

under COP-W, CIPs, the family support program, and the early intervention program. If DHFS receives the waiver, DHFS is required to seek enactment of statutory language to implement the waiver within the limits of available federal, state and county funds.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Family Care Eligibility

Item #51

GOVERNOR: Under family care, a program of financial assistance in providing long-term care and support items, persons are entitled to and may receive the family care benefit if they are at least 18 years of age, have physical disabilities or infirmities of aging, meet financial criteria, and fulfill any applicable cost-sharing requirements. They must also meet any of several criteria related to functionality and to eligibility for medical assistance, the need for protective services or protective placement, or the existence of chronic or terminal conditions. Other persons may be eligible for, but are not necessarily entitled to, the family care benefit if they are at least 18 years of age, have physical disabilities or infirmities of aging, meet financial criteria, fulfill any applicable cost-sharing requirements, and meet any of several criteria relating to functionality. Persons with developmental disabilities in a county in which family care initially was provided before July 1, 2001, are both eligible and entitled. One of the criteria for functionality for both entitled and eligible persons is that the person have a condition that is expected to last at least

90 days or result in death within 12 months after the date of application and, on the date that the family care benefit became available in the person's county of residence, the person was a nursing home resident or had been receiving care under long-term medical assistance, the Alzheimer's family caregiver support program, community aids, or county funding.

The Governor's budget changes that criterion for functionality to apply it to persons who do not meet other functionality criteria, and requires that a person seeking a determination of functional eligibility under the criterion first applies for eligibility for the family care benefit within 36 months after the date on which the family care benefit is initially available in the person's county of residence. Further, for persons who are entitled to the family care benefit, the Governor's budget creates a criterion that is similar but under which a person qualifies only if he or she does not meet another specific functionality criterion. The Governor's budget changes provisions concerning persons with developmental disability, so that a person who is 18 years of age, has a primary disabling condition of developmental disability, and meets financial and functionality criteria is both eligible for and entitled to the family care benefit, if the person is a resident of a county in which family care was initially provided before July 1, 2003.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Family Care Facility Referrals

Item #52

GOVERNOR: Under family care, DHFS may contract with various entities to operate family care resource centers, which provide, among other things, determinations of family care eligibility and information and referral services. If the secretary of health and family services certifies that a family care resource center is available in a county, adult family homes, residential care apartment complexes, community-based residential facilities (CBRFs), hospitals and nursing homes in the county must, unless certain exceptions apply, refer persons who are at least 65 years of age or have physical disabilities that are expected to last at least 90 days to the resource center for services and determinations of family care and other program eligibility. In addition, nursing homes and hospitals must also refer persons with developmental disability.

The Governor's budget clarifies that adult family homes, residential care apartment complexes, and CBRFs must refer persons with developmental disability to family care resource centers for services and determinations of family care and other program eligibility.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Family Care Phase-In of Entitlement for Non-MA Eligibles

Item #53

GOVERNOR: Currently under family care, a person is eligible for, but not

necessarily entitled to, the family care benefit if he or she is at least 18 years old, has a physical disability or the infirmities of aging, fulfills any applicable cost-sharing requirements, meets financial criteria, and meets any of several criteria relating to functionality. DHFS is authorized to determine the date on which these functionality criteria first apply to applicants for the family care benefit who are not recipients of medical assistance (MA), but the date may not be later than July 1, 2000.

The Governor's budget changes the date that DHFS is authorized to determine for applying functionality criteria under the family care program to family care benefit applicants who are not MA recipients. Under the Governor's budget, the date must not be later than January 1, 2004, but, before the determined date, persons who are not eligible for MA may receive the family care benefit within the limits of state funds appropriated for this purpose and available federal funds.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Family Care Hospital Referrals

Item #54

GOVERNOR: Currently under family care, a county resource center, as reviewed by a local long-term care council, must provide persons with services in obtaining long-term care. DHFS must promulgate rules requiring a hospital to refer to a resource center patients being discharged who have developmental disability or a physical disability requiring long-term care for at least 90 days or who are 65 years of age

or older. The rules must specify that the requirement applies only if the secretary of DHFS has certified that a resource center is available for the hospital and for individuals that include the hospital's patients. Hospitals violating the rules must forfeit up to \$500 for each violation.

The Governor's budget eliminates the requirement that DHFS promulgate rules requiring a hospital to refer patients to a resource center and eliminates the forfeitures applicable to violations of those rules. The Governor's budget, instead, requires that a resource center annually develop and provide to the local long-term care council for review a tentative plan for coordinating appropriate referrals of individuals who are discharged from hospitals in the area served by the resource center and who are likely to be eligible for the family care benefit. The local long-term care council must review the tentative plan and provide to the resource center nonbonding plan recommendations, if any, for ensuring cooperation and coordination between the resource center and the hospital. In turn, the resource center must consider the recommendations and cooperate with hospitals in the geographic area served by the resource center in developing and implementing the plan. Hospitals, under the Governor's budget, must participate in the plan development and implementation if the secretary of DHFS has certified that a resource center is available for the hospital and for individuals that include the hospital's patients.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Family Care Estate Recovery Appropriations

Item #55

GOVERNOR: Under current law, under family care, the family care benefit is funded from a number of sources, including, for those who are eligible for medical assistance (MA), federal and state MA moneys. Moneys that are received from recovery of family care correctly paid benefits (commonly referred to as estate recovery) are appropriated, in part, as payments to care management organizations to provide the family care benefit.

The Governor's budget provides that moneys that are received as estate recovery from family care enrollees who are ineligible for MA are appropriated to pay for administering the estate recovery and as payments to care management organizations to provide the family care benefit. With respect to moneys that are received as estate recovery from family care enrollees who are eligible for MA, the Governor's budget appropriates those moneys as part of the state share of MA that is provided as the family care benefit.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Family Care Hearing Rights

Item #56

GOVERNOR: Under family care, a client may contest specified matters by filing a written request for a hearing with the division of hearings and appeals of DOA. The actions that may be contested are a denial of eligibility or entitlement, a

determination of cost sharing, the failure to provide timely services and support items, a reduction of amounts of the family care benefit or services or support items, the development of an unacceptable plan of care, the termination of or imposition of ineligibility for the family care benefit, a divestment determination and the recovery of family care correctly paid benefit payments, and incorrectly paid benefit payments. The client must file the request within 45 days of the failure by a resource center or care management organization under family care to act on the matter under time frames specified by rule by DHFS.

The Governor's budget changes the time by which a family care client may contest certain actions under family care to be within 45 days after the effective date of the action. Further, the Governor's budget eliminates recovery of family care benefit payments as a matter that may be contested within this time limitation.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Family Care District

Item #57

GOVERNOR: Currently, under family care, a county board of supervisors or, in a county with a county executive or county administrator, that person, may create a family care district. A family care district is a special purpose district that is organized to operate a family care resource center or a care management organization, but not both. The county board of supervisors or county executive or administrator, if any, also appoints the 15 members of the family care district

board, which is the governing body for the family care district. If a county joins with one or more counties, the county board of supervisors of each county may create a family care district, with a 21-member board. The lengths of appointment of the initial members of the family care district board, on a staggered basis, are specified. Up to one-fourth of the members may be elected or appointed officials or employees of the county. Also, in each county that participates in family care, the county board must appoint a local long-term care council, which develops the initial county plan for the structure of the family care program in that county.

The Governor's budget permits a county board of supervisors or a county executive or county administrator to appoint only the initial members of a family care district board, and requires that both the proposed creation of the family care district and the proposed appointments to the family care district board be first reviewed and approved by the DHFS Secretary. This limitation also applies to the county boards of supervisors that join in creating a family care district. The local long-term care council must also review the proposed initial members of the family care district board and recommend to the secretary approval or disapproval of the proposed membership. The Governor's budget authorizes members of the family care district board, once initially appointed, to appoint successors to the board. Further, the Governor's budget decreases the initial lengths of appointment of initial members and limits to less than one-fourth of the membership the number of family care district board members who may be elected or appointed county officials or county employees.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Exemption from Home Health Agency Requirements for Care Management Organization Contractors under Family Care

Item #58

GOVERNOR: Under current law, DHFS licenses and otherwise regulates home health agencies. Certain entities that may provide services that are similar to those provided by a home health agency (such as care management organizations, which operate under the family care program for the provision of long-term care) are exempted from the home health agency requirements.

The Governor's budget expands the exemptions from home health agency licensure and regulatory requirements to include an entity with which a care management organization contracts to provide services under the family care program.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Other Family Care Changes

Item #59

GOVERNOR: Currently under family care, a resource center in a county must, within six months after the family care benefit is available to all eligible persons in the resource center's area, provide information about the family care benefit and family care services to all older persons and persons with physical

disabilities who reside in facilities in the area, must provide a functional and financial screening to those residents and to certain persons who are seeking admission to a facility, and must provide access for eligible persons to protective services or protective placement or elder abuse services.

The Governor's budget requires that DHFS assure the provision of family care benefit and family care services information, functional and financial screenings, and access for eligible persons to protective services or protective placement and elder abuse services, rather than requiring that a family care resource center provide these. Also under the Governor's budget, persons who must receive information about the family care benefit and family care services and functional and financial screenings must be persons who are residents of certain facilities and are members of a target population served by a care management organization in the county. Lastly, the Governor's budget makes numerous minor changes to the laws relating to the family care program.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Foster Parent Insurance Deductible

Item #60

GOVERNOR: Under current law, DHFS is required to pay claims not payable by other insurance for bodily injury or property damage sustained by a foster, treatment foster, or family-operated group home parent or a member of the parent's family as a result of an act of a

child placed in the parent's care. Current law also permits DHFS to pay claims not covered by other insurance for acts or omissions of a parent that result in bodily injury to a child placed in the parent's care or that form the basis of a civil action for damages against the parent, and for bodily injury or property damage caused by an act or omission of a child who is placed in the parent's care for which the parent becomes legally liable. Currently, the amount of those claims that DHFS may approve in a fiscal year is subject to a \$200 deductible.

The Governor's budget lowers that deductible amount to \$100.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Brighter Futures and Tribal Adolescent Services Funding

Item #61

GOVERNOR: Under current law, DHFS is required to distribute grants to nonprofit organizations and public agencies operating in Milwaukee County and to county departments of human services, social services, community programs, or developmental disabilities services operating in counties other than Milwaukee County for program to prevent and reduce the incidence of youth violence and other delinquent behaviors, youth alcohol and other drug abuse, child abuse and neglect, and adolescent pregnancy; to increase the use of abstinence as a method of preventing nonmarital pregnancy; and to increase adolescent self-sufficiency by encouraging high school graduation, vocational preparedness, improved social

and other interpersonal skills, and responsible decision making. Also under current law, DHFS may provide grants to federally recognized American Indian tribes or bands for, among other things, the provision of information to members of the tribe or band about problems of adolescents and information to and activities for adolescents to aid in developing skills with respect to reducing adolescent pregnancy and high school dropout rates; increasing economic self-sufficiency and expanding career options, enhancing self-esteem, interpersonal skills, and responsible decision making; and neutralizing sex-role stereotyping and bias.

The Governor's budget decreases by \$30,000 in each fiscal year the amount allocated for grants to county departments operating in counties other than Milwaukee County under the brighter futures initiative and increases by \$30,000 in each fiscal year the amount allocated for adolescent choices project grants to federally recognized American Indian tribes or bands.

