2015 ASSEMBLY BILL 607

December 22, 2015 – Introduced by Representatives JOHNSON, C. TAYLOR, ZAMARRIPA, BARCA, OHNSTAD, SUBECK, GOYKE, WACHS, BOWEN, JORGENSEN, SINICKI, BILLINGS, SHANKLAND, KOLSTE, CONSIDINE, SARGENT, HEBL, BEREAU, SPREITZER and BROSTOFF, cosponsored by Senators HARRIS DODD, LASSA, RINGHAND, C. LARSON, CARPENTER and WIRCH. Referred to Committee on Children and Families.

AN ACT to repeal 49.155 (6d) (a) 3.; to amend 20.001 (2) (e), 20.437 (2) (me), 49.155 (6) (e) 3. (intro.), b., c., d. and e., 49.175 (1) (intro.), 49.197 (1m) and 49.197 (2) (b) 1.; and to create 13.94 (1) (fm), 13.94 (1s) (c) 9., 20.437 (2) (mf), 49.155 (6f) and 49.155 (7d) of the statutes; relating to: payments to child care providers, preventing fraud in the child care subsidy program, providing an exemption from rule-making procedures, and making an appropriation.

Analysis by the Legislative Reference Bureau

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, who needs child care services to participate in various education or work activities, and who satisfies other eligibility criteria may receive a child care subsidy for child care services under W-2. This child care subsidy program is called Wisconsin Shares.

Under current law, the Department of Children and Families (DCF) sets the maximum payment rates for child care providers who provide services under Wisconsin Shares and may modify an individual child care provider’s payment rate in the following manner on the basis of the child care provider’s quality rating under the quality rating system known as Young Star: a provider who receives a one-star rating may be denied payment; a provider who receives a two-star rating may have
the maximum payment rate reduced by up to 5 percent; a provider who receives a three-star rating may receive up to the maximum payment rate; a provider who receives a four-star rating may have the maximum payment rate increased by up to 10 percent; and a provider who receives a five-star rating may have the maximum payment rate increased by up to 25 percent. Under the bill, DCF is required to pay an individual child care provider on the basis of the child care provider’s quality rating under Young Star, as follows: a provider who receives a one-star rating is denied payment; a provider who receives a two-star rating is paid the maximum payment rate; a provider who receives a three-star rating is paid the maximum payment rate plus 5 percent; a provider who receives a four-star rating is paid the maximum payment rate plus 10 percent; and a provider who receives a five-star rating is paid the maximum payment rate plus 25 percent.

For purposes of reducing the cost of Wisconsin Shares, current law allows DCF to adjust the amount paid to child care providers under the program. Currently, DCF pays or reimburses licensed family child care providers based on a child’s actual attendance, while DCF pays licensed group child care providers based on a child’s enrollment with the provider. Under the bill, DCF must base the payment for a child receiving care from a licensed family child care provider on the child’s enrollment and not on the child’s actual attendance. Additionally, the bill eliminates DCF’s authority to adjust the amount paid to child care providers for purposes of reducing costs in Wisconsin Shares.

Under current law, DCF must establish a program to investigate fraudulent activity by participants in W–2, which includes Wisconsin Shares, and establish an incentive program to provide rewards to local agencies administering Wisconsin Shares for identifying fraud in the program. The bill requires DCF additionally to establish policies and procedures to prevent fraud in Wisconsin Shares and requires the Legislative Audit Bureau to annually audit such policies and procedures. Finally, the bill requires that any money recovered from overpayments in Wisconsin Shares be used to pay for direct child care services under Wisconsin Shares and to reduce fraud in Wisconsin Shares.

For further information see the state 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.** 13.94 (1) (fm) of the statutes is created to read:

13.94 (1) (fm) Annually, conduct a financial and performance evaluation audit of the policies and procedures established by the department of children and families under s. 49.155 (7d). The legislative audit bureau shall file a copy of the report of the audit under this paragraph with the distributees specified in par. (b).
SECTION 2. 13.94 (1s) (c) 9. of the statutes is created to read:

13.94 (1s) (c) 9. The department of children and families for the cost of an audit performed under sub. (1) (fm).

SECTION 3. 20.001 (2) (e) of the statutes is amended to read:

20.001 (2) (e) Federal revenues. “Federal revenues” consist of moneys received from the federal government, except that under s. 20.437 (2) (md) “federal revenues” also include moneys treated as refunds of expenditures, and under s. 20.437 (2) (me) and (mf) “federal revenues” consist only of moneys treated as received from the federal government. Federal revenues may be deposited as program revenues in the general fund or as segregated revenues in a segregated fund. In either case they are indicated in s. 20.005 by the addition of “−F” after the abbreviation assigned under pars. (b) and (d).

