay the fee specified in this section. ~~The county~~ certifying agency shall certify the
13 following categories of day care providers:

14 (a) Level I certified family day care providers, as established by the department
15 of workforce development under s. 49.155 (1d). ~~No county~~ certifying agency may
16 certify a provider under this paragraph if the provider is a relative of all of the
17 children for whom he or she provides care.

18 **SECTION 2.** 48.651 (1g) of the statutes is created to read:

✓
a tribal governing body

1 48.651 (1g) In this section, “certifying agency” means a county department or
2 a Wisconsin works agency, as defined in s. 49.001 (9), whichever the department of
3 workforce development requires under s. 49.155 (3) (a) to administer the child care
4 subsidy program under s. 49.155.

5 SECTION 3. 48.651 (2m) of the statutes is amended to read:

6 48.651 (2m) Each ~~county department~~ certifying agency shall provide the
7 department with information about each person who is denied certification for a
8 reason specified in s. 48.685 (2) (a) 1. to 5.

9 SECTION 4. 48.653 of the statutes is amended to read:

10 **48.653 Information for day care providers.** The department shall provide
11 each day care center licensed under s. 48.65 and each ~~county~~ certifying agency, as
12 defined in s. 48.651 (1g), providing child welfare services with a brochure containing
13 information on basic child care and the licensing and certification requirements for
14 day care providers. Each ~~county agency~~ certifying agency shall provide each day care
15 provider that it certifies with a copy of the brochure.

16 SECTION 5. 48.685 (1) (a) of the statutes is renumbered 48.685 (1) (at).

17 SECTION 6. 48.685 (1) (am) of the statutes is created to read:

18 48.685 (1) (am) “Certifying agency” has the meaning given in s. 48.651 (1g).

19 SECTION 7. 48.685 (2) (a) (intro.) of the statutes is amended to read:

20 48.685 (2) (a) (intro.) Notwithstanding s. 111.335, and except as provided in
21 par. (ad) and sub. (5), the department may not license, or continue or renew the
22 license of, a person to operate an entity, a ~~county department~~ certifying agency may
23 not certify a day care provider under s. 48.651, a county department or a child welfare
24 agency may not license, or renew the license of, a foster home or treatment foster
25 home under s. 48.62 and a school board may not contract with a person under s.

1 120.13 (14), if the department, county department, child welfare agency, certifying
2 agency or school board knows or should have known any of the following:

3 **SECTION 8.** 48.685 (2) (ad) of the statutes is amended to read:

4 48.685 (2) (ad) The department, a county department or a child welfare agency
5 may license a foster home or treatment foster home under s. 48.62, a ~~county~~
6 ~~department~~ certifying agency may certify a day care provider under s. 48.651 and a
7 school board may contract with a person under s. 120.13 (14), conditioned on the
8 receipt of the information specified in par. (am) indicating that the person is not
9 ineligible to be certified or contracted with for a reason specified in par. (a) 1. to 5.

10 **SECTION 9.** 48.685 (2) (am) (intro.) of the statutes is amended to read:

11 48.685 (2) (am) (intro.) Subject to subd. 5. and par. (bd), the department, a
12 county department, a child welfare agency, a certifying agency or a school board shall
13 obtain all of the following with respect to a person specified under par. (a) (intro.) and
14 a person specified under par. (ag) (intro.) who is a nonclient resident or prospective
15 nonclient resident of an entity and shall obtain the information specified in subds.
16 1. to 5. with respect to a person specified in par. (ag) (intro.) who is under 18 years
17 of age, but not under 12 years of age, and who is an employe, prospective employe,
18 contractor, prospective contractor, nonclient resident or prospective nonclient
19 resident of a day care center that is licensed under s. 48.65 or established or
20 contracted for under s. 120.13 (14) or of a day care provider that is certified under s.
21 48.651:

22 **SECTION 10.** 48.685 (2) (am) 5. of the statutes is amended to read:

23 48.685 (2) (am) 5. Information maintained by the department under this
24 section and under ss. 48.651 (2m), 48.75 (1m) and 120.13 (14) regarding any denial
25 to the person of a license, continuation or renewal of a license, certification or a

1 contract to operate an entity for a reason specified in par. (a) 1. to 5. and regarding
2 any denial to the person of employment at, a contract with or permission to reside
3 at an entity for a reason specified in par. (ag) 1. to 5. If the information obtained
4 under this subdivision indicates that the person has been denied a license,
5 continuation or renewal of a license, certification, a contract, employment or
6 permission to reside as described in this subdivision, the department, a county
7 department, a child welfare agency, a certifying agency or a school board need not
8 obtain the information specified in subds. 1. to 4.