RECOMMENDATION: Seek to amend to ensure that grants to the presently funded counties are not reduced.

BOARD ACTION: March 23, 2001
Board of Directors:

Milwaukee County Child Welfare Contribution

Item #62

GOVERNOR: Under current law, DHFS must provide child welfare services in Milwaukee County, and Milwaukee County must contribute moneys in each fiscal year for the provision of those services by DHFS. DOA must collect

these moneys by deducting all or part of those moneys from any community aids or shared revenue payments due Milwaukee County.

The Governor's budget eliminates the authority of DOA to collect those moneys by deducting all or part of those moneys from the community aids payments due Milwaukee County and instead specifies that part of that contribution must be made by a reduction in the amount of community aids distributed to Milwaukee County in each fiscal year. The Governor's budget also converts an interagency and intra-agency aids appropriation for Milwaukee child welfare services from a continuing appropriation to an annual appropriation.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

**Milwaukee Child Welfare
Contract Surplus Retention**

Item #63

GOVERNOR: Current law permits a nonprofit corporation that contracts with DHFS or with a county department of human services, social services, community programs, or developmental disabilities services to provide client services on the basis of a prospectively set, unit rate per client service to retain a certain percentage of any surplus that is generated by those client services, and to use that retained surplus to cover any deficit incurred in any preceding or future contract period or to address the programmatic needs of its clients served by those client services.

The Governor's budget permits a county department that contracts with DHFS to provide client services on the basis of a prospectively set, unit rate per client service to retain any surplus generated by those client services and to use that retained surplus in the same way that a nonprofit corporation is permitted to retain and use such a surplus under current law. The Governor's budget, however, prohibits a county department providing client services in Milwaukee County or a nonprofit corporation providing client services in that county from retaining a surplus from revenues that are used to meet the maintenance-of-effort requirement under the federal temporary assistance for needy families program.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

**Court-Ordered Relative
Placement Permanency Plans**

Item #64

GOVERNOR: Under current law, for each child living in a foster home, treatment foster home, group home, child caring institution, secure detention facility, or shelter care facility, whether under a voluntary agreement or under an order of the court assigned to exercise jurisdiction under the Children's Code and the Juvenile Justice Code, the agency that placed the child or arranged the placement of the child or the agency assigned primary responsibility for providing services to the child under the juvenile court order must prepare a written permanency plan, which is a plan designed to ensure that a child is reunified with his or her family whenever

appropriate or that the child quickly attains a placement or home providing long-term stability.

The Governor's budget requires a permanency plan to be prepared for a child who, under a juvenile court order, is living in the home of a relative.

Under current law, on the request of a grandparent in whose home a grandchild whose parent is under 18 years of age is placed, whether under a voluntary agreement or under a juvenile court order, DHFS, a county department of human services or social services, or a licensed child welfare agency may license the grandparent as the grandchild's foster parent or treatment foster parent.

The Governor's budget requires DHFS, a county department, or licensed child welfare agency to license such a grandparent as the grandchild's foster parent or treatment foster parent on the request of the grandparent. Similarly, on the request of a guardian in whose home a minor ward is placed under a juvenile court order, DHFS, a county department, or a licensed child welfare agency may license that guardian as the ward's foster parent or treatment foster parent. The Governor's budget requires DHFS, a county department, or a licensed child welfare agency to license such a guardian as the ward's foster parent or treatment foster parent on the request of the guardian.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Food Stamp Reinvestment Allocation

Item #65

GOVERNOR: On September 25, 1998, JCF required DWD to allocate \$500,000 of federal moneys to reimburse the federal government for expenditures made in the 1996-97 fiscal year to cover the administrative costs of various DWD programs if the federal departments of labor and health and human services did not approve the expenditures.

The Governor's budget requires DWD to reallocate these moneys in the 2001-03 fiscal biennium to local food stamp reinvestment activities.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Transfer of MA Eligibility Administration from DWD to DHFS

Item #66

GOVERNOR: Under current law, county departments of social services and county departments of human services determine the eligibility of individuals for the medical assistance (MA) program, the food stamp program, and, in most cases, the Wisconsin Works (W-2) program. Under current law, DWD administers the food stamp program, the W-2 program, and the eligibility determination aspect of the MA program. DHFS administers all other aspects of the MA program. Currently, DWD contracts with the county departments to reimburse the counties for the reasonable costs of determining eligibility of individuals for each program. The amount that is

reimbursed to each county department is calculated using a formula based on each county's workload and the amount of available state and federal moneys. DWD also is required to establish, by rule, standards of competency and training requirements for county workers who make the eligibility determinations and to submit a report annually to the appropriate standing committees of the legislature on funds recovered and paid out during the previous calendar year as a result of audit adjustments.

The Governor's budget requires DWD and DHFS, jointly, to contract with county departments to reimburse the county departments for the reasonable costs of determining the eligibility of individuals for the MA program. Under the Governor's budget, DWD continues to make the payment for reimbursement to the county departments but the payments are funded, in part, by an appropriation to DHFS.

Also under current law, DWD is required to investigate suspected fraudulent activity on the part of individuals who receive food stamp benefits or MA benefits or who participate in the W-2 program and to reduce errors in the payment of benefits under each program. Finally, in addition to the reimbursements made to counties for determining the eligibility of individuals for the MA, food stamp, and W-2 programs, DWD makes payments to each county and any federally recognized American Indian tribe administering the programs for the administrative costs of activities designed to reduce fraud and errors under each program.

The Governor's budget also authorizes DHFS to contract with DWD to

investigate possible fraud and to conduct payment error activities as part of DWD's current fraud investigation and error reduction activities. If DHFS does not contract with DWD, the Governor's budget requires DHFS to establish its own program to investigate possible fraud on the part of MA recipients and to reduce errors in the payment of MA. The Governor's budget continues to require DWD to investigate food stamp and W-2 fraud and to make payments to county departments and Indian tribes for costs of reducing fraud and errors in the food stamp and W-2 programs.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

MA for Women Diagnosed with Breast or Cervical Cancer

Item #67

GOVERNOR: Under current law, DHFS administers the medical assistance (MA) program under which DHFS provides health care services to eligible individuals. Also under current law, DHFS receives federal funding to conduct a breast and cervical cancer early detection program. This program provides individuals with breast and cervical cancer screening, referrals, education and outreach.

The Governor's budget expands the MA program to provide MA to women who are under the age of 65, who require treatment for breast or cervical cancer, who have been screened for breast or cervical cancer under the breast and cervical cancer early detection program, and who are not otherwise eligible for the

MA program or for other health care coverage.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Eliminate Supplemental MA Payment to Hospitals

Item #68

GOVERNOR: Under current law, beginning July 1, 2000, DHFS must distribute, under a specified formula, state GPR and federal medicaid moneys as a supplemental payment to a hospital for which medical assistance (MA) revenues were at least 8% of the hospital's total revenues in the most recent year before the year of distribution.

The Governor's budget eliminates the requirement that DHFS distribute supplemental MA payments to hospitals that have had recent MA revenues of at least 8%.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Lapse Program Revenue Received from Facility Licensing Fees

Item #69

GOVERNOR: Under current law, DHFS receives moneys as fees for inspecting, licensing, approving, and performing various other duties with respect to facilities such as nursing homes, community-based residential facilities, hospitals and hospices. The moneys are

required to be expended for the costs of performing these services.

The Governor's budget lapses to the general fund on June 30, 2002, \$1,000,000 of the revenues received as fees for facility inspection, approval and other services, and lapses to the general fund on June 30, 2003, an additional \$200,000 of the revenues.

RECOMMENDATION: Seek to amend to utilize lapsing funds to fund additional COP slots.

BOARD ACTION: March 23, 2001
Board of Directors:

Adoption Search Program

Item #70

GOVERNOR: Under current law, a person whose birth parent's rights have been terminated, or who has been adopted, in this state may request DHFS to provide the person, after the person reaches 21 years of age, with a copy of the person's original birth certificate and with the identity and location of the person's birth parents. If the person's birth parent has not filed an affidavit authorizing DHFS to disclose the person's original birth certificate or the identity and location of the birth parent, DHFS, a county department of human services or social services under contract with DHFS, or a child welfare agency under contract with DHFS must conduct a search for the birth parent to inform the birth parent that he or she may file an affidavit authorizing that disclosure.

The Governor's budget eliminates the authority of DHFS to conduct those searches or to contract with a county department or a child welfare agency to

conduct those searches. Instead, the Governor's budget permits DHFS to license a child welfare agency to conduct those searches.

Under current law, DHFS, a county department, or a child welfare agency may charge a reasonable fee for the cost of conducting a search for a child's birth parents, but may not charge a fee in excess of \$100 unless the child gives consent to proceed with the search. Similarly, a person requesting access to medical and genetic information about a child or the child's birth parents must pay a fee based on ability to pay, but not to exceed \$150, for the cost of locating, verifying purging, summarizing, copying, and mailing that information.

The Governor's budget eliminates those fees.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

AODA and Mental Health Services for Youths Leaving Out-of-Home Care

Item #71

GOVERNOR: Under current law, county departments of community programs are required, within the limits of federal, state, and county funds, to provide to individuals who suffer from mental disabilities, including mental illness, developmental disabilities, alcoholism, or drug abuse, a variety of health care services related to mental illness, developmental disabilities, alcoholism and drug abuse. The health care services provided include diagnostic and evaluation services, inpatient and

outpatient care and treatment services, and supportive transitional services. Under current law, if federal, state and county funds for the alcohol and other drug abuse services are not sufficient to meet the needs of all individuals who are eligible for the services, the county departments must give first priority for the services to any pregnant woman who suffers from alcoholism or alcohol abuse or who is drug dependent.

Under the Governor's budget, county departments are required to give second priority for alcohol and other drug abuse services to independent foster care adolescents. An independent foster care adolescent is defined in the Governor's budget as an individual who is at least 18 years of age but under 21 years of age and who was in foster care on his or her 18th birthday. Also, under the Governor's budget, if state, federal and county funds for mental health services are insufficient to meet the needs of all individuals eligible for mental health services, the Governor's budget requires the county departments to give first priority for the services to independent foster care adolescents.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Transfer of Custody of Child for Adoption

Item #72

GOVERNOR: Under current law, if the parental rights of all living parents of a child are terminated or if a child has no living parents, the court assigned to exercise jurisdiction under the Children's Code may transfer guardianship of the

child to DHFS, which is then responsible for securing the adoption of the child. If a permanent adoptive placement is not in progress two years after the entry of the termination of parental rights (TPR) or guardianship order, DHFS may petition the juvenile court to transfer legal custody of the child to a county department, but DHFS remains the guardian of the child.

The Governor's budget permits DHFS to petition the juvenile court to transfer to a county department legal custody of such a child and, if the county department is authorized to accept guardianship of children, guardianship of the child, if a permanent adoptive placement is not in progress one year after entry of the TPR or guardianship order.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Children First

Item #73

GOVERNOR: Under current law, DWD contracts with counties and W-2 agencies to administer a work experience program for noncustodial parents. This program is commonly referred to as the children first program. Under the program, counties and W-2 agencies provide work experience, job training, and job search assistance to noncustodial parents who are required to participate in the program because they failed to pay court-ordered child support or to meet their child's needs for support because of unemployment or underemployment. A "noncustodial parent" is a parent who does not live with his or her children for substantial periods of time. Current law

requires DWD to pay the county or W-2 agency administering the program \$400 for each noncustodial parent who participates in the county's or W-2 agency's program.

