

Jim Doyle
Governor

Reggie Bicha
Secretary



State of Wisconsin
Department of Children and Families

201 East Washington Avenue, Room G200
P.O. Box 8916
Madison, WI 53708-8916

Telephone: 608-267-3905
Fax: 608-266-6836
dcf.wisconsin.gov

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TO: Legislative Council Special Committee on Child Welfare Provider Rate Implementation

FROM: John Tuohy, Department of Children and Families

RE: Legislative Proposals

0444/1 – Factors to consider in reviewing rates.

The bill draft would add the medical CPI index and whether providers are accredited to the existing list of factors to consider for rate setting. Adding these factors is acceptable to DCF.

0445/1 – Child welfare residential provider exemption from limits on reserves.

The draft bill would create a blanket exemption from the reserve limits for child welfare residential care providers, and as drafted, the exemption would not be limited to performance based contracting situations. DCF opposes creating a blanket exception to reserve limits for residential care providers. The current limits on reserves have a long history grounded in federal allowable cost policy and apply broadly to the full range of human service providers including mental health and substance abuse treatment. Having no limits on reserves for residential care providers would create inequities with other service providers and allowing unlimited reserves could cause problems for claiming federal Title IV-E funds.

DCF recommends a narrower approach that would allow DCF to authorize exceptions to the 10% cumulative limit on provider reserves under s.49.34(5m)(b)2 as part of the provider rate approval process. This would allow the flexibility for providers to accumulate larger reserves while being reimbursed under innovative performance based contracting approaches until experience resulted in a more predictable revenue stream. The overall 10% limit on cumulative reserves should remain in place, but DCF given the authority to waive s.49.34(5m)(b)2 on a year-to-year basis. With such statutory authority to make exceptions, the DCF administrative rules would include provisions allowing providers to request waivers of the reserve limits. Once the waiver ends, provider rates or the performance based reimbursement methods would need to be adjusted to bring provider cumulative reserves back within the 10% statutory limit.

Note: Current law already allows providers to exceed the 10% reserve limit for four consecutive contract periods before repayment through rate reductions is required.

0446/1 – Chapter 277 appeals of provider rate decisions

The language adopted in Act 28 specifies that DCF will establish a mediation process to resolve disputes with providers over rate decisions. The bill draft would replace the mediation process with Chapter 227 appeals for all rate disputes. DCF opposes using the Chapter 227 appeals process as the primary method to resolve provider rate disputes. A mediation process should be used as the primary mechanism to allow disputes to be resolved more quickly and minimize the impact of the lower rate being in effect while the dispute is in the resolution process. There is existing general statutory authority for providers to request a Chapter 227 hearing of adverse decisions made by DCF or other state agencies. The appeals process for rate issues can be clarified in the DCF administrative rules that will define the mediation process for residential care providers, as the rules already specify the appeals process for licensing issues.

0447/1 – Rate regulation advisory committee

The bill draft would require DCF to formally establish an advisory committee including provider and purchaser representatives to advise DCF in developing the administrative rules. DCF has already set up an advisory committee for this purpose.

The comment in the bill draft asks whether an advisory committee is needed on a permanent basis for the ongoing implementation of rate regulation. DCF intends to involve providers and purchasers in the ongoing implementation of rate regulation.

0448/1 – Third party review of child assessments

Under the graduated levels of care foster care licensing system approved in Act 28, DCF will implement a system for standardized assessments of children's needs to guide foster care placement decisions. The intent is for the standardized assessment process to be done for all children, including those going into residential care. The bill draft would require DCF to contract with an independent third party to do the child assessments for all children placed outside of the home.

DCF opposes this proposal for several reasons. The assessment of children's placement needs must be guided by the assessment of the family's needs and the services necessary to achieve the permanency and treatment objectives for the child. An independent contractor could not effectively integrate all of the information collected by case managers currently used to guide placement decisions. The involvement of the third party makes placement decisions more complicated and could delay the ability of child welfare agencies to make initial placements or placement changes. In addition, having a third party review all children would be prohibitively expensive as over 4,000 children enter out-of-home care in Wisconsin each year.

As DCF implements the standardized assessment process for children, training and technical assistance will be provided to child welfare agencies to ensure that the assessment tool is applied consistently to children.

0449/1 - Performance based contracting

The bill draft provides statutory direction to implement performance based contracting with residential care providers, including developing performance measures in 2011, piloting the measures in 2012 with no impact on provider reimbursement, and implementing the measures for reimbursement purposes in 2013.

The bill draft specifies that during the 2012 pilot period, there would be no rewards to providers meeting performance criteria or penalties to providers not meeting performance criteria. With the 2013 implementation period, providers meeting performance criteria would receive the "regular" per diem rate plus additional "bonus" payments at the end of the year. There is no mention of lower reimbursement for providers not meeting performance standards, so the bill draft would require that all providers would receive the regular per diem rate and more successful providers receive additional reimbursement, therefore significantly increasing costs for counties and BMCW.

This draft is consistent with the direction the Department is looking to go. However, under the current fiscal condition implementing this draft within the outlined time constraints could become problematic with the current staff available.

0450/1 – Rate adjustments for health insurance costs

The provider rate freeze required under Act 28 is intended to be a "total freeze" as a rate regulation process must be put into place and purchasers need fiscal relief from rate increases due to the effect of the economic recession on tax revenues. DCF opposes making an exception to the 2010 rate freeze for provider health insurance costs. The ongoing impact of health insurance costs can be factored into the rate approvals for 2011.

