

2015 DRAFTING REQUEST

Bill

Received: **9/25/2014** Received By: **eshea**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget 266-2288** By/Representing: **Major**
May Contact: Drafter: **eshea**
Subject: **Public Assistance - Wis shares** Addl. Drafters: **pkahler**

Extra Copies:

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to: **elisabeth.shea@legis.wisconsin.gov**
pam.kahler@legis.wisconsin.gov
sbostatlanguage@webapps.wi.gov

Pre Topic:

DOA:.....Major, BB0057 -

Topic:

Funding allocation for administration of Wisconsin Shares

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>
/?	eshea 9/29/2014			_____			
/P1	eshea 11/17/2014	kfollett 9/29/2014	jfrantze 9/30/2014	_____	rosee 9/30/2014		
/P2		kfollett	jfrantze	_____	rosee		

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		11/17/2014	11/17/2014	_____	11/17/2014		

FE Sent For:

<END>

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/?	eshea 9/29/2014			_____			
/P1		kfollett 9/29/2014	jfrantze 9/30/2014	_____	srose 9/30/2014		
		<i>1P2/SF 11/17</i>	<i>1P2/SF 11/17</i>	<i>[Signature]</i>	<i>[Signature]</i>		

FE Sent For:

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Funding allocation for administration of Wisconsin Shares ✓

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/?	eshea	1P/5F 9/29	1P/5F 9/29	✓ R3	9/30		

FE Sent For:

<END>

Shea, Elisabeth

From: Major, Katrina L - DOA <Katrina.Major@wisconsin.gov>
Sent: Friday, September 26, 2014 4:09 PM
To: Shea, Elisabeth
Subject: RE: Statutory Language Drafting Request - BB0057

Yeah, same deal on this one is good. Thanks for checking

From: Shea, Elisabeth [mailto:Elisabeth.Shea@legis.wisconsin.gov]
Sent: Friday, September 26, 2014 4:08 PM
To: Major, Katrina L - DOA
Subject: FW: Statutory Language Drafting Request - BB0057

Hi Katie,

Another one – do you mind if I talk to DCF about this one?

Lis

From: Hanaman, Cathlene
Sent: Thursday, September 25, 2014 12:24 PM
To: Malaise, Gordon; Shea, Elisabeth
Subject: FW: Statutory Language Drafting Request - BB0057

From: katrina.major@wisconsin.gov [mailto:katrina.major@wisconsin.gov]
Sent: Thursday, September 25, 2014 12:21 PM
To: Hanaman, Cathlene
Cc: Kraus, Jennifer - DOA; Major, Katrina L - DOA; Connor, Christopher B - DOA
Subject: Statutory Language Drafting Request - BB0057

Biennial Budget: 2015-17

DOA Tracking Code: BB0057

Topic: Contracts for child care cert and Shares eligibility and admin

SBO Team: GGCF

SBO Analyst: Major, Katrina L - DOA
Phone: 608-266-2288
E-mail: katrina.major@wisconsin.gov

Agency Acronym: DCF

Agency Number: 437

Priority: Medium

Intent:

As requested by DCF. I believe you have the request detail, but if not, let me know and I will send it over. Thanks!

Attachments: False

Please send completed drafts to SBOSatlanguage@webapps.wi.gov

Shea, Elisabeth

From: Shea, Elisabeth
Sent: Friday, September 26, 2014 4:39 PM
To: 'Swissdorf, Kim M - DCF'; Mansfield, Mark - DCF
Cc: Major, Katrina L - DOA
Subject: RE: Draft review: LRB -0091/P1 Topic: Funding allocation for administration of Wisconsin Shares

Hi Mark,

Just to clarify item 3 below, this is one of LRB's conventions. An initial applicability provision specifies "the event in a series of events that is the first to which a change in the law applies." That means that a contract made for a contract period that begins on October 1, 2015 is the first contract that the new law applies to, and it then applies to every contract for a contract period that begins after that as well. For this reason, we don't say "on or after," because we are only talking about the very first event that the law could possibly apply to, and it's a given that it would apply to all that come after.

Let me know if you have other questions about that.

Lis

From: Swissdorf, Kim M - DCF [mailto:KimM.Swissdorf@wisconsin.gov]
Sent: Friday, September 26, 2014 4:13 PM
To: Mansfield, Mark - DCF; Shea, Elisabeth
Cc: Major, Katrina L - DOA
Subject: RE: Draft review: LRB -0091/P1 Topic: Funding allocation for administration of Wisconsin Shares

Agreed—the DOA draft.

From: Mansfield, Mark - DCF
Sent: Friday, September 26, 2014 4:12 PM
To: Shea, Elisabeth - LEGIS
Cc: Swissdorf, Kim M - DCF; Major, Katrina L - DOA
Subject: RE: Draft review: LRB -0091/P1 Topic: Funding allocation for administration of Wisconsin Shares

1 draft is fine with us. Thanks.

From: Shea, Elisabeth [mailto:Elisabeth.Shea@legis.wisconsin.gov]
Sent: Friday, September 26, 2014 4:11 PM
To: Mansfield, Mark - DCF
Cc: Swissdorf, Kim M - DCF; Major, Katrina L - DOA
Subject: RE: Draft review: LRB -0091/P1 Topic: Funding allocation for administration of Wisconsin Shares

Hi Mark and Kim,

DOA has requested this one and given me permission to discuss it with you. Similar question as before – do you want to proceed with LRB-0091 or should I just do the DOA draft?

