

makers have become increasingly concerned that more private kinship caregivers, who are equally needy, will seek assistance from the child welfare system.

- **Despite being eligible to receive services, relatively few children in kinship care live in families that do.** More information is needed to address the access issues these families may face.

Children living with kin are already in a vulnerable situation given that they are separated from their parents. The environments in which they are placed may make a significant difference in how they adjust to this separation. However, many children in kinship care arrangements face considerable socioeconomic risks to their healthy development and their families may not be receiving the services they need to overcome these risks. Ideally, a service system to support these families would capitalize on the benefits children gain from being placed with kin while at the same time providing the resources relatives need to create environments that promote children's well-being.

### Endnotes

1. When a child welfare agency believes a child's home environment puts the child at serious risk of abuse or neglect, the agency will petition the court to remove the child from parental custody. The state takes temporary custody of the child when a court determines that removal is necessary.
2. Given the relatively small size of the kinship care population there is more room for error when estimating the sizes of the different subpopulations. The population estimates in this report represent our best attempt at enumerating the subpopulations of children in kinship care. Yet it is important to note that the true population numbers may lie somewhere within a range of estimates. Specifically, these data suggest there is a 90 percent likelihood that the number of children in private kinship care is between 1,120,000 and 1,383,000; that the number of children in kinship foster care is between 130,000 and 232,000; and that the number of children in voluntary kinship care is between 191,000 and 341,000.
3. In 1997 when this data was collected, the income assistance program for needy families was called Aid to Families with Dependent Children (AFDC).

The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) signed into law in August 1996, replaced AFDC with Temporary Assistance for Needy Families (TANF).

4. Differences among all three groups were assessed using chi-square tests. Where these tests demonstrated a statistically significant relationship at the 0.05 level, differences between each possible pair of kinship arrangements were determined using t-tests. Findings discussed in this text are statistically significant at the 0.05 level, unless otherwise stated.
5. Research suggests that children may be resilient to growing up with one risk, but the presence of multiple risk factors may be harder to overcome (Garmezy 1993), and has been associated with worse outcomes for children (Moore, Vandivere, and Ehrle 2000).
6. Although the percentages may appear different in some cases the differences are not significant, due to small sample sizes and higher standard errors.
7. In three states the relative child also has to be IV-E eligible. A child's eligibility for IV-E is linked to his or her family's eligibility for the Aid to Families with Dependent Children (AFDC) program as in effect in their state on July 16, 1996.
8. In Wisconsin, the child must be shown to be at risk of harm if living with biological parents in order for the relative caregiver to be eligible for a TANF child-only payment.
9. This data is based on an annual benefit survey conducted by the Congressional Research Service and from Urban Institute tabulations of AFDC state plan information.

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# LEGAL ACTION OF WISCONSIN, INC.

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Milwaukee Office  
230 West Wells Street  
Milwaukee, WI 53203  
414-278-7722

TO: Joint Committee for Review of Administrative Rules

FROM: Bob Andersen 

RE: Senate Clearinghouse Rule 99-071, Relating to the Eligibility of Nonparent Relatives of Children to Receive Kinship Care Benefits to Help Them Provide Care and Maintenance for Children

DATE: November 14, 2001

Legal Action of Wisconsin (LAW) is an organization funded by the federal Legal Services Corporation to represent low income people in civil actions in the populous 11 counties in Southeastern Wisconsin. As a result we represent a great number of people in actions involving W-2 and kinship care. LAW was involved in litigation challenging the department's attempt to establish waiting lists, which is discussed below.

1. **Need for Revision of Chapter 227, which Enables an Administrative Agency to Adopt Its Own Final Decision in any Administrative Challenge of its Authority.**

What has happened in this area reveals a very serious flaw in the statutes that undermines the integrity of an important aspect of the administrative review process. While this involves DHFS, it could just as easily be any other agency that is involved. The flaw is the ability of an administrative agency under s. 227.46, et. seq., to write its own self serving *final decision* reversing the decision of an independent hearing examiner in a case challenging the agency's authority. The only redress that a petitioner has is to file an action in circuit court to review the decision of the agency. This is a costly burden for a petitioner, especially a low income petitioner, as would be the case here. However, even where a petitioner is able to afford the expenses of an action in circuit court, this process undermines the purpose of an administrative process that is supposed to benefit an ordinary lay person, who is not supposed to need to rely on the assistance of legal counsel.

The solution to this problem lies in changing the statutes so that, at least, in an administrative challenge to the authority of an agency, the decision of the independent hearing examiner is the *final decision* in the case, which cannot be overturned by the agency whose authority is in question.

2. **Every Entity that has Been Involved in the Issue of Allowing DHFS to Establish Waiting Lists, Has, At Least Once, Denied the Agency that Authority.**

The executive branch first rejected this effort to allow waiting lists in 1997, the legislature rejected this twice in 1999 and 2001, and two independent hearing examiners have ruled that the department does not have the authority under the statutes to establish waiting lists.

