



2007 DRAFTING REQUEST

Bill

Received: **12/21/2006**

Received By: **gmalaise**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-2288**

By/Representing: **Rhodes**

This file may be shown to any legislator: **NO**

Drafter: **gmalaise**

May Contact:

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Subject: **Children - out-of-home placement**

Extra Copies:

Submit via email: **YES**

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Carbon copy (CC:) to:

Pre Topic:

DOA:.....Rhodes, BB00255 -

Topic:

Tribal high-cost out-of-home care placement funding

Instructions:

See Attached--permit DHFS to expend income augmentation receipts and MA targeted case reimbursement moneys for unexpected high-cost out-of-home care placements of Indian children by tribal courts

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2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Tribal Child Welfare High Cost Fund
- Tracking Code: BB0255
- SBO team: Health and Insurance
- SBO analyst: Dennis Rhodes
 - Phone: 6-2288
 - Email: dennis.rhodes@wisconsin.gov
- Agency acronym: DHFS
- Agency number: 435
- Priority: Medium

Tribal Child Welfare High Cost Fund

Current Language

s. 46.46 specifies the use of income augmentation funding

Proposed Change

Include a non-statutory provision that, notwithstanding the income augmentation provisions, permits the Department to use up to \$500,000 of SFY07-08 income augmentation funds in the 07-09 biennium to address unexpected and unusually high out-of-home placement costs for tribal children, if the Department determines in light of overall child welfare needs, that there is sufficient income augmentation funding to allocate for this purpose.

Background and Rationale for the Change

As part of the DHFS/tribal consultations, which are undertaken pursuant to the Governor's Executive Order #39, tribes have raised concerns about state/county/tribal responsibilities, relationships, and funding for tribal child welfare. In this context, one of the items examined under the 2006 DHFS/tribal consultation plan was the option of creating a high cost fund to assist in payment for out-of-home care placements for tribal children in child welfare cases.

Under the federal Indian Child Welfare Act (ICWA) Section 1918, all tribes may be granted exclusive jurisdiction in a child custody proceeding involving an Indian child who resides or who is domiciled within the reservation; three Wisconsin tribes have petitioned for and been granted this exclusive jurisdiction. All tribes have the right to intervene at any point in a state proceeding regarding the out-of-home placement of or termination of parental rights to an Indian child.

Tribal child welfare staff have indicated that in some cases, tribal courts relinquish jurisdiction over a child welfare case involving a tribal child due to the perception or fact that there are insufficient resources from the county under the 161 Agreement to support a tribal court out-of-home placement order for the child. In these instances, the case is directed to the county circuit court for disposition. For these reasons, the current fiscal structure and level of resources is impeding the ability of tribes to exercise their sovereignty in child welfare cases.

Over the past several years, there have been cases in which out-of-home placement(s) of a tribal child or children by a tribal court resulted in an unexpected and/or unusually high cost that exceeded the county resources allocated for tribal placements and/or for out-of-home placements in

general. A recent example occurred in 2005, when the Red Cliff tribal court placed a tribal child in an RCC. While Bayfield County and the Red Cliff Band had a 161 Agreement in place, the cost of the placement greatly exceeded (by more than 800%) the annual amount historically provided under the 161 Agreement and exceeded the amount of available funding budgeted by Bayfield County for out-of-home care placements. The Department identified and provided one-time funding of \$195,000 to provide to Bayfield County to support the placement in recognition of the unexpected and unusually high cost.