The Governor's budget authorizes DWD to contract with elected tribal governing bodies of federally recognized American Indian tribes or bands to administer the children first program. The Governor's budget also changes the amount that DWD is required to pay to each county, W-2 agency, or tribal governing body for each noncustodial parent who participates in the program from \$400 to an amount that is not more than \$400.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

TANF Appropriations and Allocation Requirements

Item #74

GOVERNOR: Under current law, DWD is required to allocate specific amounts of moneys in each fiscal year, including federal moneys received under the federal temporary assistance for needy families (TANF) block grant program, for various public assistance programs. The Governor's budget increases and decreases the amounts of moneys that DWD is required to allocate in each fiscal year for the various public assistance programs. The Governor's budget also eliminates the allocation for some of the programs, including start-up funding for W-2 contracts, the passports for youth program, the community marriage policy project, and payments to the Wisconsin Trust Account Foundation for the

provision of legal services to certain low-income individuals.

Under the Governor's budget, if the amounts of TANF moneys that are received from the federal government are less than the amounts of TANF moneys appropriated to DWD, DWD is required to submit a plan to the secretary of administration for reducing the amounts of moneys allocated for the various public assistance programs. If the secretary of administration approves the plan, DWD may reduce the amounts allocated as proposed in the plan.

The Governor's budget also requires DWD to submit a report annually to the secretary of administration on DWD's expenditures for the various public assistance programs for which DWD must allocate moneys. Finally, the Governor's budget changes the TANF appropriations from annual appropriations to continuing appropriations.

W-2 Benefits: January 1, 2002 - December 31, 2003: \$26,041,300 in FY 2001-02 and \$52,082,600 in FY 2002-03. (from \$49,309,600)

W-2 Administration and Ancillary Services: January 1, 2002 - December 31, 2003: \$62,830,400 in FY 2001-02 and \$125,660,800 in FY 2002-03. (from \$128,433,800)

Community Reinvestment: \$5,559,800 in FY 2001-02 and \$5,559,800 in FY 2002-03. (no increase from FY 2000-01)

Initial Contracts: For contracts that have a term ending on December 31, 2001, \$157,658,100 in FY 2001-02.

State Administration of Public Assistance Programs: \$24,736,200 in FY 2001-02 (\$31,831,000 in FY 1999-2000) and \$24,742,500 in FY 2002-03 (\$31,783,200 in FY 2000-01).

Food Stamps for Legal Immigrants: \$550,000 in each fiscal year (from \$420,000).

Funeral Expenses: \$4,550,200 in each fiscal year (from \$3,925,100 in FY 2000-01)

Children First: \$2,800,000 in each fiscal year (from \$1,140,000)

Job Access Loans: \$1,000,000 in each fiscal year (from \$600,000)

Direct Child Care Services: \$242,475,000 in FY 2001-02 and FY 2002-03 (was \$181,050,000 in FY 2000-01)

Indirect Child Care Services: \$16,253,800 in FY 2001-02 and \$16,439,000 in FY 2002-03 (from \$11,367,600 in FY 2000-01)

Workforce Attachment: \$10,000,000 in each fiscal year (removes joint finance approval for the distribution of funds)

Transportation Assistance: \$2,000,000 in each fiscal year

Literacy Initiative: \$1,425,800 in FY 2001-02 and \$800,000 in FY 2002-03

Community Youth Grant: \$7,079,700 in FY 2001-02 (from \$7,500,000). Not funded in the second year of the biennium?

Work-Based Learning Programs for Youth: \$6,399,000 in FY 2001-02 and \$2,000,000 in FY 2002-03

Fatherhood Initiative: \$200,000 in each fiscal year (from \$75,000)

Alcohol and Other Drug Abuse: \$500,000 in FY 2001-02 (from \$1,000,000 in each fiscal year)

Kinship Care and Long-Term Kinship Care Assistance: \$24,565,300 in each fiscal year (from \$26,164,100 in FY 2000-01)

Children of Recipients of SSI: \$18,288,800 in FY 2001-02 and \$16,771,600 in FY 2002-03.

Community Aids: \$18,086,200 in FY 2001-02 and \$13,494,000 in FY 2002-03.

Adolescent Services and Pregnancy Prevention Programs: \$1,821,300 in each fiscal year.

Domestic Abuse Services Grants: \$1,000,000 in each fiscal year.

Badger Challenge: \$83,200 in each fiscal year.

Earned Income Tax Credit: \$51,244,500 in FY 2001-02 and \$54,665,500 in FY 2002-03.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001 Board of Directors:

W-2 Community Steering Committee Requirements

Item #75

GOVERNOR: Under current law, DWD contracts with W-2 agencies to administer the W-2 program. Current law requires that these two-year contracts require the W-2 agency to establish a community steering committee that consists of at least 12 members but not more than 15 members, all of whom are appointed by the county executive, county administrator, or chair of the county board of the county that the W-2 agency serves. A community steering committee is responsible for advising W-2 agencies on employment and training activities, creating and encouraging others to create subsidized jobs for W-2 participants, identifying child care needs, improving child care access, and expanding the availability of child care.

The Governor's budget eliminates the requirement that the community steering committee consist of a specified number of members. The Governor's budget also requires that a W-2 contract require the community steering committee to serve individuals who are receiving services under the TANF block grant program and to coordinate its services with a local workforce development board.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001 Board of Directors:

Kinship Care Background Review

Item #76

GOVERNOR: Under current law, certain relatives of a child who provide care and maintenance for the child and who meet certain other conditions (kinship care relatives) are eligible for payments in the amount of \$215 per month under the

kinship care program. Those conditions include a condition that the county department of human services or social services or, in Milwaukee County, DHFS conduct a background investigation of the kinship care relative, any employee or prospective employee of the kinship care relative who has or would have regular contact with the child, and any adult resident of the kinship care relative's home to determine whether the kinship care relative, employee, prospective employee, or adult resident has any arrests or convictions that could adversely affect the child or the kinship care relative's ability to care for the child. Currently, a kinship care relative who is denied kinship care payments or who is prohibited from employing a person or permitting a person to reside in the kinship care relative's home based on an arrest or conviction record may request the director of the county department or, in Milwaukee County, a person designated by the secretary of health and family services to review that denial. That review procedure expires on the day after publication of the 2001-03 biennial budget.

The Governor's budget eliminates that expiration date.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

W-2 Child Care Eligibility and Child Care Funding

Item #77

GOVERNOR: Under current law, DWD receives federal child care and development block grant moneys and is required to transfer certain amounts of

those moneys to DHFS for the purposes of day care center licensing.

The Governor's budget sets those amounts for fiscal years 2001-02 and 2002-03.

Under current law, DWD receives federal child care development block grant (CCDBG) funds. Current law requires that these funds be distributed to provide various child care services and grant programs, including technical assistance to child care providers, grants for the start-up and expansion of child day care services, and grants for improving the quality of care standards. Also under current law, DWD distributes CCDBG funds to child care providers and counties for child care services that are provided to individuals who are eligible for the Wisconsin Works (W-2) child care subsidy and to private nonprofit agencies that provide child care for children of migrant workers. CCDBG funds may not be used to cover the costs of child care services that are provided to a child by a person who resides with the child, unless a county determines that the child care is necessary because of a special health condition of the child.

The Governor's budget requires DWD to distribute CCDBG funds for grants to local governments and tribal governing bodies for programs to improve the quality of child care. The Governor's budget also permits DWD to reimburse a W-2 agency for child care services that the W-2 agency provides to W-2 participants and applicants and prohibits the use of CCDBG funds for child care services that are provided for a child by the child's custodial parent, guardian, foster parent, treatment foster parent, legal custodian, or person acting in place

of a parent, unless a county determines that the child care is necessary because of a special health condition of the child.

\$29,199,300 in FY 2001-02 and \$29,185,400 in FY 2002-03 for the purposes of providing technical assistance for child care providers and of administering the child care program and for grants for the start-up and expansion of child day care services, and for child day care start-up and expansion planning, for grants for child day care resource and referral services, for grants to assist child care providers in meeting the quality of care standards and for a system of rates or a program of grants to reimburse child care providers that meet those quality of care standards and for grants to improve the quality of child day care services in this state.

Out of the appropriation, transfer \$4,549,500 in FY 2001-02 and \$4,733,700 in FY 2002-03 to the appropriation under 20.435 (3)(kx)

Under current law, an individual who receives monthly payments under the kinship care program on behalf of a child who is under the age of 13 or who is disabled and under the age of 19 may be eligible for a child care subsidy if the individual needs child care to work or to pursue basic or technical college education if a W-2 agency determines that education will enable the individual to maintain employment. The kinship care program provides monthly payments to individuals who are relatives of children and who provide care and maintenance for the children either temporarily or on a more permanent basis.

Under current law, to be eligible for the child care subsidy, both short-term and long-term kinship care relatives must be U.S. citizens. A long-term kinship care relative must also cooperate with child support enforcement efforts, provide DWD with any information that DWD requires, and assign to DWD any right the individual has to child or spousal support or maintenance. Under current law, a short-term kinship care relative is eligible for the child care subsidy if the child's biological or adoptive family has income that is at or below 200% of the federal poverty line while a long-term kinship care relative must have income that is at or below 185% of the federal poverty line to be eligible for the child care subsidy.

Under the Governor's budget, the eligibility requirements for the child care subsidy that currently apply to short-term kinship care relatives apply to long-term kinship care relatives.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Limit on Participation in the Child Care Subsidy Program

Item #78

GOVERNOR: Under current law, DWD administers the child care subsidy program. Under this program, an individual who meets certain financial eligibility requirements and who is the parent, foster parent, or guardian of a child who is under the age of 13 or, if the child is disabled, under the age of 19, may be eligible for a child care subsidy if the individual needs child care to work or

to pursue basic or technical college education.

Under the Governor's budget, if DWD determines that moneys allocated for the child care subsidy program are insufficient to provide the child care subsidy to eligible individuals, DWD may develop a plan to limit participation in the child care subsidy program, including specifying new eligibility criteria for the program. DWD must submit the plan to the secretary of administration for approval and upon approval of the secretary of administration, DWD may implement the plan.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Substance Abuse Treatment Grants

Item #79

GOVERNOR: Under current law, DHFS distributes, from an appropriation of general purpose revenues, grants for various community programs, including for the provision of AODA treatment services in a county with a population of 500,000 or more (Milwaukee County) to individuals who are eligible for TANF and have family incomes that do not exceed 200% of the federal poverty line.

The Governor's budget permits grants for the provision of AODA treatment services to low-income persons who are eligible for TANF to be provided throughout the state, rather than only in Milwaukee County (county social services departments and private nonprofit organizations). Further, the

Governor's budget requires that moneys for these grants that are unexpended or unencumbered on June 30 of each fiscal year be transferred to the appropriation in DWD for the administration of W-2 and other public assistance programs.