Lis

From: Mansfield, Mark - DCF [mailto:Mark.Mansfield@wisconsin.gov]
Sent: Friday, September 26, 2014 10:25 AM
To: Shea, Elisabeth
Cc: Swissdorf, Kim M - DCF; Major, Katrina L - DOA
Subject: FW: Draft review: LRB -0091/P1 Topic: Funding allocation for administration of Wisconsin Shares

Good morning Lis, Overall I'm very happy with your work on this one. Three comments:

- ✓ 1) In reply to your drafter's note. You are correct (though I doubt we'd have reason or be that creative to look back very far). The problem with specific's such as "the 12-month period" (current law) or "the most recent 12 month period for which applicable statistics are available" (your suggestion, and I think consistent with the intent) is that this, of course, varies between the time when DCF would be trying to run "draft" allocations and get estimates to counties, and the time they are finalized. Of course this is partially addressed by the phrase "to the extent practicable." How about we say, "a recent 12-month period for which applicable statistics are available"? Using "a" instead of "the most recent" will avoid questions about how to measure "the most recent" by making it clear that would be in DCF's discretion to use what was practicable at the time the allocations are calculated.
- ✓ 2) SECTION 3. We had suggested replacing "shall" with "may." I like your alternative, but (similar to above) think it could be construed that we would have to consider all those factors (as well as any others) when we meant them merely as suggestive. Please revise line 9 to end the first sentence after "contract" and start the second sentence, "The department may consider"

(line 8...the department shall allocate funds for the eligibility determination function under the contract ~~after considering.~~ The department may consider trends in applications....

- swissdorf*
- 3) Initial applicability, maybe this is just how these provisions are generally phrased, but "a contract period beginning on October 1, 2015" seems to imply that's when they should start, as opposed to the fact we have contracts with tribes starting then and contracts with counties starting January 1, 2016. The intent is that even if the budget were to be effective July 1, 2015, there would be no expectation of revising current allocations due to the law change. So, I was thinking "for a contract period beginning on or after October 1, 2015." Would it be better to say something like "for the next contract period beginning after the general effective date of this bill"? I will leave this one up to you.

Thanks again.

From: Swissdorf, Kim M - DCF
Sent: Thursday, September 25, 2014 12:56 PM
To: Mansfield, Mark - DCF
Subject: FW: Draft review: LRB -0091/P1 Topic: Funding allocation for administration of Wisconsin Shares

Another version of the child care contract formula. Please see the drafter's note to determine if you want any additional changes or if you are OK with it as it is. I defer to your judgment on this one.

Thanks!

From: LRB.Legal [mailto:lrblegal@legis.wisconsin.gov]
Sent: Thursday, September 25, 2014 12:51 PM
To: Swissdorf, Kim M - DCF
Subject: Draft review: LRB -0091/P1 Topic: Funding allocation for administration of Wisconsin Shares

Following is the PDF version of draft LRB -0091/P1 and drafter's note.

"RESEARCH APPENDIX"

... Drafting History Reproduction Request Form ...

 **DRAFTING ATTORNEYS: PLEASE COMPLETE THIS FORM AND GIVE TO MIKE BARMAN**


(Request Made By: EHS) (Date: 09/29/2014)

Note:


BOTH DRAFTS SHOULD HAVE THE SAME "REQUESTOR"

(exception: companion bills)



 Please transfer the drafting file for
2013 LRB _____ (For: Rep. / Sen. _____)
to the drafting file for
2015 LRB _____ (For: Rep. / Sen. _____)

----- **OR** -----

 Please copy the drafting file for
2015 LRB -0091 / PL (include the version) (For: ~~Rep.~~ / Sen. DCF)
and place it in the drafting file for
2015 LRB -0307 (For: ~~Rep.~~ / Sen. DOA)

 Are These "Companion Bills" ?? ... Yes No

If yes, who in the initial requestor's office authorized the copy/transfer of the drafting history ("guts") from the original file: Kim Swissdorf



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0091/P1
EHS:kjf:jm

0307/P1

RMR

In 9/29/14

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Don't Gen

me budget

1 AN ACT ...; relating to: the determination of eligibility for and administration of
2 child care subsidy programs.

subhead
Analysis by the Legislative Reference Bureau
HEALTH AND HUMAN SERVICES
WISCONSIN WORKS → **CHILDREN**

The Wisconsin Works (W-2) program under current law, which is administered by DCF, 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, who needs child care services to participate in various educational or work activities, and who satisfies other eligibility criteria may receive a child care subsidy for child care services under the W-2 program. This child care subsidy program is known as Wisconsin Shares.

Under current law, in all areas of the state except Milwaukee County, DCF must enter into a contract with a county department or agency to make an initial determination about whether individuals who are in a particular geographic region or who are members of a particular Indian tribal unit are eligible for the child care subsidies under Wisconsin Shares. Also under current law, the same county department or agency must administer Wisconsin Shares for that geographic region or Indian tribal unit. Current law requires DCF, to the extent practicable and with certain restrictions, to allocate funds for the administration of Wisconsin Shares in a geographic region or Indian tribal unit in the same proportion as the geographic region's or Indian tribal unit's proportionate share of all statewide child care subsidy authorizations and eligibility redeterminations in the 12-month period prior to the start of the contract period.