In 1995, Kinship Care was created by the bill that created W-2. The enactment provided that the counties *shall* make kinship care payments to relatives, just as the statute provides to this day.

On March 14, 1997, for the following session's budget bill, the department requested the authority to establish waiting lists in a budget request and was denied that authority. See the attached memo. The memo indicates that the department wanted the statutory requirement that counties *shall* provide benefits to be qualified by the condition, *"to the extent resources are available, so that the department could develop waiting lists or other strategies to address the situation where the Kinship Care funding for the county (or DHFS in the case of Milwaukee County) is insufficient to meet the need for Kinship Care payments."* This request was denied, as evidenced by the language that was ultimately submitted to the legislature, which did not include these provisions. The memo also bears on its face the handwritten note, *"Deny - no waiting lists - counties must pay."*

This memo was cited by the administrative hearing examiner, Louis Dunlap, who first found that the department had no authority to establish waiting lists [see below]. It was submitted to Dunlap by staff of the Legislative Fiscal Bureau, whose records had been subpoenaed. Presumably, since it is an executive budget request, this request was denied by the executive branch.

The case before Dunlap was filed in May, 1998. It was ultimately decided on June 29, 1999. In the meantime, before the beginning of 1999, the department once again requested the governor to introduce language in the budget bill to authorize the department to establish waiting lists and to provide that kinship care is *not an entitlement*. This language was inserted in the budget bill this time around by the governor. However, the Joint Committee on Finance did not adopt this language and it did not subsequently succeed in getting into the budget bill.

The department's response to this action of the legislature has been noted in its response to the comments that were offered to this proposed rule:

*The language included in the Governor's 1999-2001 budget clearly stating that this program is not an entitlement is merely to clarify the Department's existing interpretation, not to change it from an entitlement to a non-entitlement.*

The adverse action taken on the department's earlier budget request in March 1997 and the fact that litigation was underway against the department when this amendment was offered make this explanation not very credible. **Instead, the more reasonable interpretation of these events is that the department knew that it did not have the authority to establish waiting lists because its request was rejected in March 1997, was worried about the outcome of the litigation, and included this language in the budget bill to give the department the authority to establish waiting lists. The legislature refused to adopt those provisions to give them that authority.**

On June 29, 1999, hearing examiner Dunlap ruled that the department does not have the authority to establish waiting lists, but instead the law "*presents a strong showing of the obligation upon the department or the counties to pay all eligible persons.*" [emphasis added] Dunlap cited the March 14, 1997 request memo of DHFS in making the decision, as well as the mandatory language of the statute. The case was in circuit court by that time (Milwaukee Circuit Court, Dodd v. Wisconsin Department of Health and Family Services, Case No. 98-CV-007356) and the case was settled by the department.

The department did not attempt to have this language inserted in the budget bill in 2001. Instead, provisions for the establishment of waiting lists and that kinship care is not an entitlement were considered by the Joint Committee on Finance. Once again, the committee refused to adopt these provisions.

**It is clear from this legislative history, that waiting lists were not authorized from the inception of this legislation, that the department attempted to rectify this by subsequent efforts to introduce legislation, but that the department was never able to get a majority of the Joint Committee on Finance to approve this change in the law or to get this legislation subsequently approved by both houses.**

Subsequently, another appeal was filed challenging the department's authority to establish waiting lists -- this time in Fond du Lac County -- and on January 5, 2001, another administrative law judge in a case in Fond du Lac County ruled that the department does not have the authority to establish waiting lists and that the counties are obligated to pay benefits under the statutes to all eligible persons, without regard to whether appropriations were exhausted.

3. **The Department Reversed the Conclusions of Both Hearing Examiners, by Issuing Its Own Final Decision, Which Relies on a Contrived Interpretation of Case Law.**

The administrative law judge in the Fond du Lac case cited the court of appeals decision, O'Donnell v. Reivitz, 144 Wis. 2d 717, 725, 424 N.W.2d 733 (1988), as did the administrative law judge in the earlier decision referred to above, for the proposition that the state can require counties to make payments, even where appropriations are exhausted, because the legislature possesses *supreme authority* over the counties.

On March 7, 2001, the department reversed this *proposed* decision, by finding that there

was a critical difference between the statute involved in O'Donnell and the statute on kinship care. In the words of the department,

*In contrast with the legislative mandate at issue in O'Donnell, there is [under the kinship care statute] no statutory language obligating the counties to make kinship care payments when the reimbursement appropriation is exhausted.*

**This statement is false.** The truth is that the kinship care statute *is not* “in contrast,” because the statute in O'Donnell **did not** contain language about what to do *when the reimbursement appropriation is exhausted* either. The statute in that case, which required counties to pay for the costs of placements of delinquent children in residential treatment centers and secure correctional facilities, provided as follows:

**The department [of Health and Social Services] shall bill counties or deduct allocations from the allocations under s. 20.435(4)(cd) for the costs of care, services, and supplies purchased or provided by the department for each person receiving services under 48.34 and 51.35(3). Payment shall be due within 60 days of the billing date. If any payment has not been received within 60 days, the department shall withhold aid payments in the amount due from the appropriations under s. 20.435(4)(b) or (c)(d).**

