

2007 DRAFTING REQUEST

Bill

Received: 01/16/2007

Received By: pkahler

Wanted: As time permits

Identical to LRB:

For: Administration-Budget

By/Representing: Harshner

This file may be shown to any legislator: NO

Drafter: pkahler

May Contact:

Addl. Drafters:

Subject: Public Assistance - Wis works
Children - day care
Children - miscellaneous

Extra Copies:

Submit via email: NO

Pre Topic:

DOA:.....Harshner, BB0355 -

Topic:

Child care waiting list

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 01/17/2007	kfollett 01/17/2007		_____			S&L
/1			sherritz 01/17/2007	_____	sbasford 01/17/2007		S&L
/2	pkahler 01/23/2007	kfollett 01/23/2007	jfrantze 01/24/2007	_____	sbasford 01/24/2007		S&L
/3	pkahler 02/02/2007	kfollett 02/02/2007	jfrantze 02/02/2007	_____	sbasford 02/02/2007		

FE Sent For:

<END>

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/2	pkahler 01/23/2007	kfollett 01/23/2007	jfrantze 01/24/2007	_____	sbasford 01/24/2007		

FE Sent For:

13/16/07
2/2
2/2
2/2
<END>

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/?	pkahler	1/17 kjf	sh 1/17	sh/jf 1/17			
FE Sent For:			de 1/24	de 1/24 <END>			

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Child Care Waiting List
- Tracking Code: BB0355
- SBO team: Education
- SBO analyst: Sam Harshner
 - Phone: 266-8219
 - Email: Samuel.Harshner@wisconsin.gov
- Agency acronym: DWD
- Agency number: 445
- Priority (Low, Medium, High): High

Notes:

This proposal would allow DWD to implement a waiting list for child care subsidies if it projected child care spending greater than what the department had available to it in s. 49.175(1)(p) for any given fiscal year. While the waiting list was functioning, individuals would only be allowed child care subsidies when sufficient individuals had dropped off the rolls to allow their entry.

There would be an exception for individuals participating in a W-2 work activity who would immediately be given access to child care subsidies upon being verified as eligible.

Let me know if you need any further information.



DOA:.....Harshner, BB0355 - Child care waiting list

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

(in 1-17)

do not
get cut

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

WISCONSIN WORKS

The Wisconsin Works (W-2) program under current law provides work experience and benefits for low-income custodial parents who are at least 18 years old. Also, an individual who is the parent of a child under the age of 13 or, if the child is disabled, under the age of 19, may receive a child care subsidy under the W-2 program if the individual needs child care services to participate in various educational or work activities and satisfies other eligibility criteria.

This bill authorizes DWD to implement a waiting list system for child care subsidies under W-2 if DWD determines that the funding allocated for child care subsidies will ~~exceed~~ the projected amount necessary to pay the subsidies. An individual on a waiting list would not receive a child care subsidy unless sufficient funding became available or sufficient numbers of individuals receiving subsidies ended their participation in the program. An eligible applicant for a child care subsidy who ~~was~~ participating in a work component of W-2, however, could not be placed on a waiting list.

be less than



is

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:

1 **SECTION 1.** 49.155 (1m) (intro.) of the statutes is amended to read:

2 49.155 (1m) ELIGIBILITY. (intro.) A Wisconsin works Works agency shall
3 determine eligibility for a child care subsidy under this section. Under this section,
4 subject to any waiting list placement under sub. (2), an individual may receive a
5 subsidy for child care for a child who has not attained the age of 13 or, if the child is
6 disabled, who has not attained the age of 19, if the individual meets all of the
7 following conditions:

8 **History:** 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165.

8 **SECTION 2.** 49.155 (2) of the statutes is created to read:

9 49.155 (2) WAITING LIST. (a) If the department determines that projected child
10 care subsidies under this section will likely exceed the amount of funding allocated
11 for child care subsidies under s. 49.175 (1) (p), the department may implement a
12 waiting list system for applicants who are otherwise eligible for a child care subsidy
13 under sub. (1m). Under the system, an applicant on the waiting list would not receive
14 a child care subsidy until funding became sufficient or sufficient numbers of
15 individuals receiving child care subsidies ended their participation in the program
16 under this section.

17 (b) Notwithstanding par. (a), an applicant for a child care subsidy who is
18 eligible under sub. (1m) and who is participating in a work component of Wisconsin
19 Works under s. 49.147 may not be placed on a waiting list.

