

- 1 **AN ACT** *to amend* 49.343 (2) (c); and *to create* 49.343 (4) (c) of the statutes; **relating**
2 **to:** appeals for child welfare provider rates.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council's Special Committee on Child Welfare Provider Rate Implementation.

2009 Wisconsin Act 28, the Biennial Budget Act, requires residential care centers (RCCs) for children and youth and group homes to annually submit to the Department of Children and Families (DCF) the per client rate that it proposes to charge for services provided in the next year. Also, a child welfare agency must submit to DCF the proposed per client administrative rate that it proposes to charge for foster care services provided in the next year. DCF must review the proposed rate and audit the RCC, group home, or child welfare agency to determine whether the proposed rate is appropriate to the level of services to be provided, the qualifications of the RCC, group home, or child welfare agency to provide those services, and the reasonable and necessary costs of providing those services. If DCF determines that a proposed rate submitted is appropriate, DCF must approve the proposed rate. If DCF does not approve the proposed rate, DCF must negotiate with the RCC, group home, or child welfare agency to determine an agreed to rate. If after negotiations a rate is not agreed to, DCF and the RCC, group home, or child welfare agency must engage in mediation under a rate resolution procedure promulgated by DCF by administrative rule to arrive at an agreed to rate. If after mediation a rate is not agreed to, the RCC, group home, or child welfare agency may not provide the service for which the rate was proposed.

The draft provides that if after negotiations a rate is not agreed to, DCF must order a rate for the service after considering the factors set forth under current law for reviewing a proposed rate. Under the draft, an RCC, group home, or child welfare agency may appeal the rate set by the department as a contested case under ch. 227 by filing a request for a hearing with DCF within 30 days after the date of the order.

1 **SECTION 1.** 49.343 (2) (c) of the statutes, as created by 2009 Wisconsin Act 28, is
2 amended to read:

3 49.343 (2) (c) If the department determines under par. (b) that a proposed rate submitted
4 under par. (a) is appropriate, the department shall approve the proposed rate. If the department
5 does not approve a proposed rate, the department shall negotiate with the residential care
6 center for children and youth, group home, or child welfare agency to determine an agreed to
7 rate. If after negotiations a rate is not agreed to, the department and residential care center for
8 children and youth, group home, or child welfare agency shall engage in mediation under the
9 rate resolution procedure promulgated by rule under sub. (4) to arrive at an agreed to rate. If
10 after mediation a rate is not agreed to, the order a rate for the service after considering the
11 factors under par. (b). A residential care center for children and youth, group home, or child
12 welfare agency may not provide the service for which the rate was proposed appeal the rate
13 set by the department as a contested case under ch. 227 by filing with the department a request
14 for a hearing within 30 days after the date of the order.

15 **SECTION 2.** 49.343 (4) (c) of the statutes, as created by 2009 Wisconsin Act 28, is created
16 to read:

17 49.343 (4) (c) Procedures for reviewing proposed rates, including procedures for
18 ordering a rate when negotiations fail to produce an agreed to rate.

COMMENT: This draft repeals the mediation requirement if a rate is not agreed to after negotiations between DCF and the provider. As the current provision is drafted, there is no departmental action to appeal. Instead, the provider is prohibited by statute from providing a service if there is no agreed to rate following mediation.

19 (END)