Federal funding related to child welfare claimed by the Department under Title IV-E or MA targeted case management that is in excess of budgeted levels is treated as income augmentation funding, subject to the statutory income augmentation provisions. Due to pending possible federal restrictions on federal child welfare Title IV-E and MA targeted case management funding, the amount of prospective excess Title IV-E or MATCM funding, which would become income augmentation funding, is uncertain. Due to this uncertainty, the proposed non-statutory language permits the Department to use up to \$500,000 of income augmentation funding in the 07-09 biennium to address unexpected and unusually high out-of-home placement costs for tribal children, if the Department determines in light of overall child welfare needs, that there is sufficient income augmentation funding to allocate for this purpose. The source of the income augmentation funding could be MA TCM or other federal income augmentation funding which is reported in the Department's income augmentation plan in September 2007 or September 2008. By specifying that use of the funding is permissive and one-time, the Department would have a possible funding source to utilize if an emergency tribal child welfare situation developed (such as the 2005 Red Cliff/Bayfield case.) However, at the time a potential case arose, the Department would consider the use of this income augmentation funding for this purpose in light of overall child welfare needs, including potential revenue shortfalls in child welfare revenue sources such as Title IV-E.

Desired Effective Date: Upon Passage
Agency: DHFS
Agency Contact: Fredi Bove
Phone: 266-2907



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1221/1
GMM:.....
jld

DOA:.....Rhodes, BB00255 - Tribal high-cost out-of-home care placement funding

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

LPS -
print
w/line
numbers
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don't gen

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, DHFS contracts for activities to augment the amount of moneys received under Title IV-E of the federal Social Security Act for foster care and adoption assistance, under Title XVIII of that act for Medicare, and under Title XIX of that act for Medical Assistance (MA) (income augmentation services receipts) and receives moneys under Title XIX of that act in reimbursement of the cost of providing targeted case management services to children whose care is not eligible for reimbursement under Title IV-E of that act (MA targeted case management moneys). Current law requires DHFS to use income augmentation services receipts to support costs that are exclusively related to the operational costs of income augmentation activities and to distribute not less than 50% of income augmentation services receipts received for MA to counties for social, mental health, developmental disabilities, and alcohol and other drug abuse services. In addition, current law permits DHFS to use MA targeted case management moneys to provide services to children and families in Milwaukee County and to use income augmentation services receipts for other purposes if the secretary of administration and JCF, under a 14-day passive review process, approve a plan submitted by DHFS for the proposed use of those moneys.

*

Percent

This bill permits DHFS[✓] in fiscal biennium 2007-09[✓] to expend not more than \$500,000[✓] in income augmentation services receipts and MA targeted case management moneys received in fiscal year 2007-08 for unexpected or unusually high-cost out-of-home care placements of Indian children ordered by tribal courts if DHFS[✓] determines in light of overall child welfare needs that there are sufficient income augmentation services receipts and MA[✓] targeted case management moneys to expend for that purpose.

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

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

SECTION 1. 20.435 (8) (mb)[✓] of the statutes is amended to read:

20.435 (8) (mb) *Income augmentation services receipts.* All moneys that are received under 42 USC 670 to 679a, 42 USC 1395 to 1395ddd, and 42 USC 1396 to 1396v as the result of income augmentation activities for which the state has contracted and all moneys that are received under 42 USC 1396 to 1396v in reimbursement of the cost of providing targeted case management services to children whose care is not eligible for reimbursement under 42 USC 670 to 679a, to be used as provided in s. 46.46 and [✓]2007 Wisconsin Act (this act), section 9121 (✓).

All moneys received under this paragraph in excess of the moneys necessary to support the costs specified in s. 46.46 and [✓]2007 Wisconsin Act (this act) section 9121 (✓) shall be deposited in the general fund as a nonappropriated receipt.

Auto ref A

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32, 52, 84, 103, 109, 113, 133, 185, 186; 2001 a. 16, 69, 103, 105; 2003 a. 33, 139, 186, 311, 320, 326, 327; 2005 a. 15, 22; 2005 a. 25 ss. 299 to 331, 2498 to 2500, 2510; 2005 a. 74, 107, 199, 228, 264, 388, 406, 434.