9 **SECTION 11.** 48.685 (2) (b) 4. of the statutes is amended to read:

10 48.685 (2) (b) 4. Subdivision 1. does not apply with respect to a person under
11 18 years of age, but not under 12 years of age, who is an employe, prospective
12 employe, contractor, prospective contractor, nonclient resident or prospective
13 nonclient resident of a day care center that is licensed under s. 48.65 or established
14 or contracted for under s. 120.13 (14) or of a day care provider that is certified under
15 s. 48.651 and with respect to whom the department, a ~~county department~~ certifying
16 agency or a school board is required under par. (am) (intro.) to obtain the information
17 specified in par. (am) 1. to 5.

18 **SECTION 12.** 48.685 (2) (bd) of the statutes is amended to read:

19 48.685 (2) (bd) Notwithstanding pars. (am) and (b) 1., the department, a county
20 department, a child welfare agency, a certifying agency or a school board is not
21 required to obtain the information specified in par. (am) 1. to 5., and an entity is not
22 required to obtain the information specified in par. (b) 1. a. to e., with respect to a
23 person under 18 years of age whose background information form under sub. (6) (am)
24 indicates that the person is not ineligible to be employed, contracted with or
25 permitted to reside at an entity for a reason specified in par. (ag) 1. to 5. and with

1 respect to whom the department, county department, child welfare agency, certifying
2 agency, school board or entity otherwise has no reason to believe that the person is
3 ineligible to be employed, contracted with or permitted to reside at an entity for any
4 of those reasons. This paragraph does not preclude the department, a county
5 department, a child welfare agency, a certifying agency or a school board from
6 obtaining, at its discretion, the information specified in par. (am) 1. to 5. with respect
7 to a person described in this paragraph who is a nonclient resident or a prospective
8 nonclient resident of an entity.

9 **SECTION 13.** 48.685 (2) (bm) of the statutes is amended to read:

10 48.685 (2) (bm) If the person who is the subject of the search under par. (am)
11 or (b) 1. is not a resident of this state, or if at any time within the 3 years preceding
12 the date of the search that person has not been a resident of this state, the
13 department, county department, child welfare agency, certifying agency, school
14 board or entity shall make a good faith effort to obtain from any state in which the
15 person is a resident or was a resident within the 3 years preceding the date of the
16 search information that is equivalent to the information specified in par. (am) 1. or
17 (b) 1. a.

18 **SECTION 14.** 48.685 (3) (a) of the statutes is amended to read:

19 48.685 (3) (a) Every 4 years or at any time within that period that the
20 department, a county department, a child welfare agency, a certifying agency or a
21 school board considers appropriate, the department, county department, child
22 welfare agency, certifying agency or school board shall request the information
23 specified in sub. (2) (am) 1. to 5. for all persons who are licensed, certified or
24 contracted to operate an entity and for all persons specified in par. (ag) (intro.) [sub.
25 (2) (ag) (intro.)] who are nonclient residents of an entity and shall request the

1 information specified in sub. (2) (am) 1. to 5. for all persons under 18 years of age,
2 but not under 12 years of age, who are employes, contractors or nonclient residents
3 of a day care center that is licensed under s. 48.65 or established or contracted for
4 under s. 120.13 (4) or of a day care provider that is certified under s. 48.651.

5 **SECTION 15.** 48.685 (3m) of the statutes is amended to read:

6 48.685 (3m) Notwithstanding subs. (2) (b) 1. and (3) (b), if the department, a
7 county department, a child welfare agency, a certifying agency or a school board has
8 obtained the information required under sub. (2) (am) or (3) (a) with respect to a
9 person specified in sub. (2) (a) (intro.) and that person is also an employe, contractor
10 or nonclient resident of an entity, the entity is not required to obtain the information
11 specified in sub. (2) (b) 1. or (3) (b) with respect to that person.