Under this bill, DCF has the option to make child care subsidy eligibility determinations, to contract with a county department or agency to make these determinations, or to contract with a county department or agency to share in making these determinations. The bill clarifies that, if DCF contracts with a county department or agency for the eligibility determination function, DCF must allocate funds for this function under the contract, taking into consideration trends in applications, a county department's or agency's past eligibility determination expenditures, the respective portions of the eligibility determination function to be performed by the department and the county department or agency, and any other factor DCF determines.

When allocating these funds, the bill allows DCF to take

This bill also changes the funding allocation for the administration of Wisconsin Shares. The bill requires DCF to allocate funds for a county department's or agency's administration of Wisconsin Shares in the same proportion as the geographic region's or Indian tribal unit's proportionate share of all funding allocated for eligibility determination functions or, if DCF elects, in the same proportion as the geographic region's or Indian tribal unit's proportionate share of all children for whom a child care subsidy was issued in a 12-month period prior to the start of the contract period.

elect to recent for which applicable statistics are available

Alternatively, the bill allows DCF to allocate these funds

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.) Except as provided in s. 49.155 (3g), the
 3 department shall determine, contract with a county department or agency to
 4 determine, or contract with a county department or agency to share determination
 5 of the eligibility of individuals residing in a particular geographic region or who are
 6 members of a particular Indian tribal unit for child care subsidies under this section.

7 Under this section, an individual may receive a subsidy for child care for a child who
 8 has not attained the age of 13 or, if the child is disabled, who has not attained the age
 9 of 19, if the individual meets all of the following conditions:

10 SECTION 2. 49.155 (3) (intro.) of the statutes is amended to read:

11 49.155 (3) CHILD CARE LOCAL ADMINISTRATION. (intro.) Except as provided in sub.
 12 (3g), the a county department or agency with which the department contracts under

1 sub. (1m) to determine eligibility in a particular geographic region or for a particular
2 Indian tribal unit shall administer child care assistance in that geographic region or
3 for that tribal unit. For the administration of child care assistance under this
4 section, the department may require the county department or agency to do all of the
5 following:

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

7 49.155 (3m) (am) If the department contracts with a county department or
8 agency under sub. (1m), the department shall allocate funds for the eligibility
9 determination function under the contract after considering trends in applications, department
10 a county department's or agency's past eligibility determination expenditures, the
11 respective portions of the eligibility determination function to be performed by the
12 department and the county department or agency, and any other factor determined
13 by the department.

no scdm
When allocating these funds, the department may consider

14 **SECTION 4.** 49.155 (3m) (b) 1. of the statutes is amended to read:

15 49.155 (3m) (b) 1. Subject to subds. 2. and 3., the department shall, to the
16 extent practicable, allocate funds to a contract entered into under sub. (1m) for the
17 administration of the program under sub. (3) in the same proportion as the
18 geographic region's or Indian tribal unit's proportionate share of all statewide
19 ~~subsidy authorizations and eligibility redeterminations under sub. (3) (e) funding~~
20 allocated under par. (am) for eligibility determination functions during the contract
21 period or, if the department elects, in the same proportion as the geographic region's
22 or Indian tribal unit's proportionate share of all children for whom a subsidy was
23 provided under this section in the a ^{recent} 12-month period before the start of the contract
24 period. for which applicable statistics are available

25 **SECTION 9306. Initial applicability; Children and Families.**

1 (1) WISCONSIN SHARES ELIGIBILITY AND FUNDING. The treatment of section 49.155
2 (1m) (intro.), (3) (intro.), and (3m) (am) and (b) 1. of the statutes first applies to a
3 contract made between the department of children and families and a county
4 department or agency for a contract period beginning on October 1, 2015.

5 (END)

Shea, Elisabeth

From: Major, Katrina L - DOA <Katrina.Major@wisconsin.gov>
Sent: Monday, November 17, 2014 12:56 PM
To: Shea, Elisabeth
Cc: Kraus, Jennifer - DOA
Subject: 0307/p1

Hi Lis, can you please make one tiny change to this draft: on section 4, very end, instead of "a recent 12-month" can you do "the most recent"? Thanks!

Katie



State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0307/P1 P2
EHS:kjf:jf RMR

In 4/17/14

DOA:.....Major, BB0057 - Funding allocation for administration of Wisconsin Shares

FOR 2015-2017 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

WISCONSIN WORKS

The Wisconsin Works (W-2) program under current law, which is administered by DCF, 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, who needs child care services to participate in various educational or work activities, and who satisfies other eligibility criteria may receive a child care subsidy for child care services under the W-2 program. This child care subsidy program is known as Wisconsin Shares.

Under current law, in all areas of the state except Milwaukee County, DCF must enter into a contract with a county department or agency to make an initial determination about whether individuals who are in a particular geographic region or who are members of a particular Indian tribal unit are eligible for the child care subsidies under Wisconsin Shares. Also under current law, the same county department or agency must administer Wisconsin Shares for that geographic region or Indian tribal unit. Current law requires DCF, to the extent practicable and with certain restrictions, to allocate funds for the administration of Wisconsin Shares in a geographic region or Indian tribal unit in the same proportion as the geographic

region's or Indian tribal unit's proportionate share of all statewide child care subsidy authorizations and eligibility redeterminations in the 12-month period prior to the start of the contract period.