SECTION 2. 20.435 (8) (mb) of the statutes, as affected by 2007 Wisconsin Act

.... (this act), of the statutes is amended to read:

auto ref B

20.435 (8) (mb) *Income augmentation services receipts*. All moneys that are received under 42 USC 670 to 679a, 42 USC 1395 to 1395ddd, and 42 USC 1396 to 1396v as the result of income augmentation activities for which the state has contracted and all moneys that are received under 42 USC 1396 to 1396v in reimbursement of the cost of providing targeted case management services to children whose care is not eligible for reimbursement under 42 USC 670 to 679a, to be used as provided in s. 46.46 and 2007 Wisconsin Act (this act), section 9121 (*). All moneys received under this paragraph in excess of the moneys necessary to support the costs specified in s. 46.46 and 2007 Wisconsin Act (this act) section 9121 (*) shall be deposited in the general fund as a nonappropriated receipt.

AUTO REF A

SECTION 9121. Nonstatutory provisions; Health and Family Services.

AUTO REF A

(1) TRIBAL HIGH-COST OUT-OF-HOME CARE PLACEMENT FUNDING. Notwithstanding section 46.46 (1) and (2) of the statutes, in fiscal biennium 2007-09 the department of health and family services may expend not more than \$500,000 in moneys received under s. 20.435 (8) (mb) of the statutes, as affected by this act, in fiscal year 2007-08 for unexpected or unusually high-cost out-of-home care placements of Indian children ordered by tribal courts. The department of health and family services may expend moneys under this subsection only if that department determines in light of overall child welfare needs that there are sufficient moneys in the appropriation account under section 20.435 (8) (mb) of the statutes, as affected by this act, to expend for that purpose.

SECTION 9421. Effective dates; Health and Family Services.

(1) TRIBAL HIGH-COST OUT-OF-HOME CARE PLACEMENT FUNDING. The treatment of section 20.435 (8) (mb) (by SECTION (*) of the statutes takes effect on July 1, 2009.

(END)

*

Malaise, Gordon

From: Rhodes, Dennis - DOA
Sent: Thursday, January 11, 2007 9:49 AM
To: Malaise, Gordon
Subject: FW: DHFS Comments on LRB-1221/1: Tribal High Cost Fund

Attachments: tribalhighcoststatlang.doc.pdf



tribalhighcoststatlang.doc.pdf...

Gordon,

Pandora's box? Can you reflect these changes when you get a chance? I question the need for a draft that says you can spend Income Aug and excess fed on this when I don't know what would prevent that from happening under the current processes.

Thanks,

Dennis

-----Original Message-----

From: Bove, Fredi-Ellen [mailto:BOVEFE@dhfs.state.wi.us]
Sent: Friday, January 05, 2007 5:59 PM
To: Johnston, James - DOA; Rhodes, Dennis - DOA; Campbell, Mark D - DHFS; Fiss, William R - DHFS; Mitchell, Mark S - DHFS; Porter, Loa L - DHFS; Olson, James L - DHFS; Warnke, Donald N - DHFS; Gall, Lynn K - DHFS; Waller, Diane J - DHFS; Weber, James A - DHFS
Cc: Forsaith, Andrew C - DHFS
Subject: DHFS Comments on LRB-1221/1: Tribal High Cost Fund

Thank you for the opportunity to review LRB-1221/1 (attached) draft stat. language for the tribal high cost fund proposal. Below are DHFS comments on the draft.

1. The high cost fund is intended to apply to placements by tribal and county courts. Therefore, in both the stat. language (Section 9121, line 13) and the bill analysis (p.2, first para.), the phrase "ordered by tribal courts" should be deleted, to provide the broader coverage.