12 **SECTION 16.** 48.685 (5) (a) of the statutes is amended to read:

13 48.685 (5) (a) The department may license to operate an entity, a ~~county~~
14 ~~department~~ certifying agency may certify under s. 48.651, a county department or
15 a child welfare agency may license under s. 48.62 and a school board may contract
16 with under s. 120.13 (14) a person who otherwise may not be licensed, certified or
17 contracted with for a reason specified in sub. (2) (a) 1. to 5., and an entity may employ,
18 contract with or permit to reside at the entity a person who otherwise may not be
19 employed, contracted with or permitted to reside at the entity for a reason specified
20 in sub. (2) (ag) 1. to 5., if the person demonstrates to the department, the county
21 department, the child welfare agency or the school board by clear and convincing
22 evidence and in accordance with procedures established by the department by rule
23 that he or she has been rehabilitated.

24 **SECTION 17.** 48.685 (5c) (bm) of the statutes is created to read:

1 48.685 (5c) (bm) Any person who is permitted but fails under sub. (5) (a) to
2 demonstrate to a Wisconsin works agency, as defined in s. 49.001 (9), that he or she
3 has been rehabilitated may appeal to the secretary of workforce development or his
4 or her designee. Any person who is adversely affected by a decision of the secretary
5 or his or her designee under this paragraph has a right to a contested case hearing
6 under ch. 227.

7 **SECTION 18.** 48.685 (5m) of the statutes is amended to read:

8 48.685 (5m) Notwithstanding s. 111.335, the department may refuse to license
9 a person to operate an entity, a county department or a child welfare agency may
10 refuse to license a foster home or treatment foster home under s. 48.62, and an entity
11 may refuse to employ, contract with or permit to reside at the entity a person specified
12 in sub. (2) (ag) (intro.) if the person has been convicted of an offense that the
13 department has not defined as a “serious crime” by rule promulgated under sub. (7)
14 (a), or specified in the list established by rule under sub. (7) (b), but that is, in the
15 estimation of the department, child welfare agency, or entity, substantially related
16 to the care of a client. Notwithstanding s. 111.335, the department may refuse to
17 license a person to operate a day care center, a ~~county department~~ certifying agency
18 may refuse to certify a day care provider under s. 48.651, a school board may refuse
19 to contract with a person under s. 120.13 (14), a day care center that is licensed under
20 s. 48.65 or established or contracted for under s. 120.13 (14) and a day care provider
21 that is certified under s. 48.651 may refuse to employ, contract with or permit to
22 reside at the day care center or day care provider a person specified in sub. (2) (ag)
23 (intro.) if the person has been convicted of or adjudicated delinquent on or after his
24 or her 12th birthday for an offense that the department has not defined as a “serious
25 crime” by rule promulgated under sub. (7) (a), or specified in the list established by

1 rule under sub. (7) (b), but that is, in the estimation of the department, ~~county~~
2 ~~department~~ certifying agency, school board, day care center or day care provider
3 substantially related to the care of a client.

4 **SECTION 19.** 48.685 (6) (a) of the statutes is amended to read:

5 48.685 (6) (a) The department shall require any person who applies for
6 issuance, continuation or renewal of a license to operate an entity, a ~~county~~
7 ~~department~~ certifying agency shall require any day care provider who applies for
8 initial certification under s. 48.651 or for renewal of that certification, a county
9 department or a child welfare agency shall require any person who applies for
10 issuance or renewal of a license to operate a foster home or treatment foster home
11 under s. 48.62 and a school board shall require any person who proposes to contract
12 with the school board under s. 120.13 (14) or to renew a contract under that
13 subsection, to complete a background information form that is provided by the
14 department.

15 **SECTION 20.** 48.685 (6) (b) of the statutes is renumbered 48.685 (6) (b) 1. and
16 amended to read:

17 48.685 (6) (b) 1. For persons specified ~~under~~ in par. (a) who are licensed by the
18 department, for persons specified in par. (am) 1. who are under 18 years of age, but
19 not under 12 years of age, and who are employes, prospective employes, contractors
20 or prospective contractors of a day care center that is licensed under s. 48.65 or
21 established or contracted for under s. 120.13 (4) or of a day care provider that is
22 certified under s. 48.651, for persons specified in par. (am) 2. who are nonclient
23 residents or prospective nonclient residents of an entity that is licensed by the
24 department, and for other persons specified by the department by rule, the entity
25 shall send the background information form to the department. For all other persons

1 specified in par. (am) 1., the entity shall maintain the background information form
2 on file for inspection by the department, county department, child welfare agency,
3 certifying agency or school board, whichever is applicable.