FY 2001-02 : \$6,338,300

FY 2002-03: \$6,338,300

(was funded at \$6,727,600 in FY 2000-01)

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Children's Cabinet Board

Item #80

GOVERNOR: Under current law, DHFS, DPI and DWD administer various programs for children. The Governor's budget creates a children's cabinet board, consisting of the governor, the state superintendent of public instruction, the secretary of administration, the secretary of health and family services, and the secretary of workforce development, that is attached to the office of the governor for administrative purposes. The Governor's budget directs the board to make recommendations to the governor and the legislature relating to changes needed in state programs, policies, and funding levels to improve the coordination among state agencies of programs for children and to streamline the delivery of those programs. The Governor's budget also directs the board to award grants to local consortia, which are defined as combinations of individuals, public agencies, nonprofit corporations, for-profit organizations, federally recognized American Indian

tribes or bands, or other persons, to develop models for the delivery of programs for children who are at risk of not being ready to learn when they enter kindergarten or who are at risk of facing barriers to learning while in school (at-risk children). A local consortium must use the grant to develop a model for the delivery of those programs that meets certain specifications prescribed by the board and that is designed to create closer links between school districts, human service providers, and other community-based providers of programs for children; enable at-risk children to be ready to learn when they enter kindergarten or to overcome the barriers to learning that they face while in school; focus on providing services on a voluntary basis to children under five years of age and their families, but also provide services to children and their families, as needed, throughout the elementary and high school grades; and meet certain performance measures prescribed by the board.

FY 2001-02: \$0

FY 2002-03: \$250,000

RECOMMENDATION: Seek to amend to allow county representation on the board.

BOARD ACTION: March 23, 2001
Board of Directors:

BadgerCare Verification of Insurance Coverage

Item #81

GOVERNOR: Under current law, DHFS administers the badger care health care program (BadgerCare) under a federal waiver from the federal secretary of health and human services. BadgerCare

provides health care coverage to certain low-income families and certain low-income children who do not reside with a parent. As a condition of eligibility for BadgerCare, a family or child must be without access to employer-subsidized health care coverage for a specified amount of time immediately preceding the date on which the family or child applies for BadgerCare. Under current law, a family or child may not have had access to employer-subsidized health care coverage within a time period that is established by DHFS. The time period may not exceed 18 months.

The Governor's budget requires DHFS, not later than January 1, 2002, to request a waiver from the federal secretary of health and human services to permit DHFS to verify whether a family or child has had access to employer-subsidized health care within the specified time period prior to enrolling the family of child in BadgerCare.

The Governor's budget also requires DHFS to request a waiver to increase the time period a family or child is required to be without access to employer-subsidized health care coverage to be eligible for BadgerCare. The waiver must request that the period of time a family or child must be without access to employer-subsidized health care be increased, generally, to six months. The waiver must also request that if the family or child does not have access to employer-subsidized health care, but the coverage was terminated and DHFS determines the termination was not the fault of the family or child, the period of time a family or child must be without health care coverage to be eligible for BadgerCare be 45 days. Finally, the waiver must request that if the family or

child does not have access to employer-subsidized health care because the family or child has exhausted health care continuation coverage under COBRA or because the employer has terminated employment, the period of time a family or child must be without health care coverage to be eligible for BadgerCare be at least three months.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Independent Living Funding

Item #82

GOVERNOR: Under current law, DWD must transfer in each fiscal year up to \$200,000 of federal vocational rehabilitation moneys to DHFS to provide grants to independent living centers for nonresidential services to severely disabled persons.

The Governor's budget increases to \$300,000 the maximum amount of federal vocational rehabilitation moneys that DWD must transfer in each fiscal year to DHFS for grants to independent living centers.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

DHFS Required Reports

Item #83

GOVERNOR: Under current law, DHFS is required to develop and submit various reports and plans to other state agencies, the governor, or the legislature.

Specifically, DHFS must do the following:

1. Submit, annually, a plan to address hunger in the state and to relieve hunger in populations currently experiencing hunger to the governor, the superintendent of public instruction and the legislature.
2. Submit, annually, a report on the expenditure of funds for providing primary health services and mental health services to homeless individuals to the legislature.
3. Submit a plan for developmental disability services in the state, and biennial updates to the plan, to the governor, standing committees of the legislature with jurisdiction over developmental disability issues, and JCF.
4. Submit a report on DHFS's progress in implementing an early intervention services program to the legislature.
5. Submit a report on DHFS's activities relating to the treatment of alcoholism to the governor.

The Governor's budget permits, rather than requires, DHFS to develop and submit these reports and plans.

Also under current law, before DOA may approve any payments to counties for providing supportive, personal, or nursing services to individuals who reside in a certified residential care apartment complex, DHFS is required to submit an annual report on the statewide medical assistance daily cost of nursing home care to DOA for review and approval. If DOA approves the report, DOA may make the payments to counties.

Under the Governor's budget, DHFS may submit a report to DOA on the statewide medical assistance daily cost of nursing home care. The Governor's budget eliminates the requirement that DOA must approve the report before DOA may make the payments to counties.

Finally, current law requires the council on physical disabilities to submit to the legislature recommendations on matters relating to physically disabled individuals and requires the council on mental health to submit to DHFS, the governor, and the legislature policy recommendations in the area of mental health.

The Governor's budget permits, rather than requires, the council on physical disabilities and the council on mental health to submit the reports.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Program Revenue Lapses
(Adoption Services and AODA)

Item #84

GOVERNOR: Under current law, DHFS provides payment for the costs of searches by adoptees or other individuals for birth parents and for the costs of reviewing, certifying, and approving foreign adoption documents, from moneys received from fees imposed for these services. The Governor's budget lapses to the general fund on June 30, 2002, \$94,300 of these moneys.

Under current law, DHFS provides to vehicle drivers alcohol and other drug abuse services that are funded from moneys received from imposing the

driver improvement surcharge on court fines and forfeitures imposed for operating under the influence of intoxicants or other drugs. The Governor's budget lapses to the general fund on June 30, 2002, \$1,000,000 of those moneys.

Under current law, DHFS provides, for alcohol and other drug abuse problems, prevention, intervention, and treatment services that are funded from moneys received from imposing the drug abuse program improvement surcharge on court fines and forfeitures imposed for the violation of certain prohibitions on manufacture, distribution, delivery, or possession of controlled substances. The Governor's budget lapses to the general fund on June 30, 2002, \$648,200 of those moneys.

RECOMMENDATION: Seek to amend to distribute lapsing funds to counties for AODA services.

BOARD ACTION: March 23, 2001
Board of Directors:

Forfeitures Levied Against
Facilities and Treatment
Facilities

Item #85

GOVERNOR: Under current law, DHFS licenses, certifies, approves or registers and otherwise regulates numerous health care services providers, including hospitals, nursing homes, community-based residential facilities, adult family homes, residential care apartment complexes, rural medical centers, home health agencies and hospices. Currently, the sanctions that DHFS may bring against those facilities or services that violate applicable standards of care or

provisions of licensure, certification, approval, or registration vary as to the facility or service. The sanctions include denial of licensure, issuance of departmental orders, required submittal of a plan of correction, assessment of forfeitures, suspension of admissions, imposition of conditional licensure and suspension or revocation of licensure. Unlike forfeitures for other facilities, nursing home forfeitures are fixed in amount using factors that concern the gravity of the violation, severity of harm, extent of violation, indications of good faith by the licensee, previous violations, and the financial benefit to the nursing home of committing or continuing the violation; nursing homes are also subject to notices of violation and correction orders. Facilities or services on which sanctions or penalties are imposed may appeal the sanctions in hearings that are delegated by DHFS to be conducted by the subunit of DOA that deals with hearings and appeals. Decisions that result from these hearings are subject to judicial review.

The Governor's budget makes uniform, with specified exceptions, the penalties and sanctions, and appeal rights for those penalties and sanctions, that DHFS may impose under current law on hospitals, nursing homes, CBRFs, licensed adult family homes, residential care apartment complexes, rural medical centers, home health agencies, and hospices that violate conditions of licensure, certification, approval, or registration or applicable standards of care. The Governor's budget eliminates DHFS' authority to suspend licensure, certification, approval or registration. Under the Governor's budget, if DHFS provides a CBRF, hospital or home health agency with written notice of the grounds for a

sanction, an explanation of the types of sanctions that DHFS may impose, and an explanation of the appeal process, DHFS may order that the CBRF, hospital or home health agency do any of the following: 1) if operating without licensure or approval, cease operation; 2) terminate the employment of any person who operated or permitted operation of a CBRF, hospital, or home health agency for which licensure or approval was revoked; 3) stop violating a provision of licensure or approval; 4) for a CBRF only, submit a plan of correction for violation of a provision of licensure or approval; 5) for a CBRF only, implement and comply with a plan of correction that is approved or developed by DHFS; 6) for a nursing home, CBRF, or hospital only, suspend new admissions until all violations are corrected; or 7) provide training in one or more specific areas for staff members.

In addition, if DHFS provides the same type of written notice, DHFS may impose any of the following: 1) Under specified circumstances, for all facilities or services, revocation of licensure, certification, approval or registration. The Governor's budget specifies procedures for requesting a hearing to contest imposition of a sanction and 2) Except for nursing homes, a daily administrative forfeiture of not less than \$10 nor more than \$2000 for each violation, with each day of violation being a separate offense; the amount of the forfeiture and payment deadlines are specified by DHFS by rule, based on the size of the facility or service and the seriousness of the violation, and may be increased if there is continued failure to comply with a DHFS order.

Under current law, nursing homes, CBRFs and hospices must demonstrate that they are "fit and qualified" in order to be licensed. The Governor's budget requires that licensed nursing homes, CBRFs, and hospices, if they are in substantial noncompliance, as defined by DHFS by rule, with respect to applicable state or federal requirements, demonstrate that they are fit and qualified to operate. DHFS must, by rule, specify procedures regarding these findings.

Under current law, DHFS may issue a conditional license for up to one year to a nursing home and may revoke any outstanding license of the nursing home if DHFS finds that the nursing home has violated standards of care so as to create a condition or occurrence that presents a substantial probability that death or serious mental or physical harm to a resident will result or that directly threatens the health, safety, or welfare of a resident. Before issuing the conditional license, DHFS must establish a written plan of correction, provide written notice to the nursing home, and, at the nursing home's request, hold a case conference, after which a hearing may be held. DHFS must periodically inspect a nursing home operating under a conditional license and may revoke the conditional license if the nursing home substantially fails to follow the plan of correction. The Governor's budget authorizes DHFS to issue a conditional license, certification, approval, or registration that is similar to a conditional approval of a nursing home, to any facility or service that violates standards of care or provisions of licensure.

Under current law, DHFS may issue provisional licenses for home health agencies, rural medical centers, and

hospices that have not been previously licensed, that are not in operation at the time the application for licensure is made, or that are temporarily unable to comply with standards of care. DHFS must inspect a hospice within 30 days before termination of the provisional license and either issue or deny a regular license. DHFS also may issue probationary licenses for nursing homes and CBRFs that have not previously been licensed and are not operating at the time the license application is made. The Governor's budget eliminates provisions relating to provisional licenses for rural medical centers, and, for home health agencies and hospices, changes the term "provisional" to "probationary." In addition, the Governor's budget changes from 24 months to 12 months the period of validity of a hospice probationary license.

Under current law, DHFS approves and otherwise regulates public and private treatment facilities for the provision of services for mental illness, developmental disability, and alcohol and other drug abuse. DHFS may, after notice and hearing, grant, suspend, revoke, or limit such an approval, and a court may restrain violations of conditions of approval or standards of care by treatment facilities; review denials, restrictions or revocations of approval; and grant other enforcement relief.