No notation statutes
2. The bill analysis, first para., should read "not less than 50% of inc. aug. receipts for County-based MA administrative claims to counties..." (corrections in bold)

3. DHFS has concluded that it supports designating as another possible revenue source for the tribal high cost fund: federal excess revenue, which is budgeted in appro. s.20.435 (8) (mm), provided the Dept. determines there is sufficient revenue after meeting federal disallowances. Currently, s. 16.54(12) (a) requires the Dept. to submit a plan to DOA for proposed uses of excess fed. revenue. To effectuate this change, please make the following revisions:

- a. in s.16.54(12) (a), insert "except as provided under s.9121(1)"
- b. in s. 20.435 (8) (mm), add "for the purpose of paying federal disallowance ..."and for the purposes under s.9121(1)"
- c. in LRB 1221/1, Section 9121, lines 8-9 add: notwithstanding "section 16.54(12) (a)"
- d. in LRB 1221/1, Section 9121, line 11, add: section 20.435 (8) (mb) "and (8) (mm)"
- e. in LRB 1221/1, Section 9121, lines 14-16 add: only if the department determines in light of overall child welfare needs "and after meeting federal disallowances" that there are sufficient moneys in the appropriation account under sections 20.435 (8) (mb) or "(8) (mm)".



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1221/4
GMM:jld:nwn

DN-07E

2
RMR

DOA:.....Rhodes, BB00255 - Tribal high-cost out-of-home care placement funding

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

don't gen

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

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

CHILDREN

Under current law, DHFS contracts for activities to augment the amount of moneys received under Title IV-E of the federal Social Security Act for foster care and adoption assistance, under Title XVIII of that act for Medicare, and under Title XIX of that act for Medical Assistance (MA) (income augmentation services receipts) and receives moneys under Title XIX of that act in reimbursement of the cost of providing targeted case management services to children whose care is not eligible for reimbursement under Title IV-E of that act (MA targeted case management moneys). Current law requires DHFS to use income augmentation services receipts to support costs that are exclusively related to the operational costs of income augmentation activities and to distribute not less than 50 percent of income augmentation services receipts received for MA to counties for social, mental health, developmental disabilities, and alcohol and other drug abuse services. In addition, current law permits DHFS to use MA targeted case management moneys to provide services to children and families in Milwaukee County and to use income augmentation services receipts for other purposes if the secretary of administration and JCF, under a 14-day passive review process, approve a plan submitted by DHFS for the proposed use of those moneys.

✓
Insert
A →

(Marking)

and after paying federal disallowances

and excess federal revenues

This bill permits DHFS in fiscal biennium 2007-09 to expend not more than \$500,000 in income augmentation services receipts and MA targeted case management moneys received in fiscal year 2007-08 for unexpected or unusually high-cost out-of-home care placements of Indian children ordered by tribal courts if DHFS determines in light of overall child welfare needs, that there are sufficient income augmentation services receipts and MA targeted case management moneys to expend for that purpose.

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

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

Insert 2-1

SECTION 1. 20.435 (8) (mb) of the statutes is amended to read:

20.435 (8) (mb) *Income augmentation services receipts*. All moneys that are received under 42 USC 670 to 679a, 42 USC 1395 to 1395ddd, and 42 USC 1396 to 1396v as the result of income augmentation activities for which the state has contracted and all moneys that are received under 42 USC 1396 to 1396v in reimbursement of the cost of providing targeted case management services to children whose care is not eligible for reimbursement under 42 USC 670 to 679a, to be used as provided in s. 46.46 and 2007 Wisconsin Act (this act), section 9121 (1). All moneys received under this paragraph in excess of the moneys necessary to support the costs specified in s. 46.46 and 2007 Wisconsin Act (this act), section 9121 (1), shall be deposited in the general fund as a nonappropriated receipt.

SECTION 2. ^{auto ref C} 20.435 (8) (mb) of the statutes, as affected by 2007 Wisconsin Act (this act), of the statutes is amended to read:

20.435 (8) (mb) *Income augmentation services receipts*. All moneys that are received under 42 USC 670 to 679a, 42 USC 1395 to 1395ddd, and 42 USC 1396 to 1396v as the result of income augmentation activities for which the state has contracted and all moneys that are received under 42 USC 1396 to 1396v in

and after paying federal disallowances under section 20.435 (8) (mb) of the statutes, as affected by this act,

1 reimbursement of the cost of providing targeted case management services to
2 children whose care is not eligible for reimbursement under 42 USC 670 to 679a, to
3 be used as provided in s. 46.46 and 2007 Wisconsin Act (this act), section 9121 (1).
4 All moneys received under this paragraph in excess of the moneys necessary to
5 support the costs specified in s. 46.46 and 2007 Wisconsin Act (this act), section
6 9121 (1), shall be deposited in the general fund as a nonappropriated receipt.