4 2. For persons specified ~~under~~ in par. (a) who are licensed ~~or certified~~ by a
5 county department, for persons specified in par. (am) 2. who are nonclient residents
6 or prospective nonclient residents of an entity that is licensed ~~or certified~~ by a county
7 department and for other persons specified by the department by rule, the entity
8 shall send the background information form to the county department.

9 3. For persons specified ~~under~~ in par. (a) who are licensed by a child welfare
10 agency, for persons specified in par. (am) 2. who are nonclient residents or prospective
11 nonclient residents of an entity that is licensed by a child welfare agency and for
12 other persons specified by the department by rule, the entity shall send the
13 background information form to the child welfare agency.

14 5. For persons specified ~~under~~ in par. (a) who are contracted with by a school
15 board, for persons specified in par. (am) 2. who are nonclient residents or prospective
16 nonclient residents of an entity that is contracted with by a school board and for other
17 persons specified by the department by rule, the entity shall send the background
18 information form to the school board. ~~For all other persons specified under par. (am)~~
19 ~~1., the entity shall maintain the background information form on file for inspection~~
20 ~~by the department, county department, child welfare agency or school board,~~
21 ~~whichever is applicable.~~

22 **SECTION 21.** 48.685 (6) (b) 4. of the statutes is created to read:

23 48.685 (6) (b) 4. For persons specified in par. (a) who are certified by a certifying
24 agency, for persons specified in par. (am) 2. who are nonclient residents or prospective
25 nonclient residents of an entity that is certified by a certifying agency and for other

1 persons specified by the department by rule, the entity shall send the background
2 information form to the certifying agency.

3 **SECTION 22.** 48.685 (8) of the statutes is amended to read:

4 48.685 (8) The department, a county department, a child welfare agency, a
5 certifying agency or a school board may charge a fee for obtaining the information
6 required under sub. (2) (am) or (3) (a). The fee may not exceed the reasonable cost
7 of obtaining the information. No fee may be charged to a nurse's assistant, as defined
8 in s. 146.40 (1) (d), for obtaining or maintaining information if to do so would be
9 inconsistent with federal law.

10 **SECTION 23.** 49.143 (2) (em) of the statutes is renumbered 49.143 (2) (em) 1. and
11 amended to read:

12 49.143 (2) (em) 1. Determine Except as provided in subd. 2., determine
13 eligibility for child care assistance under s. 49.155 and refer eligible families to
14 county departments under s. 46.215, 46.22 or 46.23 for child care services.

15 **SECTION 24.** 49.143 (2) (em) 2. of the statutes is created to read:

16 49.143 (2) (em) 2. If required under s. 49.155 (3) (a) or (am), certify child care
17 providers under s. 48.651 and administer child care assistance under s. 49.155.

18 **SECTION 25.** 49.155 (1) (ad) of the statutes is created to read:

19 49.155 (1) (ad) "Administering agency" means the county department or the
20 Wisconsin works agency that is required by the department under sub. (3) (a) or (am)
21 to administer child care assistance under this section.

22 **SECTION 26.** 49.155 (1) (aj) of the statutes is created to read:

23 49.155 (1) (aj) "County department" means a county department under s.
24 46.215, 46.22 or 46.23.

25 **SECTION 27.** 49.155 (1) (am) of the statutes is amended to read:

1 49.155 (1) (am) “Level I certified family day care provider” means a day care
2 provider certified under s. 48.651 ~~(1)~~ (1m) (a).

3 **SECTION 28.** 49.155 (1) (b) of the statutes is amended to read:

4 49.155 (1) (b) “Level II certified family day care provider” means a day care
5 provider certified under s. 48.651 ~~(1)~~ (1m) (b).

6 **SECTION 29.** 49.155 (3) (title) of the statutes is amended to read:

7 49.155 (3) (title) COUNTY CHILD CARE ADMINISTRATION.