The kinship care statute [s. 48.57 (3n)(am)] provides as follows:

**From the appropriation under s. 20.435 (3) (kc), the department shall reimburse counties having populations of less than 500,000 for payments made under this subsection and shall make payments under this subsection in a county having a population of 500,000 or more. A county department, and in a county having a population of 500,000 or more, the department shall make monthly payments for each child in the amount specified in sub. (3m)(am)(intro) to a long term kinship care relative who is providing care and maintenance for that child if all of the following conditions are met:**

The only difference between the O'Donnell statute and the kinship care statute is the *method of payment*. Under the kinship care statute, the county is required to pay and the department is required to reimburse. Under the statute in O'Donnell, the department itself provides the services and then either bills the counties or deducts the costs from a specific allocation. If the county is billed and fails to pay within 60 days, the department withholds payments from certain appropriations. The statute in O'Donnell addresses the *method of payment* if the county *fails* to make payment, *not the circumstance where the appropriation runs out*.

Neither statute limits the counties' obligation, where the appropriations run out. Consequently, the O'Donnell decision squarely addresses the question of the counties' liability under the kinship care statute, even where the appropriations are exhausted. As the court in O'Donnell said,



Subject to limitations prescribed in the Wisconsin Constitution, the legislature possesses supreme authority over municipalities. . . . As an arm of the state in governmental matters, generally a county cannot refuse to obey a state's direction. . . . There are many instances where the legislature imposes new duties involving financial obligations upon counties without providing any appropriation therefor. This is done on the theory the county is a political subdivision or agency of the state. . . . Accordingly, in the absence of a constitutional limitation, the legislature may compel counties to provide a specified social service and to bear the cost.

**In summary, the distinction that the department attempts to draw with the O'Donnell case is not a valid one and does not support its reversal of the hearing examiners' decisions in either of the cases referred to in this memo.**

On the contrary, the decisions of the hearing examiners are squarely consistent with what has been the unmistakable intent of the legislature on this question. The department has no authority for the establishment of waiting lists for kinship care and therefor its attempt to establish waiting lists by this administrative rule is invalid.

**Statutory Language Change Requested  
To Executive Budget Request  
By DHFS**

REVISED: March 14, 1997

Post-it® Fax Note	7871	Date 8/26/95	# of pages 2
To Rachel Campbell		From G. A. Frazum	
Co./Dept LFB		Co. DDA	
Phone # 6-3847		Phone # 6-2288	
Fax # 7-6873		Fax #	

Topic: Kinship Care

Section(s) in Budget Bill:

Section 1606 amending 48.57(3m)(am)(intro.)

**Language in Budget Bill and Preferred Language:**

This provision provides that the department shall reimburse counties for Kinship Care payments. The provision also requires counties to make a \$215 Kinship Care payment to individuals provided certain criteria are met.

DHFS requests two changes in the statutory language:

(a) Rather than have the department reimburse counties for Kinship Care payments, specify that the Department will provide funding from appropriation 20.435 (3)(kc) to counties to use for Kinship Care payments or for services to children at risk of abuse or neglect to prevent the need for protective services intervention services or to keep children safely in their homes.

*Dany - my unanswered questions re use of TANF for this purpose.*

(b) Insert the clause, "to the extent resources are available," prior to the requirement that a county department or the department shall make the \$215 Kinship Care payments

*Dany - no waiting lists - counties must pay*

**Explanation:**

The first change is intended to allow the Department to provide counties a funding allocation which counties would use for Kinship Care payments or for services to children at risk of abuse or neglect to prevent the need for protective services intervention services or to keep children safely in their homes. To the extent that the entire funding allocation was not needed for Kinship Care payments, the county (or DHFS in the case of Milwaukee County) could use the balance of the money to fund services to children at risk of abuse or neglect to prevent the need for protective services intervention services or to keep children safely in their homes. This change is intended to provide an incentive to counties to seek more cost-effective strategies to Kinship Care, where appropriate (e.g., providing services to keep the child in his own home rather than having the child placed with a relative) because the county (or DHFS) will be able to retain funds that are not spent on Kinship Care payments.

*E47*



The second change is intended to clarify that a county is obligated to fund Kinship Care payments up to the level of funding provided. This clarification will allow counties to develop waiting lists or other strategies to address situations where the Kinship Care funding for the county (or DHFS in the case of Milwaukee County) is insufficient to meet the need for Kinship Care payments.

Contact: Robin Lessic, 266-9363 or Fredi Bove, 266-2907

# SUE JESKEWITZ

State Representative • 24th Assembly District

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## Joint Committee for Review of Administrative Rules

Hearing on Clearinghouse Rule 99-071  
Relating to the Kinship Care Program  
November 14, 2001

I would like to express my support for the objections that the Senate Committee on Human Services and Aging raised to Clearinghouse Rule 99-071. I encourage this committee to agree and vote to suspend the rule.