Insert
3-6

auto ref A

SECTION 9121. Nonstatutory provisions; Health and Family Services.

(CS) Indian child

8 (1) TRIBAL HIGH-COST OUT-OF-HOME CARE PLACEMENT FUNDING. Notwithstanding
9 sections 16.54 (12) (a) and
10 section 46.46 (1) and (2) of the statutes, in fiscal biennium 2007-09 the department
11 of health and family services may expend not more than \$500,000 in moneys received
12 under section 20.435 (8) (mb) of the statutes, as affected by this act, in fiscal year
13 Indian children ordered by tribal courts. The department of health and family
14 services may expend moneys under this subsection only if that department
15 determines in light of overall child welfare needs, that there are sufficient moneys in
16 the appropriation accounts under section 20.435 (8) (mb) of the statutes, as affected
17 by this act, to expend for that purpose.

sections 16.54 (12) (a) and

and (mm) ✓

accounts ✓

and (mm) ✓

and the repeal and recreation of section 16.54 (12) (2) of the statutes take

SECTION 9421. Effective dates; Health and Family Services.

19 (1) TRIBAL HIGH-COST OUT-OF-HOME CARE PLACEMENT FUNDING. The treatment of
20 section 20.435 (8) (mb) (by SECTION 9) of the statutes takes effect on July 1, 2009.

(END) auto ref C

and (mm) by SECTION *

sections 16.54 (12) (a) (by SECTION *) and

auto ref B

auto ref D

D-note

Inset A

Also under current law, there is appropriated to DHFS ✓
 from all moneys received from the federal government in reimbursement
~~of expenditures~~ that are intended to reimburse the state for
 expenditures in previous fiscal years and that exceed the estimate
~~of those moneys~~ amount of those moneys estimated to be
 received (excess federal revenues) ✓. Currently, DHFS is
 authorized to expend those excess federal and revenues for
 liabilities anticipated to be paid with federal moneys, but that
 are not allowable uses of federal moneys (federal disallowances) ✓.

(end of inset)

Insert 2-1

Section #. 16.54 (12) (a) of the statutes is amended to read:

Except as provided under 2007 Wisconsin Act 111
(this act), section 9121 (1), the auto ref A

16.54 (12) (a) ~~The~~ department of health and family services may not expend or encumber any moneys received under s. 20.435 (8) (mm) unless the department of health and family services submits a plan for the expenditure of the moneys to the department of administration and the department of administration approves the plan.

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 303 to 307, 9126 (19); 1995 a. 132, 225; 1999 a. 9, 74; 2001 a. 16; 2003 a. 33; 2005 a. 25, 74, 335; s. 13.93 (2) (c).



auto ref
B

Insert 2-1

as affected by 2007 Wisconsin Act ... (this act),

strike

Section #. 16.54 (12) (a) of the statutes is amended to read:

~~Except as provided under 2007 Wisconsin Act ... (this act);~~
~~of section 912, the~~ The score

16.54 (12) (a) ~~The~~ department of health and family services may not expend or encumber any moneys received under s. 20.435 (8) (mm) unless the department of health and family services submits a plan for the expenditure of the moneys to the department of administration and the department of administration approves the plan.