The Governor's budget changes current provisions concerning approval and other regulation of treatment facilities to specify penalties and sanctions that DHFS may impose on treatment facilities for violations of conditions of approval or standards of care; these penalties and sanctions are similar to those that DHFS

may, under the Governor's budget, impose on facilities or services regulated by DHFS that provide medical care. Under the Governor's budget, if DHFS provides a treatment facility with written notice of the grounds for a sanction, an explanation of the types of sanctions DHFS may impose, and an explanation of the appeal process, DHFS may impose any of the following:

- 1) A daily forfeiture of not less than \$10 nor more than \$2000 for each violation, with each day of violation being a separate offense; the amount of the forfeiture and payment deadlines are specified by DHFS by rule, based on the size of the treatment facility and the seriousness of the violation, and may be increased if there is continued failure to comply with a DHFS order.
- 2) Suspension of approval.
- 3) Under specified circumstances, revocation of approval.

The Governor's budget specifies procedures for requesting a hearing to contest a forfeiture, suspension or revocation. The hearing is subject to judicial review under current law.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Study of Nursing Home Construction Reviews by DHFS and Department of Commerce

Item #86

GOVERNOR: Under current law, DHFS must conduct plan reviews of all capital construction and remodeling of nursing homes and hospitals to ensure that they comply with building code requirements

that are otherwise regulated by the department of commerce and may conduct plan reviews of all capital construction and remodeling of CBRFs. The department of commerce regulates the construction, repair and maintenance of public buildings. In addition, by rule, the department of commerce regulates the design, construction, and alteration of medical facilities so as to ensure that they are accessible and usable by persons with disabilities.

The Governor's budget requires DOA to conduct and present to the governor and to the secretary of administration, by June 30, 2002, a study that reviews the separate responsibilities of DHFS and the department of commerce to review capital construction and remodeling plans of nursing homes, CBRFs, hospitals and other medical facilities. The study must address the feasibility of centralizing the construction plan reviews in one of the departments.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Intergovernmental Transfer Program

Item #87

GOVERNOR: Under current federal law, medical assistance (MA) is a jointly funded, federal-state program; federal funds (known as "federal financial participation") are provided to match state funds expended for MA. Public funds that are not federal funds, that are transferred to the state, and that are expended for MA purposes may be considered as the state's share in claiming federal financial participation.

The Governor's budget creates a separate, nonlapsible trust fund, designated as the MA trust fund, from: 1) moneys received as FFP to match public moneys transferred to the state or certified by DHFS as the state share of financial participation for payments related to nursing homes under the MA program; and 2) public moneys transferred to the state or certified by DHFS as the state and federal share of financial participation for payments related to nursing homes under the MA program. The moneys are appropriated to meet costs of MA and the administrative costs associated with augmenting FFP.

Under current law, DHFS may, in each fiscal year, distribute up to \$38,600,000 received as FFP to supplement payments under MA in order to reduce operating deficits of county, city, village, or town nursing homes. DHFS must also distribute for this purpose additional moneys received as FFP that were not anticipated before enactment of the biennial budget act or before enactment of other legislation that affects the appropriation of such federal moneys. The distribution of these supplemental payments is made under a method that includes consideration of the size of a nursing home's operating deficit and an agreement by the affected county, city, town or village to provide funds to match the federal moneys. DHFS must revise the method, for approval by JCF, if the federal department of health and human services approves a lesser amount of federal moneys for expenditure. If the federal department of health and human services disallows use of the federal moneys for the purpose of these supplemental payments, DHFS must reduce allocations to counties, and a city,

town or village that owns or operates a nursing home that has received funds must reimburse the county in which the city, town, or village is located.

The Governor's budget as of July 1, 2000, retroactively eliminates, in the program to supplement MA payments to reduce operating deficits of county, city, village or town nursing homes, the requirement that DHFS distribute for this purpose additional, unanticipated moneys received as FFP and increases, to up to \$40,100,000, the amount of FFP that may be distributed. Further, the Governor's budget specifies amounts that may be distributed, beginning in state FY 2001-02, depending on whether or not FFP in the amount of at least \$115,200,000 is received.

\$77,100,000 IGT to counties in each FY

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

**Eliminate Labor Region
Variations in Nursing Home
Reimbursement**

Item #88

GOVERNOR: Currently, payments to nursing homes for care provided to recipients of medical assistance (MA) are determined under a payment system that considers specific allowable costs, under standards prescribed by DHFS. The standards for payment of allowable direct care costs must take into account direct care costs for a sample of all nursing homes in the state and must be adjusted by DHFS for regional labor cost variations.

The Governor's budget eliminates the requirement that DHFS adjust, for regional labor cost variations, standards for payment of allowable direct care costs under the MA nursing home payment system.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Appointment of Relative as Guardian of Child

Item #89

GOVERNOR: Under current law, the juvenile court may appoint a relative of a child as the guardian of the child if the juvenile court makes certain findings, including a finding that the child has been adjudged to be in need of protection or services and has been placed outside of his or her home pursuant to an order of the juvenile court for one year or longer. The Governor's budget permits any person, not just a relative, to be appointed as the guardian of a child who has been adjudged to be in need of protection or services. The Governor's budget also eliminates that one year waiting period and permits a child who has been adjudged to be in need of protection or services or whose parents' parental rights to the child have been terminated to be placed directly in the home of a guardian without first having been placed in another out-of-home placement.

Currently, a relative who is appointed as the guardian of a child in need of protection or services and who meets certain other requirements is eligible to receive long-term kinship care payments in the amount of \$215 per month for providing care and maintenance for the

child. The Governor's budget permits a person who is appointed as the guardian for a child in need of protection or service, who was the licensed foster parent or treatment foster parent of the child before that appointment, and who is a resident of Milwaukee County to receive monthly subsidized guardianship payments in an amount established by DHFS based on the average amount of GPR expended per child in foster care in Milwaukee County in state FY 2000-01 if the child is 12 years of age or over and has been placed outside of his or her home for 15 of the most recent 22 months, the parental rights of the child's parents have been terminated, or the juvenile court has found that reunification of the child with the child's parents is unlikely or contrary to the best interests of the child and that further reunification efforts are unlikely to be made or are contrary to the best interests of the child, or if the child does not meet any of those conditions, but DHFS has determined that providing subsidized guardianship payments to the guardian is in the best interests of the child and the juvenile court has confirmed that determination. The Governor's budget also requires DHFS to request from the secretary of the federal department of health and human services a waiver of the requirements under title IV-E of the federal Social Security Act that would authorize the state to receive federal foster care and adoption assistance reimbursement for the costs of providing care for a child who is in the care of a guardian who was licensed as the child's foster parent or treatment foster parent before the guardianship appointment and, if the waiver is approved, to provide monthly subsidized guardianship payments to the guardian according to the terms of the waiver.

Funded out of community aids

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Court-Ordered Placements

Item #90

GOVERNOR: Under current law, the juvenile court may, in a temporary custody order, a dispositional order, or a change-in-placement order, designate an out-of-home placement as the placement for a child who is within the jurisdiction of the juvenile court. The state receives federal foster care and adoption assistance funding under Title IV-E of the federal Social Security Act in reimbursement of moneys expended to provide care for children placed in out-of-home placements. The federal government recently, however, changed its regulations relating to eligibility for IV-E funds to provide that IV-E funds are not available when a court orders a child to be placed in a specific out-of-home placement, except that those funds are available when a court orders a child to be placed in a specific out-of-home placement recommended by the agency primarily responsible for providing services for the child or when a court, after considering the evidence presented by the agency and all parties relating to a child's placement, orders the child to be placed in a specific out-of-home placement other than a placement recommended by the agency.

Accordingly, the Governor's budget requires an order of the juvenile court placing a child outside the home in a placement recommended by the agency to include a statement that the juvenile

court approves the placement recommended by the agency and an order of the juvenile court placing a child outside the home in a placement other than a placement recommended by the agency to include a statement that the juvenile court has given bona fide consideration to the recommendations made by the agency and all parties relating to the child's placement.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Use of Income Augmentation Funds for SACWIS

Item #91

GOVERNOR: Under current law, the state receives federal foster care and adoption assistance funding under Title IV-E of the federal Social Security Act in reimbursement of moneys spent by the state and the counties for activities relating to foster care and the adoption of children. DHFS distributes IV-E funds as community aids to counties for the provision of social services to children and families. If on December 31 of any year there remains unspent or unencumbered in the community aids BCA an amount that exceeds the amount of IV-E funds allocated as community aids in that year, DHFS must carry forward to the next year those excess IV-E funds and distribute not less than 50% of those IV-E funds to counties other than Milwaukee County that are making a good faith effort to implement the statewide automated child welfare information system (SACWIS) for services and projects to assist children and families. Currently, a county is required to use not less than 50% of the

excess IV-E funds distributed to that county for services and projects to assist children and families.

The Governor's budget permits a county, in the calendar year in which the county implements SACWIS and in the two calendar years after that calendar year, to use 100% of the excess IV-E funds distributed to that county to reimburse DHFS for the costs of implementing SACWIS.

RECOMMENDATION: Oppose and also oppose efforts to require counties to pay for ongoing costs related to SACWIS

BOARD ACTION: March 23, 2001
Board of Directors:

Preadmission Assessment and Consultation Process for CBRFs and Residential Care Apartment Complexes

Item #92

GOVERNOR: Under current law, state GPR is used to provide assessments under the long-term support COP to persons who reside in or are about to be admitted to nursing homes. Also under current law, after the secretary of DHFS has certified that a resource center is available to provide family care services in a county, CBRFs and RCACs in that county must provide prospective residents with information about the family care benefit and services of the resource center and must refer certain persons to a resource center. In addition, CBRFs must inform all prospective residents of the assessment requirements for the receipt of COP services and services under the CIP for persons who are relocated from certain institutions or

who meet level-of-care requirements for medical assistance.

The Governor's budget requires that, beginning on January 1, 2002, except in a county in which a resource center is available to provide family care services, a residential care apartment complex inform prospective residents of the services of the county aging unit and the agency in the county that administers COP and conditions for eligibility for public funding for long-term care services. Also, except in such a county, a CBRF must refer persons seeking admission to the CBRF to the agency in the county that administers COP. RCACs and CBRFs that fail to comply with these requirements are subject to administrative forfeitures. Lastly, the Governor's budget authorizes GPR that is appropriated to COP to be used for conducting preadmission consultations for persons seeking admission or about to be admitted to a CBRF.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

COP-Waiver and CIP II Funding of CBRFs

Item #93

GOVERNOR: Under current law, the COP provides assessments of functionality and home and community-based care to, among others, elderly and disabled persons as an alternative to institutionalized care; one part of COP is funded by state GPR (COP-Regular) and the other part (COP-Waiver) is funded jointly by federal and state moneys under MA, under a waiver of federal medicaid laws. Also under MA under a waiver of

federal medicaid laws, a community integration program (CIP II) provides home and community-based services and continuity of care for persons relocated from institutions, other than the state centers for the developmentally disabled, and for persons who meet requirements for MA reimbursement in nursing homes.

Currently, funds under COP-Regular may not be used to provide services in a CBRF that has more than eight beds unless DHFS approves the provision in a CBRF that has up to 20 beds and meets specific criteria or in a CBRF of any size that meets certain criteria. Funds under COP-Waiver and CIP II may not be used to provide services in a CBRF that has more than four beds unless DHFS approves provision of services in a CBRF that has five to eight beds or that meets certain criteria.