From a strictly administrative perspective, we cannot allow departments to overstep their authority and single handedly overrule the legislature. These departments are here to work in conjunction with the legislature, not to make dictatorial decisions. The legislature has shown in earlier decisions that it does not want waiting lists for kinship care. Twice, the Joint Finance Committee has voted unanimously to fully fund the kinship care program to eliminate waiting lists.

In addition, two independent hearing examiners issued decisions ruling that the department does not have the authority to establish waiting lists. Legislative Council has also concluded that it is unclear whether or not the department has clear authority to establish waiting lists.

The legislature has voted that they do not want waiting lists. Independent hearing examiners do not believe the department has the authority to set up waiting lists. Legislative council cannot conclude that the department has this authority. Even so, instead of waiting for this rule to work its way through the legislative process, the department issued its own final decision determining that they were allowed to set up waiting lists for kinship care. To allow the department to make this decision for itself, independent of the input of others, is like the fox guarding the hen house.

Based on those reasons alone, I do not believe that the Department of Health and Family Services should be allowed to set up waiting lists for kinship care. However, there are also social reasons for why kinship care waiting lists should not be allowed.

Kinship care allows youth to stay with family members when their parents are unable to care for them. We cannot punish children for the mistakes of their parents. To not fully fund the kinship care program, to allow waiting lists, could put these children in jeopardy, possibly pulling them away from their family support and into the foster care system.

The kinship care program encourages families to take responsibility for their young relatives. Allowing waiting lists for the program may discourage families from providing this familial support because they do not know if they are going to get payments. There are families who may not be able to take on another child without the guarantee of the small payment that they get through the kinship program.

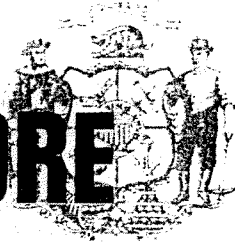
If these children are not taken in by their extended families there are only three other choices: return them to their parent (who has already been shown to be unable to care for the child), have them enter the foster care system (which is nearly double the cost) or, in the case of older children, many of them live a life on the streets. Two of the reasons are obviously unsafe for the child and the third is an added burden on an already overburdened foster care system (at a much greater cost to the state).

We need to look out for the vulnerable population, the children. Allowing waiting lists for the kinship care program will put the future safety of these children in jeopardy.

Please join me, as well as the Senate Committee on Human Services and Aging, in rejecting Clearinghouse Rule 99-071.

Thank you.

# State Senator GWENDOLYNNE MOORE



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Member: Joint Finance Committee  
Board Member: Wisconsin Housing and  
Economic Development Authority

November 14, 2001

To: Members of the Joint Committee on Administrative Rules (JCRAR)

From: Senator Gwendolynne S. Moore

Subject: Department of Health and Family Services' (DHFS)  
Proposed Kinship Care Administrative Rule

Kinship Care is a cost-effective program that provides cash benefits to relatives caring for children whose parents are absent or unwilling or unable to care for their children. The Kinship Care Program was created in 1997 to replace assistance formerly available to non-legally responsible relatives (NLRRs) under Aid to Families with Dependent Children (AFDC). According to the non-partisan Legislative Fiscal Bureau:

*"Without the availability of state-funded kinship care to provide financial assistance to relatives caring for children who meet, or at risk of meeting the JIPS criteria, counties would be required to find other resources for these families, or may place more children in other types of settings, including foster care and group homes. Placement costs for foster care and group homes are funded from counties' community aids allocations or the local tax levy. It is estimated that the average cost for a group home placement is approximately \$3,700 per month. On average, counties pay \$750 per month for a juvenile in foster care, as compared to \$215 per month for a kinship care payment."*

Since its inception, the Kinship Care program has been operating without the benefit of administrative rules. Instead, the Administration of Children and Families at DHFS has administered the program through policy directives and memorandums without adequate legislative oversight.

On September 5, 2001, the Human Services Committee held a public hearing on the proposed Kinship Care administrative rules. The Committee's primary objection to the Kinship Care rule was a provision granting authority for the establishment of waiting lists for this program. As proposed, the Kinship Care administrative rule would set up clear guidelines on how Kinship Care waiting lists should be handled by counties or DHFS in the case of Milwaukee. DHFS does not have the statutory authority to establish waiting lists for this program. Yet, as a matter of administrative policy, DHFS has allowed

counties, and DHFS in Milwaukee County, to establish waiting lists for this family-friendly program. Therefore, the Human Services Committee unanimously rejected DHFS' administrative rule on September 7, 2001 when DHFS refused to modify its rule in regard to the creation of waiting lists. I respectfully request that the Joint Committee on Administrative Rules uphold the objection of the full Human Services Committee and introduce legislation prohibiting waiting lists for Kinship Care.

Twice it has come to the full Legislature's attention that DHFS has allowed counties, and DHFS in Milwaukee County, to create waiting lists for the Kinship Care program when there was insufficient funding. Twice the Legislature, through actions taken by the Joint Committee on Finance without objection, has acted decisively to eliminate Kinship Care waiting lists by providing additional and adequate funding.