8 **SECTION 30.** 49.155 (3) (a) of the statutes is repealed and recreated to read:

9 49.155 (3) (a) Except as provided in par. (am), the department may require
10 ~~either~~ a Wisconsin works agency ^{or a tribal governing body} for a county department to administer child care
11 assistance under this section. If the department requires a county department to
12 administer child care assistance under this section, the Wisconsin works agency
13 shall refer an individual who has been determined eligible under sub. (1m) to the
14 county department for child care assistance.

15 **SECTION 31.** 49.155 (3) (am) of the statutes is created to read:

16 49.155 (3) (am) In a county with a population of 500,000 or more, the
17 department shall require a Wisconsin works agency in that county to administer
18 child care assistance under this section.

19 **SECTION 32.** 49.155 (3) (b) (intro.) of the statutes is amended to read:

20 49.155 (3) (b) (intro.) ~~The county department under s. 46.215, 46.22 or 46.23~~
21 ~~shall administer child care assistance under this section. In administering child care~~
22 ~~assistance under this section, the county department under s. 46.215, 46.22 or 46.23~~
23 administering agency shall do all of the following:

24 **SECTION 33.** 49.155 (3m) (a) of the statutes is amended to read:

1 49.155 (3m) (a) The department shall reimburse child care providers or shall
2 distribute funds to ~~county departments under s. 46.215, 46.22 or 46.23~~
3 administering agencies for child care services provided under this section and to
4 private nonprofit agencies that provide child care for children of migrant workers.

5 **SECTION 34.** 49.155 (3m) (c) of the statutes is amended to read:

6 49.155 (3m) (c) From the funds distributed under par. (a), ~~a county~~ an
7 administering agency may provide child care services itself, purchase child care
8 services from a child care provider, provide vouchers to an eligible parent for the
9 payment of child care services provided by a child care provider, reimburse an eligible
10 parent for payments made by the parent to a child care provider for child care
11 services, adopt, with the approval of the department, any other arrangement that the
12 county considers appropriate or use any combination of these methods to provide
13 child care.

14 **SECTION 35.** 49.155 (3m) (d) of the statutes is amended to read:

15 49.155 (3m) (d) No funds distributed under par. (a) may be used to provide care
16 for a child by a person who resides with the child, unless the ~~county~~ administering
17 agency determines that the care is necessary because of a special health condition
18 of the child.

19 **SECTION 36.** 49.155 (6) (a) of the statutes is amended to read:

20 49.155 (6) (a) Subject to review and approval by the department, each county
21 administering agency ^{or local agency, as defined in s. 49.134(1)(b), whichever} shall establish the maximum reimbursement rate for licensed
22 child care services provided under this section. A county An administering agency
23 shall set the rate so that at least 75% of the number of places for children within the
24 licensed capacity of all child care providers in that county can be purchased at or
25 below that maximum rate.

*the department
selects*

or local agency

1 **SECTION 37.** 49.155 (6) (b) of the statutes is amended to read:

2 49.155 (6) (b) Subject to review and approval by the department, each county
3 administering agency shall set a maximum reimbursement rate for Level I certified
4 family day care providers for services provided to eligible individuals under this
5 section. The maximum rate set under this paragraph may not exceed 75% of the rate
6 established under par. (a).

7 **SECTION 38.** 49.155 (6) (c) of the statutes is amended to read:

8 49.155 (6) (c) Subject to review and approval by the department, each county
9 administering agency shall set a maximum reimbursement rate for Level II certified
10 family day care providers for services provided to eligible individuals under this
11 section. The maximum rate set under this paragraph may not exceed 50% of the rate
12 established under par. (a).

13 **SECTION 39.** 49.155 (7) (a) of the statutes is renumbered 49.155 (7), and 49.155
14 (7) (intro.), (a) and (b), as renumbered, are amended to read:

15 49.155 (7) REFUSAL TO PAY CHILD CARE PROVIDERS. (intro.) The department or
16 ~~the county department under s. 46.215, 46.22 or 46.23~~ administering agency may
17 refuse to pay a child care provider for child care provided under this section if any
18 of the following applies to the child care provider, employe or person living on the
19 premises where child care is provided:

20 (a) The person has been convicted of a felony or misdemeanor that the
21 department or ~~county department~~ administering agency determines substantially
22 relates to the care of children.

23 (b) The person is the subject of a pending criminal charge that the department
24 or ~~county department~~ administering agency determines substantially relates to the
25 care of children.