The Governor's budget changes restrictions on the use of COP-Waiver and CIP II funds for providing services in a CBRF to permit use of the funds, if approved by DHFS, in a CBRF that has 5 to 20 beds.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Using Unclaimed Child Support Funds for Administering Child Support Program

Item #94

GOVERNOR: Under current law, DWD is responsible for collecting and distributing all moneys received for child or family support and maintenance. If amounts received cannot be distributed, such as when a payee has not notified

DWD of a new address, or if amounts received are distributed but go unclaimed, such as when a check that is sent to a payee is not cashed within one year of the check's issuance, those amounts are considered to be abandoned or unclaimed property. Under this state's version of the Uniform Unclaimed Property Act, DWD generally must attempt to notify the Payee and report the amounts to the state treasurer every even-numbered year. The state treasurer provides public notice of all abandoned or unclaimed property reported to him or her. If the amounts remain unclaimed on the December 1 following this public notice, DWD must deliver the funds to the state treasurer. Except for amounts sufficient to cover possible claims and the state treasurer's administrative expenses, the state treasurer currently deposits all abandoned or unclaimed property in the school fund, as required by article X, section 2, of the Wisconsin Constitution. Persons claiming an interest in any abandoned or unclaimed property delivered to the state treasurer may file a claim with the state treasurer to obtain the property.

Under the Governor's budget, DWD retains all amounts received for support that cannot be distributed or that are not claimed by payees to pay for its own expenses in administering the child support program. DWD and the state treasurer still provide notice of the abandoned or unclaimed property retained by DWD, and the state treasurer pays any valid claims that are filed with respect to that property. At least quarterly, DWD must reimburse the state treasurer for the state treasurer's administrative expenses relating to that property and for any claims that are paid with respect to that property.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Changes Related to Receipt and Disbursement Fee and a Study on the Cost of Operating the Receipt and Disbursement System

Item #95

GOVERNOR: Under current law, if a person owes an outstanding amount for past child or family support or for medical or birth expenses, or is delinquent in making court-ordered child or family support or maintenance payments, the amount that the person owes may be withheld from any state income tax refund or credit owed to the person. Also under current law, if a court orders a person to pay child or family support or maintenance, the court must order the person to pay to DWD an annual receiving and disbursing fee (R&D fee) of \$25, in every year for which maintenance, child support, or family support payments are ordered, to pay for DWD's costs associated with receiving and disbursing the maintenance, child support, or family support and maintaining a record of the receipts and disbursements.

The Governor's budget increases the R&D fee to \$35, beginning with R&D fees payable in 2002, and provides that a person paying the R&D fee must pay it not only in every year for which maintenance, child support, or family support payments are ordered but also in every year in which the person owes an arrearage in any of those payments. The Governor's budget provides that, if a person is delinquent in paying the R&D fee, the delinquent amount may be

withheld from any state income tax refund or credit owed to the person upon certification of the delinquency by DWD to DOR. Before the refund or credit may be withheld, however, the person is entitled to a court hearing on whether he or she owes the amount that DWD certified to DOR. The Governor's budget also requires DWD to study what it would cost DWD to operate the statewide receipt and disbursement system, which is currently operated by a private party under contract with, and paid by, DWD.

Under current law, maintenance and child or family support are collected through wage assignment, as are R&D fees ordered on or after January 1, 2000. Current law provides that, if a person's obligation to pay maintenance, child or family support, or the R&D fee terminates, but the person has an arrearage in one or more of those payments, the wage assignment shall continue, up to the amount of the assignment before the obligation terminated, until the arrearage is paid in full. This provision only applies to those R&D fees ordered on or after January 1, 2000, however, because only those R&D fees are paid through wage assignment.

The Governor's budget broadens the application of the provision to arrearages in any R&D fees, regardless of when ordered, and also broadens the assignment that is to be continued for collection of arrearages in maintenance, child or family support, or the R&D fee. Under the Governor's budget, if there is an arrearage in maintenance, child or family support, or the R&D fee after a person's current obligation to pay maintenance or child or family support terminates, any assignment that was in

effect continues until the arrearage is paid in full, regardless of whether the assignment was for the same or a different type of payment. Thus, if a person was ordered before January 1, 2000, to pay maintenance and the R&D fee and has an arrearage in the R&D fee after his or her obligation to pay maintenance ends, the maintenance assignment is continued until the arrearage in the R&D fee is paid in full.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Require DWD to Reimburse Financial Institutions \$125 for Record Marching Program

Item #96

GOVERNOR: Under current law, financial institutions must participate in a financial record matching program operated by DWD for the purpose of determining whether a person who owes child support or maintenance has an account at a particular institution. DWD must promulgate rules for agreements that financial institutions must enter into related to their participation in the program. The rules must provide for reimbursement to a financial institution for an amount not exceeding its actual cost of participation.

Under the Governor's budget, instead of providing for reimbursement by rule, DWD must reimburse a financial institution up to \$125 per quarter for its participation in the program.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Child Abuse and Neglect Prevention Board Appropriation
Item #97

GOVERNOR: Under current law, the child abuse and neglect prevention board (CANPB) may expend the interest earned on, but not the principal of, moneys received from the sale of "Celebrate Children" license plates to award grants to child abuse and neglect prevention programs, early childhood family education centers, and right from the start projects; to administer statewide child abuse and neglect prevention projects; and to pay for the operating costs of CANPB.

The Governor's budget permits CANPB to expend 50% of the moneys received from the sale of those license plates, and all interest earned on those moneys received, to award those grants, administer those projects, and pay for those costs.

Current law contains an annual, sum certain appropriation of segregated revenues from the children's trust fund for the operating costs of CANPB and for statewide projects to prevent child abuse and neglect, and a continuing appropriation, consisting of all moneys received for that fund, for grants to provide child abuse and neglect prevention programs, early childhood family education centers, and right from the start projects.

The Governor's budget eliminates that annual, sum certain appropriation and folds its purposes into that continuing appropriation.

Current law also contains an appropriation from which CANPB may expend general purpose revenues for early childhood family education center grants.

The Governor's budget eliminates that appropriation.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Adolescent Pregnancy Prevention Changes

Item #98

GOVERNOR: Under current law, the adolescent pregnancy prevention and pregnancy services board (APPPS board), which is attached to DHFS for administrative purposes, is required to award grants to organizations that provide pregnancy prevention programs or pregnancy services to persons under 18 years of age. An organization that receives a grant from the APPPS board must provide matching funds equal to 20% of the grant amount awarded, but may not use any moneys received from the state government toward meeting that matching funds requirement.

The Governor's budget prohibits an organization that receives a grant from the APPPS board from using moneys received from the federal, as well as the state, government toward meeting the matching funds requirement under the grant. The Governor's budget also transfers the APPPS board from DHFS to DOA for administrative purposes. Finally, the Governor's budget creates a program revenue appropriation, consisting of all moneys received relating

to conferences conducted by the APPPS board, for payment of the costs of conducting those conferences.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Increase Excludable Assets in Irrevocable Burial Trust for MA Program

Item #99

GOVERNOR: Under current law, to qualify for the medical assistance (MA) program, an applicant must meet certain income and asset limits. Currently, DHFS must exclude certain assets when determining whether an applicant meets the asset limit. One of the assets that must be excluded is up to \$2500 in an irrevocable burial trust.

The Governor's budget increases the limit on an irrevocable burial trust to \$3300 on January 1, 2003.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Health Care Provider Fraud and Abuse

Item #100

GOVERNOR: Under current law under the MA program, DHFS certifies persons or facilities that meet certain criteria as providers and pays for services and items that MA recipients receive from the providers. Currently, DHFS is authorized or required to enforce numerous sanctions, including decertification or suspension from the

MA program, against providers who fail to comply with MA requirements or to whom MA payments have been improperly or erroneously made or overpayments have been made. To implement these sanctions, DHFS must provide written notice, a fair hearing, and a written decision. Currently, prohibitions exist against fraud in applications for, rights to, and conversion of MA benefits or payments. These prohibitions are punishable by fines and imprisonment. Lastly, under current law, if a provider who is liable for repayment of improper or erroneous MA payments or overpayments sells or otherwise transfers ownership of his or her business, the seller and transferee are each liable for the repayment. The transferee must contact DHFS and ascertain whether the seller has an outstanding amount owing. DHFS may bring an action to compel payment against either the buyer or transferee if a sale or other transfer occurs, and the amount has not been repaid.

The Governor's budget authorizes DHFS, after providing reasonable notice and the opportunity for a hearing, to charge a fee to an MA provider that has repeatedly been subject to recoveries of MA payments because of the provider's failure to follow identical or similar billing procedures or to follow other identical or similar MA requirements. The fee must be used to defray in part the costs of audits and investigations by DHFS of medicaid or MA violations and to verify service provision and the appropriateness and accuracy of reimbursement claims and may not exceed \$1000 or 200% of the amount of the repeated recovery, whichever is greater. The Governor's budget permits DHFS to recover any part of such a fee

that is not timely paid by offsetting the fee against any MA payment owed to the provider and also authorizes fee collection by the attorney general. Further, failure to timely pay a fee, other than by offsetting the fee against the MA payment owed, is grounds for MA decertification. The Governor's budget creates an appropriation of program revenue into which DHFS must deposit the fees for performance by DHFS of MA audits and investigations.

The Governor's budget authorizes DHFS to require certain MA providers, as a condition of certification, to file with DHFS a surety bond, payable to DHFS, under terms and in an amount specified by DHFS by rule, that would reasonably pay the amount of a recovery and DHFS' costs to pursue recovery of overpayments or to investigate and pursue allegations of false claims or statements. Providers who are required to file the surety bonds are those who provide MA services, as specified by DHFS by rule, for which providers have demonstrated significant potential to violate fraud prohibitions, to require recovery of overpayments, or to need certain additional sanctions.

The Governor's budget authorizes DHFS, if it first makes specified findings, to limit the number of providers of particular services that may receive MA certification or limit the amount of resources, including employees and equipment, that a certified provider may use to provide MA services and items.

The Governor's budget changes numerous provisions relating to procedures for the recovery by DHFS of MA overpayments or improper or erroneous payments, including all of the following:

1. Hearing opportunity requirements are eliminated and, instead, a provider has the opportunity to present information and argument to DHFS staff.
2. A deadline for payment of recoveries is established, and payment of interest on delinquent amounts is required.

The Governor's budget eliminates DHFS' general authority to suspend a provider, but instead authorizes DHFS, if certain criteria are met, to suspend certification for a provider pending a hearing on whether the provider must be decertified for violation of federal or state laws.

The Governor's budget requires access, upon request by DHFS, to provider records and specifies that a provider's failure to provide access constitutes grounds for decertification.

With respect to liability for repayment of improper or erroneous payments or overpayments of a provider who sells or transfers ownership of his or her business, the Governor's budget eliminates provisions that confer liability on both the transferor and the transferee. Under the Governor's budget, before a person may take over the operation of an MA provider, the person must obtain MA certification with respect to the provider's operation, regardless of whether the person is currently certified. Also, before a person may take over the operation of an MA provider that is liable for repayment of improper or erroneous MA

payments or overpayments, full repayment must be made. DHFS must, upon request, notify the person or provider as to whether the provider is liable. If, notwithstanding the prohibition, the person takes over the provider's operation, and the outstanding repayment is not made, DHFS may withhold certification from the person and may proceed against the provider or person. If, within 30 days after DHFS provides notice to the certified provider, the repayment is not paid in full, DHFS may bring an action to compel payment, to decertify a provider, or to do both.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Lapse Moneys from Public Assistance Reform Appropriation

Item #101

GOVERNOR: Under current law, DWD funds various studies to evaluate the effectiveness of welfare reform efforts in helping individuals gain independence by providing jobs and financial incentives and in identifying barriers to independence.

