




# State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

## Appendix A

### LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for 2015 LRB-0091/P1 (For: DCF)

has been copied/added to the drafting file for

**2015 LRB-0307** (For: DOA)


 Are These “Companion Bills” ?? ... No

Who in the initial requestor’s office authorized the copy/transfer of the drafting history (“guts”) from the original file: **Kim Swissdorf**



**RESEARCH APPENDIX -**  
**PLEASE KEEP WITH THE DRAFTING FILE**

Date Transfer Requested: 09/29/2014 (Per: EHS)

 The attached draft was incorporated into the new draft listed above. For research purposes the attached materials were added, as a appendix, to the new drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

Transferred  
to 15-0307

**2015 DRAFTING REQUEST**

**Bill**

Received: **9/8/2014** Received By: **eshea**  
Wanted: **As time permits** Same as LRB:  
For: **Children and Families 261-0616** By/Representing: **Kim Swissdorf**  
May Contact: Drafter: **eshea**  
Subject: **Public Assistance - Wis shares** Addl. Drafters: **pkahler**

Extra Copies:

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

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Funding allocation for administration of Wisconsin Shares

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**Instructions:**

See attached

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**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 9/12/2014	kfollett 9/25/2014		_____			
/P1			jmurphy 9/25/2014	_____	lparisi 9/25/2014		

FE Sent For:

<END>

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1/?	eshea	PI/GF 9/25	PI/GF 9/25	_____ jm 9/25			

FE Sent For:

<END>

**Shea, Elisabeth**

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**From:** Swissdorf, Kim M - DCF <KimM.Swissdorf@wisconsin.gov>  
**Sent:** Monday, August 25, 2014 8:45 AM  
**To:** Malaise, Gordon; Shea, Elisabeth  
**Subject:** child care county contracts  
**Attachments:** Child Care Contracts 2015-17 stat change request.doc

Here is a requested change for the child care statutes. Please let me know if it should go to someone else, and let me know if you have any questions. Thanks!

**Kim Swissdorf**  
*Budget and Policy Manager*  
Department of Children and Families

---

201 East Washington Avenue  
Madison, WI 53703

T: (608) 261-0616  
E: [KimM.Swissdorf@wisconsin.gov](mailto:KimM.Swissdorf@wisconsin.gov)

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**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:

“Subject to subs. 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 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 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



State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-00910

EHS:

le  
PI  
F. RMNR

in 9/12/14

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

Agency budget draft

D-NOTE

do not Gen

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

HEALTH AND HUMAN SERVICES

CHILDREN (S)

**Analysis by the Legislative Reference Bureau**

The Wisconsin Works (W-2) program under current law, which is administered by the Department of Children and Families (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 draft, 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 draft 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.

This draft also changes the funding allocation for the administration of Wisconsin Shares. The draft 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.

*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:

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; 2007 a. 20; 2009 a. 28, 76, 77, 185; 2011 a. 32, 120, 158, 202; 2013 a. 20, 113, 170.

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:

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; 2007 a. 20; 2009 a. 28, 76, 77, 185; 2011 a. 32, 120, 158, 202; 2013 a. 20, 113, 170.

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,  
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.

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

1 provided under this section in the a 12-month period before the start of the contract  
2 period.

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; 2007 a. 20; 2009 a. 28, 76, 77, 185; 2011 a. 32, 120, 158, 202; 2013 a. 20, 113, 170.

3 **SECTION 5. Initial applicability, children and Families**

4 (1) This act first applies to a contract made between the Department of  
5 Children and Families and a county department or agency for a contract period  
6 beginning on October 1, 2015.

(END)

CS

Wisconsin Shares eligibility and funding.

The treatment of section 49.155 (1m) (intro.), (3) (intro) and (3m) (am) and (b) 1. of the statutes

O-Note

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

LRB-0091/3dn  
EHS...

P1  
EJS

*Date*

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**Mark:**

X As requested, in s. 49.155 (3m) (b) 1., Stats., this draft changes "the 12-month period before the start of the contract period" to "a 12-month period before the start of the contract period." However, this allows significant discretion that may not be intended. For example, DCF could look at a 12-month period that occurred years before the contract period. This could be pinned down further, for example by saying something like: "the most recent 12-month period for which applicable statistics are available." Let me know if you would like to make a change like this.

Elisabeth H. Shea  
Legislative Attorney  
Phone: (608) 266-5446  
E-mail: [elisabeth.shea@legis.wisconsin.gov](mailto:elisabeth.shea@legis.wisconsin.gov)

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

LRB-0091/P1dn  
EHS:kjfjm

September 25, 2014

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Mark:

As requested, in s. 49.155 (3m) (b) 1., stats., this draft changes “the 12-month period before the start of the contract period” to “a 12-month period before the start of the contract period.” However, this allows significant discretion that may not be intended. For example, DCF could look at a 12-month period that occurred years before the contract period. This could be pinned down further, for example by saying something like: “the most recent 12-month period for which applicable statistics are available.” Let me know if you would like to make a change like this.

Elisabeth H. Shea  
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State of Wisconsin  
2015 - 2016 LEGISLATURE



LRB-0091/P1  
EHS:kjf:jm

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

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

---

*Analysis by the Legislative Reference Bureau*  
**HEALTH AND HUMAN SERVICES**

**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.

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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.

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.

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*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,  
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.

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 12-month period before the start of the contract  
24 period.

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)