**SEE ATTACHED FISCAL BUREAU MEMOS AND NEWSPAPER ARTICLES REGARDING FINANCE ACTION TO FUND WAITING LISTS IN THE PAST.**

### **History of Budget Vetoes and Waiting List questions**

#### **2001-03 State Budget**

The Temporary Assistance to Needy Families (TANF) budget amendment negotiated with Representative John Gard contained a provision authorizing the Finance Committee to supplement the Kinship Care appropriation under a passive review process if the amount budgeted for the program was insufficient to fund benefits for all eligible families. The TANF amendment also specified that funding kinship care benefits would be an allowable expenditure from the W-2 Contingency Fund. These Kinship Care provisions, as part of the TANF amendment, passed the Joint Committee on Finance on a 16-0 vote. These amendments expressed the will of the Legislature to fully fund the Kinship Care program and to eliminate fund waiting lists if they occur.

Governor Scott McCallum vetoed both of the aforementioned Kinship Care provisions.

#### **1999-01 State Budget**

The Legislature passed a provision in the 1999-01 state budget that would have created a \$500,000 contingency fund for kinship care that counties or DHFS could have accessed if waiting lists developed for the program. Then Governor Tommy Thompson vetoed the contingency fund created by the legislature for kinship care payments.

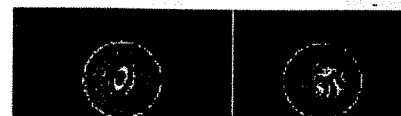
The Legislature also rejected then Governor Tommy Thompson's original budget language that would have changed the Kinship Care statutory language from "shall" to "may" make payments on a 16-0 vote (see attached **Milwaukee Journal Sentinel** article).

Thank you for your attention to the matters detailed in this memorandum. I am sorry that I could not attend this meeting to address the members personally.



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## **Kinship Care in danger, 3 lawmakers say Budget would let counties avoid paying to keep kids with relatives, they warn**

*Milwaukee Journal Sentinel*; Milwaukee; May 21, 1999; MARY BETH MURPHY;

**Sub Title:** [Metro Edition]

**Start Page:** 2

### **Abstract:**

*More children could be thrown into an "overtaxed child welfare system" if the Joint Finance Committee adopts a change proposed by the governor relating to **Kinship Care** benefits, according to three Republican legislators.*

*In a letter Wednesday to the committee's co-chairmen, state Sens. Peggy Rosenzweig of Wauwatosa and Alberta Darling of River Hills and state Rep. Sue Jeskewitz of Menomonee Falls predicted dire consequences if the committee doesn't keep the **Kinship Care** language found in existing statutes.*

### **Full Text:**

*Copyright Journal/Sentinel, Inc. May 21, 1999*

More children could be thrown into an "overtaxed child welfare system" if the Joint Finance Committee adopts a change proposed by the governor relating to **Kinship Care** benefits, according to three Republican legislators.

In a letter Wednesday to the committee's co-chairmen, state Sens. Peggy Rosenzweig of Wauwatosa and Alberta Darling of River Hills and state Rep. Sue Jeskewitz of Menomonee Falls predicted dire consequences if the committee doesn't keep the **Kinship Care** language found in existing statutes.

Instead of saying counties "shall" make **Kinship Care** payments, the change proposed in the governor's 1999-2001 biennial budget says counties "may" make payments.

**Kinship Care**, a provision of the W-2 welfare reform program, pays relatives to care for children of family members who are absent or are unable or unwilling to care for them.

The three legislators and child welfare advocates contend the change from "shall" to "may" would give counties, or the state-run child welfare bureau in Milwaukee County's case, the discretion to refuse payments to eligible relatives caring for the children of family members. Under the law now, the state Department of Health and Family Services and county departments are required to make the payments to relatives who meet the criteria, according to the legislators.

Demand for program benefits exceeded funding last year, resulting in hundreds of children being placed on waiting lists. The transfer of additional federal funding last September eliminated the waiting lists. But the proposed change could result in children once again being put on waiting lists, the legislators and child welfare advocates said.

The proposed change is "wrongheaded," Rosenzweig said in an interview. Instead of encouraging families to take responsibility for their children, the proposal discourages them, she said. It also could move children into the more costly foster-care system a placement many children would consider less desirable, Rosenzweig said.

Pat DeLessio, staff attorney for Legal Action of Wisconsin, contended the language change was a deliberate response to moves by Legal Action and other child welfare advocates to challenge the existence of waiting lists.

Changing "shall" to "may" would make it difficult for relatives to argue in court that a county or the Bureau of Milwaukee Child Welfare is required to provide payments, because the benefits would be seen as discretionary instead of mandatory, DeLessio said.

Gov. Tommy G. Thompson and his spokesmen could not be reached for comment.