Under this bill, DCF has the option to make child care subsidy eligibility determinations, to contract with a county department or agency to make these determinations, or to contract with a county department or agency to share in making these determinations. The bill clarifies that, if DCF contracts with a county department or agency for the eligibility determination function, DCF must allocate funds for this function under the contract. When allocating these funds, the bill allows DCF to take into consideration trends in applications, a county department's or agency's past eligibility determination expenditures, the respective portions of the eligibility determination function to be performed by DCF and the county department or agency, and any other factor DCF determines.

This bill also changes the funding allocation for the administration of Wisconsin Shares. The bill requires DCF to allocate funds for a county department's or agency's administration of Wisconsin Shares in the same proportion as the geographic region's or Indian tribal unit's proportionate share of all funding allocated for eligibility determination functions. Alternatively, the bill allows DCF to elect to allocate these funds in the same proportion as the geographic region's or Indian tribal unit's proportionate share of all children for whom a child care subsidy was issued in a recent 12-month period for which applicable statistics are available prior to the start of the contract period.

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.) Except as provided in s. 49.155 (3g), the
3 department shall determine, contract with a county department or agency to
4 determine, or contract with a county department or agency to share determination
5 of the eligibility of individuals residing in a particular geographic region or who are
6 members of a particular Indian tribal unit for child care subsidies under this section.
7 Under this section, an individual may receive a subsidy for child care for a child who
8 has not attained the age of 13 or, if the child is disabled, who has not attained the age
9 of 19, if the individual meets all of the following conditions:

10 **SECTION 2.** 49.155 (3) (intro.) of the statutes is amended to read:

1 49.155 (3) CHILD CARE LOCAL ADMINISTRATION. (intro.) Except as provided in sub.
2 (3g), ~~the~~ a county department or agency with which the department contracts under
3 sub. (1m) to determine eligibility in a particular geographic region or for a particular
4 Indian tribal unit shall administer child care assistance in that geographic region or
5 for that tribal unit. For the administration of child care assistance under this
6 section, the department may require the county department or agency to do all of the
7 following:

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

9 49.155 (3m) (am) If the department contracts with a county department or
10 agency under sub. (1m), the department shall allocate funds for the eligibility
11 determination function under the contract. When allocating these funds, the
12 department may consider trends in applications, a county department's or agency's
13 past eligibility determination expenditures, the respective portions of the eligibility
14 determination function to be performed by the department and the county
15 department or agency, and any other factor determined by the department.

16 **SECTION 4.** 49.155 (3m) (b) 1. of the statutes is amended to read:

17 49.155 (3m) (b) 1. Subject to subds. 2. and 3., the department shall, to the
18 extent practicable, allocate funds to a contract entered into under sub. (1m) for the
19 administration of the program under sub. (3) in the same proportion as the
20 geographic region's or Indian tribal unit's proportionate share of all statewide
21 ~~subsidy authorizations and eligibility redeterminations under sub. (3) (e) funding~~
22 allocated under par. (am) for eligibility determination functions during the contract
23 period or, if the department elects, in the same proportion as the geographic region's
24 or Indian tribal unit's proportionate share of all children for whom a subsidy was

plain
most

1

provided under this section in the a recent 12-month period for which applicable
statistics are available before the start of the contract period.

2

3

SECTION 9306. Initial applicability; Children and Families.

4

(1) WISCONSIN SHARES ELIGIBILITY AND FUNDING. The treatment of section 49.155
(1m) (intro.), (3) (intro.), and (3m) (am) and (b) 1. of the statutes first applies to a
contract made between the department of children and families and a county
department or agency for a contract period beginning on October 1, 2015.

5

6

7

8

(END)

Department of Children and Families
2015-17 Biennial Budget
Statutory Language Request

Topic: Contracts for child care certification and Wisconsin Shares eligibility and administration.

Current Language:

Under s.49.155 (3m) (b), subject to [provisions for the allocation of at least \$20,000 per year to each contract agency for administration, and at least 95 percent of the amount allocated to the contract in the previous year, unless the total amount available for such contracts is lower or the geographic areas or composition of Indian tribal units is not comparable to the previous year], “the department shall, to the extent practicable, allocate funds to a contract...for the administration of [Wisconsin Shares child care subsidies] in the same proportion as the geographic region’s or Indian tribal unit’s proportionate share of all statewide subsidy authorizations and eligibility redeterminations...in the 12-month period before the start of the contract period.”

Proposed Change

Amend s.49.155 (3m) (b) 1. as follows:

AS IS
“Subject to subds. 2. and 3. [minimum allocations], the department shall, to the extent practicable, allocate funds to a contract entered into under sub. (1m) for the administration of the program under sub. (3) in the same proportion as the geographic region’s or Indian tribal unit’s proportionate share of all ~~statewide subsidy authorizations and eligibility redeterminations under sub. (3) (e)~~ funding allocated for eligibility determination functions under all such contracts for the contract period, or if the department elects, in the same proportion as the geographic region’s or Indian tribal unit’s proportionate share of children for whom a subsidy was issued under this section in all such geographic regions and Indian tribal units in the a 12-month period before the start of the contract period.