(1)

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 303 to 307, 9126 (19); 1995 a. 132, 225; 1999 a. 9, 74; 2001 a. 16; 2003 a. 33; 2005 a. 25, 74, 335; s. 13.93 (2) (c).

auto ref
A



(Insert 2-1)
CONT)

auto ref A

Section #. 16.54 (12) (d) of the statutes is amended to read:

encumbered or expended under 2007 Wisconsin Act 111 (this act),
section 9121(1), or

16.54 (12) (d) At the end of each fiscal year, the department of administration shall determine the amount of moneys that remain in the appropriation accounts under ss. 20.435 (8) (mm) and 20.445 (3) (mm) that have not been approved for encumbrance or expenditure by the department pursuant to a plan submitted under par. (a) or (b) and shall require that such moneys be lapsed to the general fund. The department shall notify the cochairpersons of the joint committee on finance, in writing, of the department's action under this paragraph.

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 303 to 307, 9126 (19); 1995 a. 132, 225; 1999 a. 9, 74; 2001 a. 16; 2003 a. 33; 2005 a. 25, 74, 335; s. 13.93 (2) (c).



Insert 2-1
cont

repealed

as affected by 2007 Wisconsin Act... (this act), is repealed and

Section #. 16.54 (12) (d) of the statutes is amended to read:

16.54 (12) (d) At the end of each fiscal year, the department of administration shall determine the amount of moneys that remain in the appropriation accounts under ss. 20.435 (8) (mm) and 20.445 (3) (mm) that have not been approved for encumbrance or expenditure by the department pursuant to a plan submitted under par. (a) or (b) and shall require that such moneys be lapsed to the general fund. The department shall notify the cochairpersons of the joint committee on finance, in writing, of the department's action under this paragraph. ✓

History: 1973 c. 333; 1975 c. 39 ss. 69, 732 (1); 1975 c. 224; 1977 c. 418; 1979 c. 34; 1981 c. 27; 1983 a. 27, 208, 470; 1985 a. 29; 1987 a. 4, 27, 186, 399, 403; 1989 a. 31; 1991 a. 39, 316; 1995 a. 27 ss. 303 to 307, 9126 (19); 1995 a. 132, 225; 1999 a. 9, 74; 2001 a. 16; 2003 a. 33; 2005 a. 25, 74, 335; s. 13.93 (2) (c).

Ced of mt)

Insert 3-6

Section #. 20.435 (8) (mm) of the statutes is amended to read:

and for the purpose of paying the costs of high-cost out-of-home care placements of Indian children under 2007 Wisconsin Act no. (this act), section 912.1 (1)

auto ref A

20.435 (8) (mm) Reimbursements from federal government. All moneys received from the federal government, other than moneys described under ss. 46.45 (2), 46.46, 49.45 (6u) and 49.49, that are intended to reimburse the state for expenditures in previous fiscal years from general purpose revenue appropriations whose purpose includes a requirement to match or secure federal funds and that exceeded in those fiscal years the estimates reflected in the intentions of the legislature and governor, as expressed by them in the budget determinations, and the joint committee on finance, as expressed by the committee in any determinations, and the estimates approved for expenditure by the secretary of administration under s. 16.50 (2), for the purpose of paying federal disallowances, federal sanctions or penalties and the costs of any corrective action affecting the department of health and family services. Notwithstanding s. 20.001 (3) (c), at the end of each fiscal year, the amount determined by the department of administration under s. 16.54 (12) (d) shall lapse to the general fund.

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32,

Instr 3-6 cont

auto ref D

was affected by 2007 Wisconsin Act no (this act), is amended

Section # 20.435 (8) (mm) of the statutes is amended to read:

~~and for the purpose of paying the costs of high-cost out-of-home care placements of Indian children under 2007 Wisconsin Act no (this act), section 9121 (1)~~

strike auto ref A

20.435 (8) (mm) Reimbursements from federal government. All moneys received from the federal government, other than moneys described under ss. 46.45 (2), 46.46, 49.45 (6u) and 49.49, that are intended to reimburse the state for expenditures in previous fiscal years from general purpose revenue appropriations whose purpose includes a requirement to match or secure federal funds and that exceeded in those fiscal years the estimates reflected in the intentions of the legislature and governor, as expressed by them in the budget determinations, and the joint committee on finance, as expressed by the committee in any determinations, and the estimates approved for expenditure by the secretary of administration under s. 16.50 (2), for the purpose of paying federal disallowances, federal sanctions or penalties and the costs of any corrective action affecting the department of health and family services. Notwithstanding s. 20.001 (3) (c), at the end of each fiscal year, the amount determined by the department of administration under s. 16.54 (12) (d) shall lapse to the general fund.