Under the Governor's budget, \$1,200,000 is lapsed to the general fund from the appropriation to DWD for public assistance reform studies on the effective date of the bill.

RECOMMENDATION: Seek to amend to utilize lapsing funds to fund additional COP slots.

BOARD ACTION: March 23, 2001
Board of Directors:

Employment Skills Advancement Program; Expand Eligibility and Increase Maximum Grant Amount

Item #102

GOVERNOR: Under current law, DWD awards grants of up to \$500 to eligible individuals for the costs of tuition, books, transportation, or other direct costs of training or education in a vocational or educational program. As a condition of eligibility for a grant, an individual's income may not exceed 165% of the federal poverty line and the individual must contribute matching funds equal to the amount of the grant that he or she receives. Finally, under current law, the total amount of all grants awarded to an individual may not exceed \$500.

The Governor's budget increases the maximum income level for eligibility for an employment skills advancement grant to 185% of the federal poverty line and reduces the amount of matching funds that an individual is required to contribute to 50% of the amount of the grant that an individual receives. Also, the Governor's budget increases the maximum amount of all grants that an individual may receive to \$1000.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

**WCA Judicial and Public Safety
Steering Committee**

Youth Aids

Item #103

GOVERNOR: Under current law relating to community youth and family aids (youth aids), DOC is required to allocate to counties various state and federal moneys to pay for state-provided juvenile correctional services and local delinquency-related and juvenile-justice services.

The Governor's budget updates the dates during which DOC is required to allocate those moneys so as to permit those moneys to be allocated during the 2001-03 state fiscal biennium.

\$42,091,800 for the last six months of 2001

\$85,183,700 for 2002

\$43,091,900 for the first six months of 2003

For counties that are participating in the corrective sanctions program under s. 938.533 (2)

\$1,062,400

\$2,124,800

\$1,062,400

Alcohol and Other Drug Abuse Treatment

\$666,700

\$1,333,400

\$666,700

RECOMMENDATION: Seek to amend to provide for state payment of out-of-home placement costs and increased funding for early intervention services.

BOARD ACTION: March 23, 2001
Board of Directors:

Daily Rates

Item #104

GOVERNOR:

Placement	Current Rate	2001-02	2002-03
Juvenile Correctional Facility	\$154.08	\$171.16	\$176.06
Corrective Sanctions	\$76.71	\$82.89	\$84.87
Aftercare Services	\$18.62	\$23.25	\$23.80

Please Note: Rates for Child Caring Institutions, Group Homes, Foster Homes and Treatment Foster Homes are no longer placed in the statute.

The Governor's budget also eliminates statutorily set assessments for care in a child caring institution, group home, foster home, or treatment foster home.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Prairie du Chien Juvenile Correctional Facility

Item #105

GOVERNOR: Under current law, until July 1, 2001, DOC may operate the juvenile correctional facility at Prairie du Chien as a state prison for nonviolent offenders who are not more than 21 years of age.

The Governor's budget extends that authority to July 1, 2003.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Juvenile Corrective Sanctions Services

Item #106

GOVERNOR: Under current law, DOC provides a corrective sanctions program for juveniles who have been placed under the supervision of DOC. Under the corrective sanctions program, DOC must place a participant in the community, provide intensive surveillance of the participant, and provide an average of \$3000 per year per slot to purchase community-based treatment services for each participant.

The Governor's budget requires DOC to provide an average of not more than \$3000 per year per slot to purchase those services.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Payment by Prisoners of a Copayment for Medical or Dental Care

Item #107

GOVERNOR: Under current law, DOC may require a prisoner in a secured correctional facility for adults or for children to pay a deductible, coinsurance, copayment, or similar charge if the prisoner receives medical or dental care and the prisoner earns wages while he or she is a resident of the secured correctional facility. Currently, DOC has the authority to exempt or waive the payment of those charges under criteria that DOC establishes by rule.

The Governor's budget deletes the requirement that the prisoner earn wages

while he or she is a resident of the secured correctional facility before he or she may be required to pay a deductible, coinsurance, copayment or similar charge.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Mendota Juvenile Treatment Center Rates

Item #108

GOVERNOR: Under current law, DHFS operates the Mendota Juvenile Treatment Center as a juvenile secured correctional facility, to provide evaluations and treatment for juveniles whose behavior presents a serious problem to themselves or others in other juvenile secured correctional facilities and whose mental health needs can be met at the center. Currently, DOC is required to transfer to DHFS \$2,489,300 in PR in FY 1999-2000 and \$2,489,900 in PR in fiscal year 2000-01 for those services.

The Governor's budget requires DOC to transfer to DHFS \$2,694,400 in PR in fiscal year 2001-02 and \$2,947,200 in PR in fiscal year 2002-03 for those services.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Transfer of Gang Diversion Program

Item #109

GOVERNOR: Under current law, DOC is required to enter into contracts with organizations in Milwaukee County,

Kenosha County, Racine County and Brown County to provide services in those counties for the diversion of youths from gang activities into productive activities (youth diversion program).

The Governor's budget transfers administration of the youth diversion program from DOC to the Office of Justice Assistance in DOA.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Confinement Limit for Serious Juvenile Offender

Item #110

GOVERNOR: Under current law, if a juvenile 14 years of age or over is adjudicated delinquent for committing a violation that would be a Class B felony if committed by an adult and if the only other disposition that would be appropriate for the juvenile would be a placement in a secured correctional facility, the court assigned to exercise jurisdiction under the Juvenile Justice Code may place the juvenile in the serious juvenile offender program (SJOP) administered by DOC for a period of five years. DOC must provide each participant in the SJOP with a series of component phases that are based on public safety considerations and the participant's need for supervision, care and rehabilitation, including a component phase consisting of a placement in a Type 1 secured correctional facility for a period of not more than three years. DOC may also return a participant to a component phase that was previously used for the participant without a hearing,

unless DOC provides for a hearing by rule.

The Governor's budget permits the juvenile court to extend the period for which a participant in the SJOP program may be placed in a Type 1 secured correctional facility for not more than an additional two years in the juvenile court finds that the participant is in need of the supervision, care, and rehabilitation that a placement in a Type 1 secured correctional facility provides and that public safety considerations require that the participant be placed in such a facility. The Governor's budget also permits DOC to extend the period for which a participant in the SJOP program may be placed in a Type 1 secured correctional facility for not more than an additional 30 days without a hearing, unless DOC provides for a hearing by rule. In addition, the Governor's budget specifies that a 30-day extension under the bill does not preclude a two-year extension under the budget and vice-versa.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Transfer of Serious Juvenile Offender

Item #111

GOVERNOR: Under current law, the juvenile court may place a juvenile ten years of age or over who has committed a Class A felony or a juvenile 14 years of age or over who has committed a Class B felony in the serious juvenile offender program (SJOP) if the juvenile court finds that the only other disposition that would be appropriate for the juvenile

would be placement in a juvenile secured correctional facility. The SJOP contains various component phases for its participants, including placement in a juvenile secured correctional facility or, if the participant is 17 years of age or over, an adult prison. The SJOP also includes a component phase of intensive or other field supervision, including juvenile corrective sanctions supervision, juvenile aftercare supervision or, if the participant is 17 years of age or over, adult intensive sanctions supervision. Also under current law, DOC may transfer a juvenile who is placed in a juvenile secured correctional facility to the Racine Youthful Offender Correctional Facility, which is a medium security adult correctional institution for offenders 15 to 21 years of age, if the juvenile is 15 years of age or over and the conduct of the juvenile in the juvenile secured correctional facility presents a serious problem to the juvenile or others.

The Wisconsin Supreme Court recently held, however, in *State of Wisconsin v. Hezzie R.*, 219 Wis. 2d 849 (1998), that subjecting a juvenile who has been adjudicated delinquent and who has no right to a trial by jury under the Juvenile Justice Code to placement in an adult prison violates the juvenile's constitutional right to a trial by jury because placement in an adult prison constitutes criminal punishment rather than juvenile rehabilitation.

Accordingly, the Governor's budget eliminates the authority of DOC to transfer a juvenile who has been adjudicated delinquent to an adult prison, including the intensive sanctions program, which is defined in the statutes as a state prison.

Current law contains conflicting provisions relating to the age under which a juvenile who has been sentenced to an adult prison must be placed in a juvenile secured correctional facility and the age at which a juvenile prisoner may be transferred to an adult prison. One provision requires DOC to keep juvenile prisoners under 15 years of age in a juvenile secured correctional facility, another provision requires DOC to keep juvenile prisoners under 16 years of age in a juvenile secured correctional facility, and another provision does not permit DOC to transfer a juvenile prisoner to an adult prison until the juvenile attains 17 years of age.

The Governor's budget provides a uniform age of 15 years at which DOC may transfer a juvenile prisoner to an adult prison.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Criteria for Holding a Juvenile in Custody

Item #112

GOVERNOR: Under current law, a juvenile may be taken into custody under circumstances in which a law enforcement officer believes, on reasonable grounds, that the juvenile has violated the terms of supervision ordered by a court assigned to exercise jurisdiction under the Juvenile Justice Code or the terms of aftercare supervision administered by DOC or a county department of human services or social services. A juvenile who has been taken into custody on that ground may be held in custody if probable cause exists to

believe that the juvenile will run away so as to be unavailable for proceedings of the juvenile court or proceedings for revocation of aftercare supervision.

The Governor's budget permits a juvenile who has violated a condition of the juvenile's placement in a Type 2 secured correctional facility or a Type 2 child caring institution or a condition of the juvenile's participation in the intensive sanctions program to be taken into custody by a law enforcement officer and held in custody if the juvenile is at risk of running away so as to be unavailable for action by DOC or a county department relating to that violation.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Elimination of Juvenile Boot Camp Program

Item #113

GOVERNOR: Under current law, DOC is required to provide a juvenile boot camp program for juveniles who have been adjudged delinquent and placed under the supervision of DOC.

The Governor's budget eliminates that program.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Circuit Court Support Grant / Guardian ad Litem Appropriations

Item #114

GOVERNOR: The Governor's budget provides no increases in the circuit court support grant and guardian ad litem appropriations.

RECOMMENDATION: Seek to amend to implement the Kettl Commission proposal of full state funding of the state court system.

BOARD ACTION: March 23, 2001
Board of Directors:

Probation and Parole

Item #115

GOVERNOR: The Governor's budget provides no increases to counties for probation and parole holds.

RECOMMENDATION: Seek to amend to enact AB 197 /SB 83 (Representative Albers and Senator Hansen's bill on probation and parole).

BOARD ACTION: March 23, 2001
Board of Directors:

Appropriations for Programs Relating to Victims and Witnesses and Law Enforcement Services

Item #116

GOVERNOR: Current law appropriates money to DOJ for providing law enforcement assistance regarding anti-drug abuse programs and drug investigations and analysis to state agencies. The Governor's budget

extends the applicability of that appropriation to all law enforcement assistance provided by DOJ to state agencies.