Justification:

History of child care administration contracting. From 1997 through 2009, funding for the child care subsidy eligibility function was included in W-2 contracts (as a part of the agency “Services” allocations). At the same time, the statutes provided that counties would determine the co-payment liability for individuals W-2 agencies found eligible for a child care subsidy, and the state continued to contract with all counties for this and the closely related, then non-statutory, “authorization” function of approving the parent’s choice of provider and the number of hours of care for which a subsidy was authorized. Counties were also expected to provide certification services for providers not required to be licensed, and to set state payment rates for licensed, certified, and provisionally certified providers, based on an annual survey of market rates, and could charge costs associated with these activities to state contracts for child care “administration.”

In the 2009-11 biennial budget, DCF proposed a number of changes to these relationships: First, it proposed removing child care eligibility funding from the W-2 services allocations and budgeting for it instead as part of the Wisconsin Shares budget. This was intended to both to clarify the true cost of the Wisconsin Shares program and to increase the stability and predictability of the funding available for W-2 agency staff and services. Second, DCF proposed allowing it to contract with either a W-2 agency or county, or another agency, such as a child-care resource-and-referral agency, for child care eligibility and administration in any geographical area, provided that Shares eligibility and authorizations would be done in that area by the same agency. (Since 2010, DCF has contracted with BOS counties for these functions)

Finally DCF proposed statutorily listing the core functions traditionally associated with child-care administration contracts, including certification, authorizations, and periodic eligibility redeterminations, and linking them to contract allocations, instead of the previous formula that allocated county administration funding generally based on 5% of the Shares subsidy spending in the county. This was intended to create a closer association of the funding with indicators of county child care workload, rather than subsidy expenditures.

The proposals DCF made in the 2009-11 biennial budget were largely adopted unchanged except that special provisions were created for Milwaukee County, due to a separate proposal by the Department of Health Services (DHS) for the state to assume responsibility for directly supervising Milwaukee county eligibility workers. DHS specifically wanted to retain control of the eligibility workers but did not want responsibility for Milwaukee county staff performing other child-care functions, principally certification and Shares program integrity, which was then the subject of intense scrutiny by the news media, Legislature, and Legislative Audit Bureau. As a result, a parallel unit was created for DCF to supervise Milwaukee county staff performing those functions, effective January 1, 2010. And, since July 2010, when MiLES authorization workers were transferred back to DCF, DCF contracts with MiLES primarily for eligibility determination and redetermination of Milwaukee Shares cases.

After the changes adopted in 2009-11, current law defines specific Shares administrative functions (excluding initial eligibility) and provides that DCF shall allocate at least \$20,000 for the Shares “administrative responsibilities” in a geographic region or Indian tribal unit, and that, if the department renews a contract for a subsequent year, DCF shall allocate to the contract not less than 95 percent of the amount allocated to the contract in the previous year, unless total funding for Shares administrative contracts is lower, or unless DCF has changed the geographic region, or the Indian tribal unit is not comparable. This factor is intended to provide some year-to-year predictability to counties (or other organizations, if DCF were to contract with them). However, the statute explicitly provides that, “Within any contract period, the department may redistribute unexpended contract balances for a county department or agency to another county department or agency that reports expenditures in excess of their [sic] original contract total for the period.”

It should be noted that the formula was not originally intended to apply to funding for initial eligibility determination, as that was a traditional W-2 agency function. The revised statute (current law) provides only that DCF would contract with the same agency for both eligibility and administration. However, for the last several years, DCF has allocated funding for both

eligibility and administration according to the administrative formula. DCF has discretion to determine how much of the total for BOS contracts to allocate for certification, and how to allocate it. Remaining funding for eligibility and certification has been high enough that the \$20,000 minimum has generally applied only to some tribal allocations.

Rationale for Proposed Changes. The 2010 modifications to the formula for allocating funds for administrative functions did not take into account the possibility that DCF would administer the functions directly in Milwaukee County, and refers to giving each county an amount proportionate to its share of “statewide” subsidy authorizations and eligibility redeterminations. When proposed in 2009, these were considered a non-financial indicator for the workload associated with county administration (eligibility was a W-2 agency function). Although it includes a phrase “to the extent practicable,” the proposed change would clarify that Milwaukee County is not be included in calculating the BOS allocations when DCF is performing the functions or has contracted with MILES for them.

Also there are some potential issues with use of authorization data. One is that a provision for automatic authorization adjustments was created after this formula was proposed, potentially distorting the data either directly, or to the extent county staff modify authorizations following the automatic adjustments, and it could be argued that use of authorizations could “reward” county inefficiency in their establishment. Second, eligibility *redeterminations* could be viewed (and are viewed federally) as similar to initial eligibility determinations, rather than an administrative cost. This difference between state and federal categorization is a potential source of confusion.

Finally, it has been suggested that, due to the priority of giving counties allocations before the start of the upcoming calendar year (between July 1 and October 1, so they can incorporate them into their budget process), the reference to “the” 12-month period before the start of the contract period (i.e, CY 2014 for CY 2015) is technically not possible as data for the 12 calendar months prior to the start of a calendar-year contract (in the case of counties, or a FFY contract in the case of tribes) is not be available until after the end of the year. The proposed change would allow use of 12-months of data that are available at the time the allocations for the upcoming contract period are proposed.