SECTION 4. 20.437 (2) (me) of the statutes is amended to read:

20.437 (2) (me) Child care and temporary assistance overpayment recovery. All Except as provided in par. (mf), all moneys received from the recovery of overpayments, and incorrect or disallowed payments, and voluntary repayments of federal Child Care and Development Fund block grant funds, of federal Temporary Assistance for Needy Families block grant funds, and of state moneys paid from other appropriations to meet maintenance−of−effort requirements under the federal Temporary Assistance for Needy Families block grant program under 42 USC 601 to 619 and the federal Child Care and Development Fund block grant program under 42 USC 9858 that the department elects to treat as federal revenue, for costs related to recovering the overpayments and incorrect or disallowed payments, for activities to reduce errors under the Wisconsin Works program under ss. 49.141 to 49.161, and for any of the purposes specified under s. 49.175 (1).
SECTION 5. 20.437 (2) (mf) of the statutes is created to read:

20.437 (2) (mf) Wisconsin Shares overpayment recovery. All moneys received from the recovery of overpayments made under s. 49.155 that the department elects to treat as federal revenue, for activities to investigate and reduce fraud in the program under s. 49.155 and for direct child care services under s. 49.155.

SECTION 6. 49.155 (6) (e) 3. (intro.), b., c., d. and e. of the statutes are amended to read:

49.155 (6) (e) 3. (intro.) The department may modify a child care provider’s payment rate under subd. 2. on the basis of the provider’s quality rating, as described in the quality rating plan, in the following manner:

b. For a child care provider who receives a 2-star rating, the department may reduce the maximum payment rate by up to 5 percent.

c. For a child care provider who receives a 3-star rating, the department may pay up to 5 percent.

d. For a child care provider who receives a 4-star rating, the department may shall increase the maximum payment rate by up to 10 percent.

e. For a child care provider who receives a 5-star rating, the department may shall increase the maximum payment rate for such a child care provider by up to 25 percent.

SECTION 7. 49.155 (6d) (a) 3. of the statutes is repealed.

SECTION 8. 49.155 (6f) of the statutes is created to read:

49.155 (6f) Basis for payments to licensed family child care centers. The department may not calculate the payment under this section for a child receiving care from a family child care center, as defined in s. 49.136 (1) (j), that is licensed under s. 48.65 based on the actual attendance of the child. The department shall
calculate payment for a child who receives care from such a licensed family child care center based on the enrollment of the child at the licensed family child care center.

**SECTION 9.** 49.155 (7d) of the statutes is created to read:

49.155 (7d) **FRAUD PREVENTION PROGRAM.** The department shall establish policies and procedures to prevent fraud in the program under this section. Notwithstanding s. 227.10 (1), the department need not promulgate policies and procedures under this section as rules under ch. 227.

**SECTION 10.** 49.175 (1) (intro.) of the statutes is amended to read:

49.175 (1) **ALLOCATION OF FUNDS.** (intro.) Except as provided in sub. (2), within the limits of the appropriations under s. 20.437 (2) (a), (cm), (dz), (k), (kx), (L), (mc), (md), (me), (mf), and (s), the department shall allocate the following amounts for the following purposes:

**SECTION 11.** 49.197 (1m) of the statutes is amended to read:

49.197 (1m) **FRAUD INVESTIGATION.** From the appropriations under s. 20.437 (2) (dz), (kx), (L), (mc), (md), (me), (mf), and (nL), the department shall establish a program to investigate suspected fraudulent activity on the part of recipients of aid to families with dependent children under s. 49.19, on the part of participants in the Wisconsin Works program under ss. 49.141 to 49.161, and, if the department of health services contracts with the department under sub. (5), on the part of recipients of medical assistance under subch. IV, food stamp benefits under the food stamp program under 7 USC 2011 to 2036, supplemental security income payments under s. 49.77, payments for the support of children of supplemental security income recipients under s. 49.775, and health care benefits under the Badger Care health care program under s. 49.665. The department's activities under this subsection may include, but are not limited to, comparisons of information provided to the
department by an applicant and information provided by the applicant to other federal, state, and local agencies, development of an advisory welfare investigation prosecution standard, and provision of funds to county departments under ss. 46.215, 46.22, and 46.23 or multicounty consortia, as defined in s. 49.78 (1) (br), and to Wisconsin Works agencies to encourage activities to detect fraud. The department shall cooperate with district attorneys regarding fraud prosecutions.

**SECTION 12.** 49.197 (2) (b) 1. of the statutes is amended to read:

49.197 (2) (b) 1. Subject to subd. 2., the department shall by rule establish an incentive program that, using moneys from the appropriation under s. 20.437 (2) (mf) and from the allocation under s. 49.175 (1) (p), rewards county departments, Wisconsin Works agencies, and tribal governing bodies that administer the subsidy program for identifying fraud in the subsidy program. The rules shall specify that a county department, Wisconsin Works agency, or tribal governing body shall receive, for identifying fraudulent activity under the subsidy program on the part of a child care provider, an amount equal to the average monthly subsidy payment per child during the prior fiscal year, multiplied by the number of children participating in the subsidy program for whom the provider provides care, multiplied by 1.5 months. A county department, Wisconsin Works agency, or tribal governing body may use payments received under this subsection for any purpose for which moneys under the Temporary Assistance for Needy Families block grant program may be used under federal law.

**SECTION 13. Initial applicability.**

(1) **Child care provider payments.** The treatment of section 49.155 (6) (e) 3. (intro.), b., c., d., and e. and (6f) of the statutes first applies to payment for child care provided on the effective date of this subsection.
SECTION 14. Effective date.

(1) This act takes effect on the first day of the first month beginning after publication.

(END)