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

1

49.155 (3) (a) ~~A~~ [↓] Subject to any waiting list placement under sub. (2), a [✓]

2

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3

eligible under sub. (1m) to a county department under s. 46.215, 46.22, or 46.23 for

4

child care assistance.

5

History: 1995 a. 289; 1997 a. 27, s. 1766 to 1775, 1838 to 1857; 1997 a. 41, 105, 237, 252; 1999 a. 9; 2001 a. 16; 2003 a. 33; 2005 a. 25, 165.

(END)

1522

Kahler, Pam

From: Harshner, Samuel - DOA
Sent: Tuesday, January 23, 2007 4:52 PM
To: Kahler, Pam
Subject: FW: Waiting List Stat Language draft

Importance: High
Sensitivity: Confidential

Hey Pam,

We need the following changes on the waiting list language:

1. 49.155(2) should be changed (changes in bold and underlined) to read:

" 49.155 (2) WAITING LIST. (a) If the department determines that projected child care subsidies under this section will likely exceed the amount of funding allocated for child care subsidies under s. 49.175 (1) (p), the department may implement a prioritized waiting list system for applicants who are otherwise eligible for a child care subsidy under sub. (1m)."

The actual approach we will be following will include other prioritized groups other than W-2 recipients, and it would probably be easier to give DWD/DCR the authority to create these parameters than listing them in statute. As a result of that change you can eliminate 49.155(2)(b). Let me know if that approach works for you.

2. 49.155(2) includes a clause that states "under the system, an applicant on the waiting list would not receive a child care subsidy until funding became sufficient or sufficient numbers of individuals receiving child care subsidies ended their participation in the program under this section." The latter part of this sentence should be eliminated so that the sentence now reads "under the system, an applicant on the waiting list would not receive a child care subsidy until funding became sufficient".

The latter clause insinuates that the system is slot based, which is not the case. The department would prefer not to give that impression.

Thanks and drop me a line if you have any further questions.

Sam

From: Smith, Thomas K - DWD BUDGET [<mailto:Thomas.Smith@dwd.state.wi.us>]
Sent: Tuesday, January 23, 2007 4:12 PM
To: Harshner, Samuel - DOA
Subject: RE: Waiting List Stat Language draft
Importance: High
Sensitivity: Confidential

Sam:

As you know, DWS has discussed 5 assumed priority groups that would not be wait-listed:

- W-2 participants in paid and non-paid placements
- Children with special needs/disabilities under age 19
- Certain "Teen parents"
- Foster care providers
- Kinship care relatives

We had suggested you use language authorizing DWD to "implement a prioritized waiting list," without detailing what the

priority groups might be. Instead, the drafter has provided authority for the department to implement a waiting list but included a directive that a person, "participating in a work component of Wisconsin works under s. 49.147 may not be placed on a waiting list." While arguably this does not preclude identification of other priority groups, a reference to an ability to establish priorities would be preferable. Realistically, if we are able to give no-waiting priority to the 5 groups (about 25% of the caseload) the wait list will only apply to the approximately 75% that are income-eligible and need child care to work in an unsubsidized job [s. 49.155 (1m) (a) 2.] The priority groups could be viewed as corresponding to the other reasons an individual may need child care under s. 49.155 (1m) (a).

We also believe the reference to exempting only those "participating in a work component of Wisconsin Works under s. 49.147," could be problematic. It is unclear if this would cover all W-2 participants, such as those in case management. The Custodial Parent of an Infant placement under s.49.148 (1m) may be particularly problematic given the issues we noted in separate comments on that draft: The draft reviewed, as with 2005 AB 100, left it to W-2 agency discretion whether or not to require work participation from recipients in weeks 13-26. If that provision is maintained, it would seem that those for whom participation is required, may need child care (reducing assumed child care savings).

In 49.155(2) (a) the last sentence may be sufficient if the last half is deleted as shown below.

Under the system, an applicant on the waiting list would not receive a child care subsidy until funding became sufficient ~~or sufficient numbers of individuals receiving child care subsidies ended their participation in the program under this section.~~

The two primary means by which funding could become sufficient are increases to funding or decreases in participation. Since the result is the same in each case, specifying the decrease in participation is not necessary. It may create an impression that the department will be managing the wait list as a steady-state caseload. Also, over time, if reimbursement rates are increased, a decrease in participation might not translate into funding becoming sufficient. (We think we should clarify the intent not to increase the rates, see below).