The proposed changes would clarify the above issues and more explicitly provide for the practice of allocating funding for eligibility and administration together, subject to the current minimum allocations, drop the use of authorization data, as it should parallel eligibility data, and provide an option to use the number of children for whom a subsidy was issued as an alternative non-financial distribution factor.

Desired Effective Date/Initial applicability: Provide that the change first applies to allocations made for contract periods beginning on or after October 1, 2015 (tribal contracts begin then).

Agency Contact: Mark Mansfield
266-9475

Shea, Elisabeth

From: Mansfield, Mark - DCF <Mark.Mansfield@wisconsin.gov>
Sent: Thursday, September 11, 2014 10:34 AM
To: Shea, Elisabeth
Cc: Swissdorf, Kim M - DCF
Subject: RE: County CC contracts Draft

Yes (kind of both). The county department or agencies we have contracts with report their expenditures to us to “use” their contract allocations, and we reimburse them. So one thing often considered in determining allocations for a subsequent year is what they’ve reported/spent of their contracts in the past. I think maybe in this context it is OK for it to be a little ambiguous (since I suppose over time some costs could shift between the state and what we contract with and reimburse counties for).

From: Shea, Elisabeth [mailto:Elisabeth.Shea@legis.wisconsin.gov]
Sent: Thursday, September 11, 2014 10:30 AM
To: Mansfield, Mark - DCF
Cc: Swissdorf, Kim M - DCF
Subject: RE: County CC contracts Draft

Hi Mark,

Thank you – this is helpful. One question: could you explain what is meant by “expenditure experience” in the list of factors to be considered in allocating funds to a contract? Is that the county department or agency’s experience?

Lis

From: Mansfield, Mark - DCF [mailto:Mark.Mansfield@wisconsin.gov]
Sent: Thursday, September 11, 2014 9:56 AM
To: Shea, Elisabeth
Cc: Swissdorf, Kim M - DCF
Subject: FW: County CC contracts Draft

Good morning Lis, as we discussed yesterday, while not circular as we were envisioning it (because DCF could allocate funding to BOS counties or agencies first for “initial eligibility” (similar to the provision I noted for allocating funding for certification) and then allocate funding for “local administration” in proportion to that, you are right that this could be clearer. Two years ago we tried for some more comprehensive changes, including clarifying some aspects of what is done directly by DOC in Milwaukee, what we contract with DHS MiLEs for (this is only eligibility, somewhat in contrast to the requirement that it be the same agency for eligibility and admin. elsewhere), and clarifying that contracting out was actually discretionary (since we perform some aspects directly with state staff in Milwaukee county, and increasingly some things are done on state computer systems). I believe DOA thought some of that was unnecessary, so this time, I just focused on the more minimalist clarification of the BOS funding. But we may not have struck the right balance there in terms of clarity. This paper from 2 years ago might be good background. I’m not suggesting expanding the draft for the county admin. formula to include all this, but I highlighted in yellow a provision we were thinking about to make the eligibility allocation/authority more current and explicit. You could consider including something along those lines (which would certainly clarify our intent). Thank!

From: Swissdorf, Kim M - DCF
Sent: Wednesday, September 10, 2014 11:48 AM
To: Mansfield, Mark - DCF
Subject: FW: W-2 changes drafting request

Can you answer her question?

From: Shea, Elisabeth [<mailto:Elisabeth.Shea@legis.wisconsin.gov>]
Sent: Wednesday, September 10, 2014 10:24 AM
To: Swissdorf, Kim M - DCF
Subject: RE: W-2 changes drafting request

Hi Kim,

Another question, this time on the request relating to contracts for child care certification and Wisconsin Shares eligibility and administration.

The request proposes changing the formula for allocating funding to a contract so that it is no longer based on the region or tribal unit's proportional number of statewide subsidy authorizations and eligibility redeterminations. However, it looks to me like new formula might be circular. It says that the allocation of funding should be based on the region or tribal unit's proportionate share of the funding allocated for eligibility determination functions under all contracts in the contract period (or an alternative method). In other words, the funding allocation is based on the funding allocation. Could you clarify this?

Thanks!

Lis

From: Swissdorf, Kim M - DCF [<mailto:KimM.Swissdorf@wisconsin.gov>]
Sent: Friday, August 15, 2014 9:10 AM
To: Kahler, Pam
Subject: W-2 changes drafting request

I'll start with you. Please let me know if these need to be sent to someone else. Let me know if you have any questions. Thanks much (as always)!