Current law also appropriates money to DOJ for providing services to state agencies relating to victims and witnesses and for reimbursing counties for services relating to victims and witnesses. The Governor's budget authorizes DOJ to use that appropriation for providing services relating to victims and witnesses to anyone.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Eliminate the \$2 Special Prosecution Fee and Related Appropriations

Item #117

GOVERNOR: Currently, a special prosecution fee of \$2 is collected by the Milwaukee County clerk of circuit court whenever a circuit court fee is imposed in civil actions, including garnishment actions, small and large claim actions, and forfeiture actions. This fee is used to pay the costs of clerks in Milwaukee County necessary for the prosecution of violent crime cases and cases involving felony drug violations.

The Governor's budget deletes the \$2 special prosecution fee and the state's responsibility to provide funding for the clerk positions in Milwaukee County necessary for the prosecution of violent crime cases and cases involving felony drug violations.

RECOMMENDATION: Oppose.

BOARD ACTION: March 23, 2001
Board of Directors:

Court Commissioner Training Appropriation

Item #118

GOVERNOR: The Governor's budget creates an appropriation for moneys received by the director of state courts to be used for court commissioner training. The director trains court commissioners regarding areas related to their duties and responsibilities.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Court Interpreters

Item #119

GOVERNOR: Under current law, if a court knows that a person charged with a crime, a parent or child subject to juvenile court proceedings, a person subject to mental health or protective service proceedings, or a witness to one of those proceedings, is unable to communicate and understand English because of a language difficulty or a disability, the court is required to tell the person that he or she has the right to an interpreter. If the person cannot afford to pay for the interpreter, current law requires the court to provide an interpreter at the public's expense. Current law allows courts to authorize the use of interpreters in other court proceedings. Administrative agencies are also authorized under current law to use interpreters in contested cases.

Currently, the expenses of furnishing an interpreter in the supreme court, court of

appeals or circuit court is paid by the director of state courts. If the state public defender needs an interpreter to assist in preparing an indigent for court proceedings, current law requires the state public defender to pay the expenses. In municipal court and before administrative agencies, the unit of government involved is required to pay the interpreter expenses. Current law limits the amount of fees for interpreters before a municipal court or an agency to \$10 per half day or higher fees established by the unit of government and \$34 per half day before a court of record or when assisting the state public defender. Current law also requires the payment of mileage at the rate of 20 cents per mile. The Governor's budget does not change these amounts.

Under the Governor's budget, a qualified interpreter must be able to readily communicate with the person, transfer the meaning of statements to and from English in the court-related proceedings, and accurately interpret, in a manner that conserves the meaning, tone, and style of the original statement. The Governor's budget also allows the clerk of court to provide a qualified interpreter to assist a person with limited English proficiency, when that person asks the court for assistance regarding a legal proceeding, such as how to bring an action to obtain a domestic abuse injunction.

The Governor's budget allows a person with limited English proficiency to waive the appointment of an interpreter if the court determines on the record that the waiver has been made knowingly, intelligently, and voluntarily, and allows the person to retract that waiver at any time during the court proceedings for good cause.

The Governor's budget requires the supreme court to adopt policies and procedures for the recruitment, training, testing and retention of qualified interpreters, and requests that the supreme court cooperate with the technical collage system in the training and testing of those interpreters.

\$50,000 to the court interpreter appropriation

RECOMMENDATION: Seek to amend to implement the proposal of the Committee to Improve Interpreting & Translation in the Wisconsin Courts.

BOARD ACTION: March 23, 2001
Board of Directors:

Pre-Custody/Pre-Charging Representation of Persons by the State Public Defender

Item #120

GOVERNOR: Under current law, the state public defender may not provide legal services or assign an attorney to an adult criminal case if the adult is not in custody and has not been charged with a crime. Likewise, the SPD may not provide legal services or assign an attorney to a child in a juvenile case if the child is not in custody and is not yet subject to a proceeding under the Children's Code or the Juvenile Justice Code in which an attorney must be appointed.

The Governor's budget eliminates both of those prohibitions.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Appropriations for Transcripts, Discovery, and Interpreters for State Public Defender

Item #121

GOVERNOR: Under current law, the SPD pays for the costs of interpreters and discovery materials out of one appropriation and for transcripts out of a separate appropriation.

Under the Governor's budget, the SPD pays for the costs of interpreters and discovery materials under the latter appropriation.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Direct Public Defender, State Courts and District Attorneys Association to Develop a Misdemeanor Diversion Program

Item #122

GOVERNOR: Under current law, judges may sentence misdemeanor offenders to pay a fine not to exceed \$10,000 or to serve up to nine months in jail, or both, for each criminal violation classified as a misdemeanor.

The Governor's budget directs the public defender board, in conjunction with the director of state courts and the Wisconsin District Attorneys Association, to submit a proposal recommending alternative charging and sentencing options for misdemeanor offenders, to DOA by July 1, 2002, and, if DOA approves the proposal, to implement the portions of the proposal that do not require changes to state law. The Governor's budget

permits DOA to earmark up to \$2,000,000 in FY 2002-03 for distribution to the public defender board, the director of state courts and the Wisconsin District Attorneys Association to fund activities to divert misdemeanor offenders from imprisonment, and allows DOA to distribute the earmarked amount upon approving the proposal submitted by the public defender board.

RECOMMENDATION: Support.

BOARD ACTION: March 23, 2001
Board of Directors:

Lapse of Funds in a DOC Account to the General Fund

Item #123

GOVERNOR: The Governor's budget lapses \$1,000,000 to the general fund from the DOC appropriation account related to institutional operations and charges.

RECOMMENDATION: Seek to amend to utilize funds to reduce JCI rates.

BOARD ACTION: March 23, 2001
Board of Directors:

Funding of Competency Examinations for a County with a Population of 500,000 or More

Item #124

GOVERNOR: Current law prohibits trial, conviction, and sentencing of a person accused of committing an offense if the person lacks sufficient mental capacity to understand the proceeding and to assist in his or her own defense. If there is reason to doubt a person's mental capacity, the court presiding over the proceeding must appoint a mental health expert to examine

the defendant. Current law requires that DHFS provide \$484,300 annually from GPR to Milwaukee County to pay for competency evaluations in that county.

The Governor's budget eliminates the designation of Milwaukee County as the recipient agency of DHFS funding for competency examinations, leaving DHFS discretion to select the recipient agency or agencies. The Governor's budget also removes the specification of a dollar amount that DHFS must provide for competency examinations in Milwaukee County. The Governor's budget appropriates funds for the competency examinations from the GPR appropriation that funds treatment and services for people on conditional or supervised release from DHFS mental health institutions.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Merging County-Tribal Law Enforcement Appropriations

Item #125

GOVERNOR: Under current law, DOJ administers a grant program to fund cooperative county-tribal law enforcement programs. A county that has an Indian reservation within its boundaries and that has entered into a formal county-tribal law enforcement agreement may make a joint application with the tribe for funding under the DOJ grant program. The office of justice assistance (OJA) administers a similar grant program to fund county law enforcement programs that are not supported by the DOJ grant program in counties that border Indian reservations.

A county need not enter into a formal county-tribal law enforcement agreement in order to receive aid under the OJA program. OJA also administers a grant program for tribal law enforcement operations. Each of the three programs is funded from a separate Indian gaming receipts appropriation.

The Governor's budget eliminates the appropriation that funds the DOJ cooperative county-tribal law enforcement grant program and consolidates that grant program with the OJA grant program for counties bordering Indian reservations. The consolidated grant program provides funding for law enforcement services to counties that have an Indian reservation within their boundaries or that border an Indian reservation. A county must enter into a county-tribal law enforcement agreement in order to receive aid under the consolidated grant program. The Governor's budget also eliminates the separate appropriation for the OJA tribal law enforcement grant program and funds the tribal grant program out of the same appropriation that funds the consolidated grant program for counties. The Governor's budget maintains current program and eligibility requirements for the tribal law enforcement grant program.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Operation Ceasefire

Item #126

GOVERNOR: Under current law, the state is responsible for funding certain operational expenses of district attorney offices. Among other things, the state

must reimburse Milwaukee County for the costs of clerks who work in the Milwaukee County district attorney's office and who assist in the handling of cases involving the unlawful possession or use of firearms. The amount of reimbursement is capped at a specified amount for each fiscal year of the 1999-2001 fiscal biennium.

The Governor's budget limits the reimbursement amount to the amount of money in the appropriation from which the reimbursement is made. The Governor's budget also deletes an obsolete reference in the same appropriation to the purchase of computers to be used by prosecutors and clerks in the Milwaukee County DA's office on cases involving the unlawful possession or use of firearms.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

Penalty Assessment Surcharge for Law Enforcement Training Fund

Item #127

GOVERNOR: Current law requires that a person pay a penalty assessment if ordered by a court to pay a fine or forfeiture for violating a state law or a local ordinance, except if the fine or forfeiture is for a nonmoving traffic violation, a violation of a seat belt law, or a violation of an antismoking law. The penalty assessment amount is 23% of the amount of the fine or forfeiture.

The revenue from the penalty assessment is appropriated in two parts. Twenty-seven fifty-fifths of the revenue collected under the assessment is appropriated to

DOJ to fund training of law enforcement, jail, and secure detention officers, and to fund the purchase of equipment for the state crime laboratories.

The remaining twenty-eight fifty-fifths of the revenue collected under the penalty assessment is appropriated to the office of justice assistance (OJA) to fund the following programs:

Administering Agency	Program
OJA	Anti-drug enforcement
DPI	Alcohol and drug abuse prevention
DOC	Victim Services
DOC	Correctional officer training
DOC	Youth diversion programs in Milwaukee, Racine, Kenosha and Brown counties
DOJ	Drug enforcement intelligence operations
DOJ	Compensation to counties for victim and witness services
DOA	Automated justice information systems
Office of the State Public Defender	Sponsorship of conferences and training

Current law also requires that a person pay a drug abuse program improvement surcharge if the person is fined for violating a prohibition against manufacturing, distributing, delivering, or possessing a controlled substance. The drug abuse program improvement surcharge is 50% of the fine amount plus 50% of the penalty assessment amount.

The Governor's budget creates a law enforcement training fund assessment that is separate from the penalty assessment. The law enforcement training fund assessment is an 11% surcharge on fines and forfeitures ordered for a violation of a state law or local ordinance, except if the fine or forfeiture is for a nonmoving traffic violation, a violation of a seat belt law, or a violation of an antismoking law.

The Governor's budget appropriates the revenue collected under the law enforcement training fund assessment to DOJ to fund the law enforcement, jail and secure detention officer training, and the purchase of equipment for the crime laboratories that is currently funded by the twenty-seven fifty-fifths portion of the penalty assessment revenue appropriated by DOJ.

The Governor's budget decreases the penalty assessment to 13% of the amount of a fine or forfeiture. The revenue collected under the penalty assessment is appropriated to OJA to fund the grants that OJA currently funds with the twenty-eight fifty-fifths portion of the 23% penalty assessment.

The Governor's budget also increases the amount of the drug abuse program improvement surcharge to 50% of the fine, plus 50% of the penalty assessment, plus 50% of the law enforcement training fund assessment.

RECOMMENDATION: Monitor.

BOARD ACTION: March 23, 2001
Board of Directors:

**WCA Personnel and Labor Relations
Steering Committee**