Credit: Journal Sentinel staff

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## Legislative Fiscal Bureau

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

December 7, 2000

TO: Representative John Gard  
Room 315 North, State Capitol

Senator Gwendolynne Moore  
Room 409 South, State Capitol

FROM: Yvonne Arsenault and Victoria Carreón, Fiscal Analysts

SUBJECT: Funding Supplement for Kinship Care

At your request, this memorandum provides information on a proposal to supplement funding for the kinship care program.

Maximus, Inc. is one of the W-2 agencies operating in Milwaukee County. It was recently determined that \$485,208 in expenditures by Maximus were unallowable under provisions of the W-2 agency contract and the federal temporary assistance for needy families (TANF) program. These funds will no longer be available to Maximus under its W-2 contract and can be used to support other TANF-eligible expenditures, including kinship care payments. In order to access these funds, the Department of Workforce Development (DWD) and the Department of Health and Family Services (DHFS) would need to submit a request to the Department of Administration (DOA) and the Governor under the process specified in s. 16.515 and s. 16.54(2)(a)2 of the statutes.

You have indicated your intent to request DWD and DHFS to advance a proposal that would use a portion of the disallowed Maximus funds to supplement the state's kinship care program. Under the proposal, the amount of funding budgeted under s. 20.445(3)(md) and 20.435(3)(kc) would be increased by \$300,000 in 2000-01 on a one-time basis. This funding would be derived from a portion of the disallowed Maximus funds. DHFS would require counties to submit the number of cases on their kinship care waiting lists, and/or the number of kinship care cases that were supported with county funds, as of December 1, 2000, to DHFS. Based on its review of the information submitted by counties, DHFS would determine, by January 15, 2001, what the actual waiting list or county funded caseloads were in each county as of December 1, 2000, and forward to counties sufficient funds to support those caseloads from February 1, 2001 through June 30, 2001.



If DHFS and DWD advance such a request, DOA and the Governor would notify the Joint Committee on Finance of this proposal to allocate TANF funds. The Joint Committee on Finance would then consider the request under the 14-day passive review process.

Please contact us if you have any further questions.

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## State provides money for Kinship Care Milwaukee County gets \$1.2 million more for child caretakers in program

*Milwaukee Journal Sentinel*; Milwaukee; Oct 6, 1998; [MARY BETH MURPHY](#);

**Sub Title:** [Final Edition]

**Start Page:** 3

**Abstract:**

*Approval of \$1.5 million for the state's **Kinship Care** program means poor families in Milwaukee County who have custody of relatives' children will no longer languish on a waiting list, state officials said Monday.*

*[Tommy G.] Thompson's action came after requests from elected officials, the Milwaukee Child Welfare Partnership Council and Joe Leean, secretary of the state Department of Health and Family Services. **Kinship Care**, a provision of the Wisconsin Works welfare reform plan, replaced Aid to Families with Dependent Children payments to relatives caring for the children of family members. Eligible caretakers receive \$215 per child per month. The caretaker must pass a criminal record check to be approved.*

**Full Text:**

*Copyright Journal/Sentinel, Inc. Oct 6, 1998*

Approval of \$1.5 million for the state's **Kinship Care** program means poor families in Milwaukee County who have custody of relatives' children will no longer languish on a waiting list, state officials said Monday.

The Joint Finance Committee recently approved a proposal by Gov. Tommy G. Thompson to use the surplus federal money to cover all costs for **Kinship Care**.

Milwaukee County where the shortage of funds is most severe received \$1.2 million of the additional money.

Thompson's action came after requests from elected officials, the Milwaukee Child Welfare Partnership Council and Joe Leean, secretary of the state Department of Health and Family Services. **Kinship Care**, a provision of the Wisconsin Works welfare reform plan, replaced Aid to Families with Dependent Children payments to relatives caring for the children of family members. Eligible caretakers receive \$215 per child per month. The caretaker must pass a criminal record check to be approved.

State officials initially budgeted \$10 million in **Kinship Care** money for Milwaukee County, estimating that 4,900 children would need benefits this year.

Currently, 4,748 children are receiving benefits, and more are expected. During the past month, 154 children were added to the waiting list. Before the surplus funding, only court-ordered **Kinship Care** placements were being funded.

Right now 471 adults are on a waiting list for **Kinship Care** payments involving 732 children in the county.

Payments, effective Oct. 1, will be sent to the caretakers as soon as state officials receive verification that the child or children are still living with them, according to Denise Revels Robinson, systems director of the Bureau of Milwaukee Child Welfare. The additional funding will eliminate the waiting list and cover costs for new children coming into the program through July. Three public meetings will be held at the bureau's regional administrative sites for people on the waiting list, who will have the chance to ask questions about the **Kinship Care** process and find out what is expected of them. The dates and sites of the meetings are:

6 p.m. Oct. 14 at 1730 W. North Ave.

2 p.m. Oct. 15 at 2745 S. 13th St.

9 a.m. Oct. 16 at 6101 N. Teutonia Ave.

The bureau plans to send letters by Friday to everyone on the waiting list, announcing the release of funds, the dates of the public meetings and the process for verifying the status of the children in their care.