Kim Swissdorf
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Shea, Elisabeth

From: Mansfield, Mark - DCF <Mark.Mansfield@wisconsin.gov>
Sent: Thursday, September 11, 2014 5:23 PM
To: Shea, Elisabeth
Subject: RE: CC admin memos

Hi Lis,

What I was illustrating there was that in recent years (probably roughly 2010 through proposed 2015) DCF has not allocated specific amounts for eligibility and administration, even though the original intent of the formula change had envisioned that. However, our drafting request was anticipating that in the future we might try that (allocate funds for eligibility, and then allocate funds for administration in proportion to those amounts, subject to the minimum amounts)—or we might allocate the funds for administration based on each county or region's proportionate share of children for whom a subsidy was issued in a previous 12-month period. So part of the task is to try to more closely reconcile practice with the statutes, but not be too prescriptive about the future (other than that we don't think what is in current law is best—we think data on eligibility re-determinations doesn't make as much sense as perhaps initial eligibility, particularly since there is a pending federal rule change that could lead to a policy change in terms of whether continuing eligibility is reviewed at 1 year, rather than the traditional 6-month, intervals. And we think use of authorization data makes even less sense.

You are partially correct that including the explicit authority for the department to directly determine eligibility goes a bit further than our initial drafting request with respect to the county contract formula. However, I think they are closely related, since you pointed out it wasn't clear how eligibility funding would be determined (under our proposed language that funding for administration might be allocated in proportion to it). As I mentioned, arguably, if the department has the authority to contract for something, it has the authority to do it (particularly the initial eligibility function, which as I noted was once a W-2 agency function, and the statutes provide that, if DCF cannot find a W-2 agency, it would administer that program directly, and in some respects s.49.155 is part of W-2, though it also has its own unique features. But some would argue that is ambiguous, particularly given the word "shall" before "contract with a county department or agency implies "must" contract out. So, although there is always a chance that it could be misconstrued, or perhaps you could come up with another way to clarify it, I guess, ironically, I've convinced you it isn't necessary as long as we know what we mean by "eligibility" but something like that modification to s.49.155 (1m) (intro) makes sense to me. Please note that I changed "may" to "shall" in "the department shall determine the amount of the contract for eligibility," and "considering," to "may consider" before the concluding list of possible factors to consider in allocating that funding to contracts.

1. At s.49.155 (1m) (intro), change the word, "shall" to "may," and clarify that the Department may perform aspects of eligibility determination without contracting out: "...the department shall ~~shall~~ may contract with a county department or agency to determine the eligibility of individuals residing in a particular geographic region or who are members of a particular Indian tribal unit for child care subsidies under this section, or the department may determine whether an individual satisfies any or all financial and non-financial eligibility criteria under this subsection. If the department contracts with a county department or agency under this subsection, the department shall determine the amount of the contract for eligibility, and may consider such factors as trends in applications, past eligibility expenditures, and the respective portions of the eligibility function to be performed by the department and the county department or agency.

Possibly another approach or complementary one would be to define the term "eligibility" somewhere as "including the portions of the eligibility function for which the department elects to contract with a county department or agency, and may include periodic eligibility redetermination or reviews." However, I think I prefer the revision to s.49.155. At a minimum, I think we should change the first "shall" to "may"; so it could not be construed as requiring us to contract all aspects of the function. Unless a "light bulb goes on" and you have an even better idea, yes, go ahead and include that revision to s.49.155 (1m) and we'll see what re-action we get to the draft. Obviously, very shortly it will be up to DOA whether it is included in the budget bill.

Thanks again,
Mark

From: Shea, Elisabeth [mailto:Elisabeth.Shea@legis.wisconsin.gov]
Sent: Thursday, September 11, 2014 3:58 PM
To: Mansfield, Mark - DCF
Subject: RE: CC admin memos

Hi Mark,

For each contract does the department allocate a specific amount to eligibility and a specific amount to administration? In the information you linked to, it looks like there's a total amount listed for administration and certification, but no amount for eligibility.

Also, just to clarify, are you saying you also want to change 49.155 (1m) to allow DCF to determine eligibility in addition to being able to contract for that function? This is a separate issue from setting the funding allocation for administration, and not necessary in regards to that issue. But if you wanted to address that separate issue, we could do that in this draft as well. I just want to make it clear that it is separate and not necessary with respect to the funding issue.

Lis

From: Mansfield, Mark - DCF [mailto:Mark.Mansfield@wisconsin.gov]
Sent: Thursday, September 11, 2014 1:19 PM
To: Shea, Elisabeth
Cc: Swissdorf, Kim M - DCF; Hartung, Adam P - DCF
Subject: FW: CC admin memos

Lis, here's some more background, or illustration of current practice. See the draft 2015 allocations memo and the link to the "CORE" financial reporting instructions, which say 2014 but will likely be similar. In the first one you will see what I was describing about an "allocation" or amount of funding for eligibility and admin. combined, and another for certification." You'll also see another for supplemental fraud, but let's ignore that for now; it's provided under different statutory authority under s.49.175. In the link to the CORE expenditure codes you can see that there are subdivisions where counties would report direct costs for admin. on 0850 and eligibility and authorizations together on 0832, further evidence that these concepts can change and are perhaps blurring. You can also see in the two taken together, places where DCF has done further interpretation to describe costs not explicitly enumerated, such as monitoring expenditures, verifying eligibility, hearings (there is a connection between the eligibility/admin. and fraud allocations in that program-integrity and fraud investigation costs not covered by the separate allocation can be reported to the admin. contract). So, while I think it would be good to include something clarifying the ability for DCF to do or contract out for eligibility, maybe we should try to "think out of the box" and rewrite a little to capture that we're talking about a contract for all those related concepts. Of course, while the statute doesn't list some things, last I heard, the current convention for interpretation of such lists is that they are illustrative, not limiting, regardless of whether they explicitly say "including but not limited to." But an approach could be to revise the list of admin. functions to say something about "eligibility and admin.?" Thanks for helping us clarify this.