plain

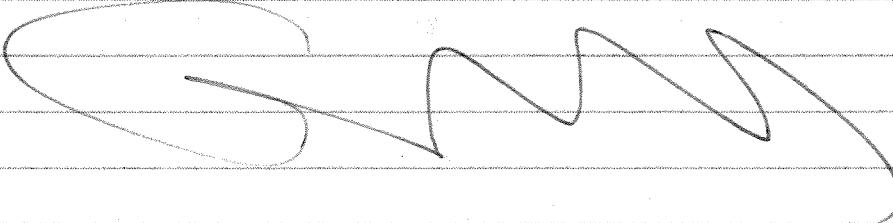
See instr 7

History: 1971 c. 125 ss. 138 to 155, 522 (1); 1971 c. 211, 215, 302, 307, 322; 1973 c. 90, 198, 243; 1973 c. 284 s. 32; 1973 c. 308, 321, 322, 333, 336; 1975 c. 39 ss. 153 to 173, 732 (1), (2); 1975 c. 41 s. 52; 1975 c. 82, 224, 292; 1975 c. 413 s. 18; 1975 c. 422, 423; 1975 c. 430 ss. 1, 2, 80; 1977 c. 29 ss. 236 to 273, 1657 (18); 1977 c. 112; 1977 c. 203 s. 106; 1977 c. 213, 233, 327; 1977 c. 354 s. 101; 1977 c. 359; 1977 c. 418 ss. 129 to 137, 924 (18) (d), 929 (55); 1977 c. 428 s. 115; 1977 c. 447; 1979 c. 32 s. 92 (11); 1979 c. 34, 48; 1979 c. 102 s. 237; 1979 c. 111, 175, 177; 1979 c. 221 ss. 118g to 133, 2202 (20); 1979 c. 238, 300, 331, 361; 1981 c. 20 ss. 301 to 356b, 2202 (20) (b), (d), (g); 1981 c. 93 ss. 3 to 8, 186; 1981 c. 298, 314, 317, 359, 390; 1983 a. 27 ss. 318 to 410, 2202 (20); 1983 a. 192, 199, 245; 1983 a. 333 s. 6; 1983 a. 363, 398, 410, 427; 1983 a. 435 ss. 2, 3, 7; 1983 a. 538; 1985 a. 24, 29, 56, 73, 120, 154, 176, 255, 281, 285, 332; 1987 a. 27, 339, 368, 398, 399, 402; 1987 a. 403 ss. 25, 256; 1987 a. 413; 1989 a. 31, 53; 1989 a. 56 ss. 13, 259; 1989 a. 102; 1989 a. 107 ss. 11, 13, 17 to 37; 1989 a. 120, 122, 173, 199, 202, 318, 336, 359; 1991 a. 6, 39, 189, 269, 275, 290, 315, 322; 1993 a. 16, 27, 76, 98, 99, 168, 183, 377, 437, 445, 446, 450, 469, 479, 490, 491; 1995 a. 27 ss. 806 to 961r, 9126 (19); 1995 a. 77, 98; 1995 a. 216 ss. 26, 27; 1995 a. 266, 276, 289, 303, 404, 417, 440, 448, 464, 468; 1997 a. 27 ss. 211, 214, 216, 217, 527 to 609; 1997 a. 35, 105, 231, 237, 280, 293; 1999 a. 5, 9, 32,

DN = FE

Dennis:

This redraft incorporates Fred's requested changes except for the change to the analysis ^g because s. 46.46 (1^g), which the analysis is describing, ^{simply} refers to MA MA moneys received as a result of income augmentation activities and not to "country-based MA administrative claims." While Fred's description might be more precise, the analysis needs to stick to the letter of the law.