Credit: Journal Sentinel staff

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## Surplus funds urged to bail out program Use of \$1.5 million would end waiting list in county for Kinship Care money

*Milwaukee Journal Sentinel*; Milwaukee; Sep 1, 1998; [MARY BETH MURPHY](#);

**Sub Title:** [Final Edition]

**Start Page:** 1

**Abstract:**

Gov. Tommy G. Thompson Monday proposed using \$1.5 million in surplus federal funds to cover all costs for the state's **Kinship Care** program, which would eliminate an extensive waiting list in Milwaukee County.

Currently, 372 poor families in Milwaukee County are on a waiting list to receive government assistance for 578 children placed in their care by relatives who are unable to care for them. The transfer of money from the federal Temporary Assistance to Needy Families program to cover all costs of the **Kinship Care** program through July 1999 is subject to approval by the Joint Finance Committee.

**Kinship Care**, a provision of the Wisconsin Works, or W-2, welfare reform plan, replaced Aid to Families with Dependent Children payments to relatives caring for the children of family members. Caretakers, if found eligible, receive \$215 per child per month. The caretaker must pass a criminal record check to be approved.

**Full Text:**

Copyright Journal/Sentinel, Inc. Sep 1, 1998

Gov. Tommy G. Thompson Monday proposed using \$1.5 million in surplus federal funds to cover all costs for the state's **Kinship Care** program, which would eliminate an extensive waiting list in Milwaukee County.

Currently, 372 poor families in Milwaukee County are on a waiting list to receive government assistance for 578 children placed in their care by relatives who are unable to care for them. The transfer of money from the federal Temporary Assistance to Needy Families program to cover all costs of the **Kinship Care** program through July 1999 is subject to approval by the Joint Finance Committee.

Rep. John Gard (R-Peshtigo), co-chairman of the Joint Finance Committee, said Monday he thought there would be "fairly broad support" for transferring the money. The approval could come on or before the committee's Sept. 24 meeting, Gard said.

"This is an important program that emphasizes the role of the extended family in a child's life," Thompson said in a prepared statement. "We want to eliminate the waiting lists so we can help children in troubled environments turn to a family member when help is needed. This is a common sense adjustment made possible by overall savings in our successful W-2 program."

**Kinship Care**, a provision of the Wisconsin Works, or W-2, welfare reform plan, replaced Aid to Families with Dependent Children payments to relatives caring for the children of family members. Caretakers, if found eligible, receive \$215 per child per month. The caretaker must pass a criminal record check to be approved.

Thompson's action is in response to requests from elected officials, the Milwaukee Child Welfare Partnership Council and Joe Leean, secretary of the state Department of Health and Family Services, according to a Thompson spokesman.

Milwaukee County is expected to receive \$1.2 million of the surplus dollars, state officials said. Few other counties or Indian tribes are reporting a shortage of Kinship funds.

The surplus funds would cover everyone on the waiting list and projected costs for **Kinship Care** through July 1999, said Susan Dreyfus, administrator of the state Division of Children and Family Services. "These dollars will allow us to fund this program to the level of what our actual experience is," Dreyfus said.

State officials initially budgeted \$10 million in Kinship money for Milwaukee County, estimating that 4,900 children would need benefits this year. Currently, 4,803 children are receiving benefits and more are expected. Because of the shortage, only court-ordered Kinship placements are being funded.

If the transfer of funds is approved, it will be the second time this year that additional money has gone into the program. Last March, \$3.2 million of the state budget's foster care appropriation was added to the Kinship program, including more than \$1 million for Milwaukee County. That brings the county's total for this fiscal year to about \$13 million.

State officials will propose that Milwaukee County receive nearly \$33 million over the next biennium, which begins in July 1999.

Credit: Journal Sentinel staff

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## More Kinship Care funds requested Hundreds await aid from program for kids whose parents can't care for them

Milwaukee Journal Sentinel; Milwaukee; Aug 31, 1998; [MARY BETH MURPHY](#);

**Sub Title:** [Final Edition]

**Start Page:** 1

**Abstract:**

*Lula Williams, who is struggling to raise three grandchildren while their mother is in prison, now faces another hurdle getting **Kinship Care** payments to help support the children.*

*Hers is among 372 poor families in Milwaukee County on a waiting list to receive government assistance for 578 children placed in their care by parents unable to provide for their needs, according to current figures from the Bureau of Milwaukee Child Welfare. No funding exists to provide benefits to all the children who qualify for the program.*

***Kinship Care**, a provision of the Wisconsin Works (W-2) welfare reform plan, replaced Aid to Families with Dependent Children payments to relatives caring for the children of family members. State officials initially budgeted \$10 million in Kinship money for Milwaukee County, estimating that 4,900 children would need benefits this year. Currently, 4,803 children are receiving Kinship benefits, with several more months to go. Now only new court-ordered Kinship placements are funded.*

**Full Text:**

Copyright Journal/Sentinel, Inc. Aug 31, 1998

Lula Williams, who is struggling to raise three grandchildren while their mother is in prison, now faces another hurdle getting **Kinship Care** payments to help support the children.