Our recommendation would be to delete the entire sentence, beginning, "Under the system, an applicant on the waiting list would not receive a child care subsidy until funding became sufficient...." The preceding sentence describes the situation that would prompt a waiting list "the department determines that projected child care subsidies ...will likely exceed...." The second sentence seems to describe something inherent in the concept of a waiting list but potentially creating an undue expectation of precision "e.g., funding became sufficient" and "sufficient numbers ended participation," when in reality the activation of cases from the wait list could also be based on projections. The concept of "funding available" could be ambiguous in the transition between fiscal years: On July 1 of the second fiscal year, funding might technically be "available" to serve all those on the waiting list at the end of year 1; however, it would not make sense to remove them from the waiting list given projections that indicate the waiting list may be necessary throughout year 2.

You may be correct that Section 3 of the draft, revising s. 49.155 (3) (a) [pasted below] is not necessary. It also may be OK as written, since it refers back to the department's new authority under the draft to implement a waiting list, but perhaps could be clarified. This provision under current law generally relates to an individual, having been determined eligible, being referred to a county primarily for determination of the individual's child care co-payment. Our guess is that the drafter is suggesting that would not make sense if the outcome of the initial eligibility determination is that the person is eligible but, not being a member of a priority group, will be placed on the waiting list. This would seem to agree with preliminary thinking from the child care section about how eligibility would work under a waiting list, "Although no new authorizations will be created, we will continue to process eligibility of parents. Those parents found eligible will be placed on the waiting list and identified in the system as such. They will need to report changes and meet review requirements in order to 'keep their place' on the list. As funding allows, eligible families on the waiting list will be authorized for child care in the order they went on the waiting list."

49.155 (3) (a) A Subject to any waiting list placement under sub. (2), a Wisconsin works Works agency shall refer an individual who has been determined eligible under sub. (1m) to a county department under s. 46.215, 46.22, or 46.23 for child care assistance.

A possible option could be to create a similar provision referring to "notifying" a county department (which presumably could occur via electronic systems) rather than "refer an individual...for child care assistance":

49.155 (3) (a) Unless the department has implemented waiting list procedures under sub. (2), a Wisconsin works Works agency other than a county shall refer an individual who has been determined eligible under sub. (1m) to a county department under s. 46.215, 46.22, or 46.23 for child care assistance. If the department has implemented waiting list procedures under sub. (2) A Wisconsin works agency other than a county shall comply with procedures of the department to notify, or make available to, a county department

under s. 46.215, 46.22, or 46.23 the eligibility information pertaining to individuals on the waiting list for child care assistance.

Last, while only tangentially related to this draft as currently written, the probability of a waiting list seems to call for some recognition of the multiple measures contemplated for managing caseload to budget, including the assumption that maximum reimbursement rates will be "frozen" at 2006 levels throughout the biennium. This seems to be a safe assumption in the sense that the "first" measure to be taken if funding/caseload appear better than anticipated would be reduce the waiting list.

The authority for DWD's current and anticipated provider-reimbursement rate policies is somewhat of a patchwork: S. 49.155 (6) (a) anticipates that counties set rates, "A county shall set the [maximum] rate so that at least 75% of the number of places for children within the licensed capacity of all child care providers in that county can be purchased at or below that rate." However, s.49.155 (6) (cm) as created in 2005 Wis. Act 25 requires the department to modify rates so that after-school rates are "lower," the the Governor's veto of co-payment increases in that act carried intent to implement "more equitable" rate structures. DWD 56.06 of the Wisconsin Administrative Code interprets the statutory provisions relating to county rate setting as applying "unless the department sets maximum rates for a multicounty area...." DWD operated under this provision in setting multi-county "urban zone" rates in 2006 and has just issued an emergency rule stating its intent not to increase those rates due to budgetary constraints.

While, in context, this clearly refers to a "maximum" rate, it has been suggested the 75% benchmark could be cited as the intent. A suggestion that might link a statutory clarification of the rate-setting policy to the waiting-list procedures in this draft could be to amend s. 49.155 (6) to provide, "When a waiting list under s. 49.155 (2) exists or is anticipated to exist, the department may suspend the requirement under s.49.155 (6) (a) and may issue multi-county rates or suspend annual increases in maximum reimbursement rates."