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

LRB-1221/2dn
GMM:jld:jf

January 12, 2007

Dennis:

This redraft incorporates Fredi's requested changes except for the change to the analysis because s. 46.46 (1g), which the analysis is describing, simply refers to MA moneys received as a result of income augmentation activities and not to "county-based MA administrative claims." While Fredi's description might be more precise, the analysis needs to stick to the letter of the law.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

Malaise, Gordon

From: Rhodes, Dennis - DOA
Sent: Tuesday, January 23, 2007 8:58 AM
To: Malaise, Gordon
Subject: FW: Tribal High Cost Fund Non-Stat. Language

Attachments: tribalhighcoststatlang.doc.pdf



tribalhighcoststatlang.doc.pdf...

DHFS has come full circle and again wants the high cost pool available only for placements made by tribal courts.

Thanks for your patience.

-----Original Message-----

From: Bove, Fredi-Ellen [mailto:BOVEFE@dhfs.state.wi.us]
Sent: Tuesday, January 23, 2007 8:49 AM
To: Rhodes, Dennis - DOA
Cc: Johnston, James - DOA; Campbell, Mark D - DHFS; Fiss, William R - DHFS; Mitchell, Mark S - DHFS; Porter, Loa L - DHFS; Warnke, Donald N - DHFS; Forsaith, Andrew C - DHFS; Gall, Lynn K - DHFS; Waller, Diane J - DHFS; Weber, James A - DHFS
Subject: Tribal High Cost Fund Non-Stat. Language

Dennis--Below are the comments we provided to you on Jan. 5 regarding the Tribal High Cost Fund non-stat. language (LRB-1221/1). We have not yet seen a second draft on the Tribal High Cost Fund stat. language. Can you please provide the draft for our review if it has been completed?

Also, based on further consultations between DHFS staff with tribal child welfare directors on child welfare issues (which are part of our ongoing DHFS/tribal consultation process), we have concluded that the high cost fund should apply only to placements of Indian children by tribal courts. Therefore, we are withdrawing the previous comments in para. 1 in the earlier e-mail below. Specifically, the phrase "ordered by tribal courts" should be retained in section 9121.

Thanks for your help on this issue.

>>> Fredi-Ellen Bove 01/05/07 5:59 PM >>>

Thank you for the opportunity to review LRB-1221/1 (attached) draft stat. language for the tribal high cost fund proposal. Below are DHFS comments on the draft.

1. The high cost fund is intended to apply to placements by tribal and county courts. Therefore, in both the stat. language (Section 9121, line 13) and the bill analysis (p.2, first para.), the phrase "ordered by tribal courts" should be deleted, to provide the broader coverage.
2. The bill analysis, first para., should read "not less than 50% of inc. aug. receipts for County-based MA administrative claims to counties..." (corrections in bold)
3. DHFS has concluded that it supports designating as another possible revenue source for the tribal high cost fund: federal excess revenue, which is budgeted in appro. s.20.435 (8)(mm), provided the Dept. determines there is sufficient revenue after meeting federal disallowances. Currently, s. 16.54(12)(a) requires the Dept. to submit a plan to DOA for proposed uses of excess fed. revenue. To effectuate this change, please make the following revisions:

- a. in s.16.54(12)(a), insert "except as provided under s.9121(1)"
- b. in s. 20.435 (8)(mm), add "for the purpose of paying federal disallowance ..."and for the purposes under s.9121(1)"
- c. in LRB 1221/1, Section 9121, lines 8-9 add: notwithstanding "section 16.54(12)(a)"
- d. in LRB 1221/1, Section 9121, line 11, add: section 20.435 (8) (mb) "and (8)(mm)"
- e. in LRB 1221/1, Section 9121, lines 14-16 add: only if the department determines in light of overall child welfare needs "and after meeting federal disallowances" that there are sufficient moneys in the appropriation account under sections 20.435 (8)(mb) or "(8)(mm)".

Thank you.