Hers is among 372 poor families in Milwaukee County on a waiting list to receive government assistance for 578 children placed in their care by parents unable to provide for their needs, according to current figures from the Bureau of Milwaukee Child Welfare. No funding exists to provide benefits to all the children who qualify for the program.

Distressed by the waiting list, elected officials and child advocates have asked Gov. Tommy G. Thompson to cover all costs of the program immediately.

Joe Leean, secretary of the state Department of Health and Family Services and the administrator of the program, said he had asked Thompson to transfer money to eliminate the waiting list.

**Kinship Care**, a provision of the Wisconsin Works (W-2) welfare reform plan, replaced Aid to Families with Dependent Children payments to relatives caring for the children of family members. State officials initially budgeted \$10 million in Kinship money for Milwaukee County, estimating that 4,900 children would need benefits

this year. Currently, 4,803 children are receiving Kinship benefits, with several more months to go. Now only new court-ordered Kinship placements are funded.

According to Leean and state Sen. Gwendolynne Moore (D-Milwaukee), who has pushed for more money for the program, some of the \$8.9 million balance in a block grant program for needy families could be transferred to the **Kinship Care Program**.

Without any action, the state is risking having these children placed in the child welfare system, which is more costly, Moore said. The monthly Kinship payment per child is \$215. The basic foster parent rate is \$380 per month.

Added Moore: "These children are in homes of loving grandparents who do not have the means to take care of them, and these families are making tremendous sacrifices to take care of their kin. We are not only impoverishing the children, but we are impoverishing those families which are taking on this additional burden."

"It is so heartbreaking," agreed Williams, 48, who has been on the waiting list since March. "I try as hard as I can not to involve them (her grandchildren) in what I'm going through. I think they're going through enough being separated from their mother."

A single grandparent, Williams said she had to take early retirement because of a bad back and is living on a \$471 per month disability check. She lives in public housing and receives \$264 per month in food stamps and medical assistance for herself and her grandchildren, ages 11, 6 and 3.

"I pray a lot. I stretch every dime I can get my hands on. But anything extra, if somebody needs some socks, it's very stressful."

When she applied for **Kinship Care**, she said she never expected the wait would be this long. Asked whether she would consider giving the children up and having them placed in a non-relative foster home, her response is quick and emphatic: "Oh, God, no. . . . What I feel for them is too deep."

Leean conceded that the state had underestimated the numbers, and resolved to change that. Not only were more cases converted from AFDC than anticipated, but state officials also expected to see more children return to their parents, according to Leean.

"Our new look at that in the last few weeks indicates that it's probably better those kids are with relatives," Leean said.

State officials apparently didn't see it that way in Sheila Murphy's case. After caring since January for her sister's six children, ages 5 to 10, along with her own six, Murphy said she was informed two months ago that her application for Kinship funds was denied.

"They felt the kids could be with their mother, but their mother's in bad shape," Murphy noted, saying her sister had a drug problem. Now the children "live all over" one is with Murphy, two are with other relatives and the mother has three.

Murphy said she feared that when her sister has her own apartment, she will "leave them in that house and take whatever income she's got and burn it up on drugs." She said that she fears for the children's safety but that previous attempts to report her sister to child protective services went nowhere.

"The children were never removed," she said. "I'm sorry I had to give the kids back. I couldn't get no help."

Legal Action of Wisconsin has 15 **Kinship Care** cases pending hearings before the state Division of Hearings and Appeals. Murphy did not appeal her case.

Early this month, a state hearing examiner ordered the Bureau of Milwaukee Child Welfare to issue retroactive Kinship benefits to a grandmother, but the bureau has not complied. The grandmother had been receiving Kinship funds in Kenosha but was denied the funds when she moved to Milwaukee. Without doing any

assessment, the bureau determined that the mother could care for the child, according to Pat DeLessio, staff attorney for Legal Action. The mother is developmentally disabled, has mental health problems and has never cared for the child, DeLessio said.

Credit: Journal Sentinel staff

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**JOINT COMMITTEE FOR  
 REVIEW OF ADMINISTRATIVE RULES**

*Motion Form*

Date: November 14, 2001 Location: 201 Southeast

Moved by Robson, Seconded by Grobschmidt

THAT, CR 09-071

~~WISCONSIN STATE BAR~~  
 - objection to HFS 58.12 (waiting list)

COMMITTEE MEMBER	Aye	No	Absent
1. Senator ROBSON	✓		
2. Senator GROBSCHMIDT	✓		
3. Senator HANSEN	✓		
4. Senator WELCH		✓	
5. Senator COWLES		✓	
6. Representative GROTHMAN		✓	
7. Representative SERATTI		✓	
8. Representative GUNDERSON		✓	
9. Representative TURNER	✓		
10. Representative HEBL	✓		
Totals			

Motion Carried

Motion Failed

\* voted by polling