Tom

Thomas K. Smith

Director, Office of Policy and Budget
Department of Workforce Development
201 East Washington Ave.
P.O. Box 7946
Madison, Wisconsin 53707
Telephone: 608.266.7895
Fax: 608.267.7952
E-Mail: Thomas.Smith@dwd.state.wi.us

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State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1522/1

PJK:kjf:st

rwis run

DOA:.....Harshner, BB0355 - Child care waiting list

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

(2-1-23)

*do not
get cut*

1 AN ACT *relating to:* the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

WISCONSIN WORKS

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priority

[Handwritten box around the last paragraph]

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. 49.155 (1m) (intro.) of the statutes is amended to read:

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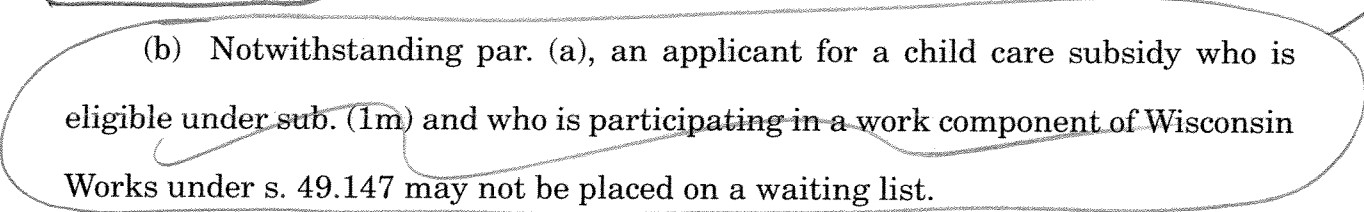
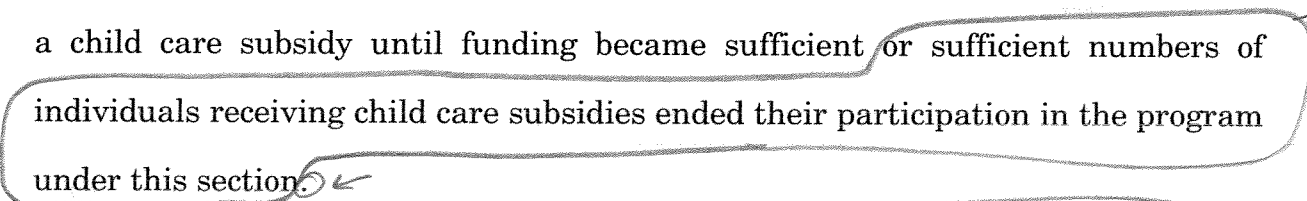
SECTION 2. 49.155 (2) of the statutes is created to read:

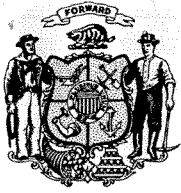
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(b) Notwithstanding par. (a), an applicant for a child care subsidy who is eligible under sub. (1m) and who is participating in a work component of Wisconsin Works under s. 49.147 may not be placed on a waiting list.

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

prioritized





State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1522/2

PJK:kjf

3
v mis run

DOA:.....Harshner, BB0355 - Child care waiting list

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

D-note

do not get cut

1 AN ACT; relating to: the budget.

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

WISCONSIN WORKS

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 6 disabled, who has not attained the age of 19, if the individual meets all of the
 7 following conditions:

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 11 child care subsidies under s. 49.175 (1) (p), the department may implement a
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 14 would not receive a child care subsidy until funding became sufficient.

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

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 17 Wisconsin works Works agency shall refer an individual who has been determined
 18 eligible under sub. (1m) to a county department under s. 46.215, 46.22, or 46.23 for
 19 child care assistance.

(END)

D-note

Sam:

LRB-1522/2
PJK:kjf

As you requested, this
 version adds back in
 the prohibition against
 placing W-2 participants
 on a waiting list.
 PJK

Insert 2-14

**2007-2008 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1522/3ins
PJK:kjf:jf

INSERT A

not
An eligible applicant for a child care subsidy who is participating in a work component of W-2, however, could not be placed on a waiting list.

(END OF INSERT A)

INSERT 2-14

- CH*
- 1 (b) Notwithstanding par. (a), an applicant for a child care subsidy who is
2 eligible under sub. (1m) and who is participating in a work component of Wisconsin
3 Works under s. 49.147 may not be placed on a waiting list.

(END OF INSERT 2-14)

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

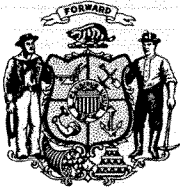
LRB-1522/3dn
PJK:kjf:jf

February 2, 2007

Sam:

As you requested, this version adds back in the prohibition against placing W-2 participants on a waiting list.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-1522/3
PJK:kjf:jf

DOA:.....Harshner, BB0355 - Child care waiting list

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES

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23

(END)