From: Hartung, Adam P - DCF
Sent: Thursday, September 11, 2014 11:46 AM
To: Mansfield, Mark - DCF
Subject: CC admin memos

<http://dcf.wisconsin.gov/childcare/admin/default.htm>

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State of Wisconsin
2015 - 2016 LEGISLATURE



LRB-0307/P2
EHS:kjf:jf

DOA:.....Major, BB0057 - Funding allocation for administration of
Wisconsin Shares

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

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, which is administered by DCF, 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, who needs child care services to participate in various educational or work activities, and who satisfies other eligibility criteria may receive a child care subsidy for child care services under the W-2 program. This child care subsidy program is known as Wisconsin Shares.

Under current law, in all areas of the state except Milwaukee County, DCF must enter into a contract with a county department or agency to make an initial determination about whether individuals who are in a particular geographic region or who are members of a particular Indian tribal unit are eligible for the child care subsidies under Wisconsin Shares. Also under current law, the same county department or agency must administer Wisconsin Shares for that geographic region or Indian tribal unit. Current law requires DCF, to the extent practicable and with certain restrictions, to allocate funds for the administration of Wisconsin Shares in a geographic region or Indian tribal unit in the same proportion as the geographic

region's or Indian tribal unit's proportionate share of all statewide child care subsidy authorizations and eligibility redeterminations in the 12-month period prior to the start of the contract period.

Under this bill, DCF has the option to make child care subsidy eligibility determinations, to contract with a county department or agency to make these determinations, or to contract with a county department or agency to share in making these determinations. The bill clarifies that, if DCF contracts with a county department or agency for the eligibility determination function, DCF must allocate funds for this function under the contract. When allocating these funds, the bill allows DCF to take into consideration trends in applications, a county department's or agency's past eligibility determination expenditures, the respective portions of the eligibility determination function to be performed by DCF and the county department or agency, and any other factor DCF determines.

This bill also changes the funding allocation for the administration of Wisconsin Shares. The bill requires DCF to allocate funds for a county department's or agency's administration of Wisconsin Shares in the same proportion as the geographic region's or Indian tribal unit's proportionate share of all funding allocated for eligibility determination functions. Alternatively, the bill allows DCF to elect to allocate these funds in the same proportion as the geographic region's or Indian tribal unit's proportionate share of all children for whom a child care subsidy was issued in the most recent 12-month period for which applicable statistics are available prior to the start of the contract period.

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.) Except as provided in s. 49.155 (3g), the
3 department shall determine, contract with a county department or agency to
4 determine, or contract with a county department or agency to share determination
5 of the eligibility of individuals residing in a particular geographic region or who are
6 members of a particular Indian tribal unit for child care subsidies under this section.
7 Under this section, an individual may receive a subsidy for child care for a child who
8 has not attained the age of 13 or, if the child is disabled, who has not attained the age
9 of 19, if the individual meets all of the following conditions:

10 **SECTION 2.** 49.155 (3) (intro.) of the statutes is amended to read:

1 49.155 (3) CHILD CARE LOCAL ADMINISTRATION. (intro.) Except as provided in sub.
2 (3g), ~~the~~ a county department or agency with which the department contracts under
3 sub. (1m) to determine eligibility in a particular geographic region or for a particular
4 Indian tribal unit shall administer child care assistance in that geographic region or
5 for that tribal unit. For the administration of child care assistance under this
6 section, the department may require the county department or agency to do all of the
7 following:

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

9 49.155 (3m) (am) If the department contracts with a county department or
10 agency under sub. (1m), the department shall allocate funds for the eligibility
11 determination function under the contract. When allocating these funds, the
12 department may consider trends in applications, a county department's or agency's
13 past eligibility determination expenditures, the respective portions of the eligibility
14 determination function to be performed by the department and the county
15 department or agency, and any other factor determined by the department.

16 **SECTION 4.** 49.155 (3m) (b) 1. of the statutes is amended to read:

17 49.155 (3m) (b) 1. Subject to subds. 2. and 3., the department shall, to the
18 extent practicable, allocate funds to a contract entered into under sub. (1m) for the
19 administration of the program under sub. (3) in the same proportion as the
20 geographic region's or Indian tribal unit's proportionate share of all statewide
21 ~~subsidy authorizations and eligibility redeterminations under sub. (3) (e) funding~~
22 allocated under par. (am) for eligibility determination functions during the contract
23 period or, if the department elects, in the same proportion as the geographic region's
24 or Indian tribal unit's proportionate share of all children for whom a subsidy was

1 provided under this section in the most recent 12-month period for which applicable
2 statistics are available before the start of the contract period.

3 **SECTION 9306. Initial applicability; Children and Families.**

4 (1) WISCONSIN SHARES ELIGIBILITY AND FUNDING. The treatment of section 49.155
5 (1m) (intro.), (3) (intro.), and (3m) (am) and (b) 1. of the statutes first applies to a
6 contract made between the department of children and families and a county
7 department or agency for a contract period beginning on October 1, 2015.

8 (END)