



## Legislative Fiscal Bureau

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May 18, 2001

Joint Committee on Finance

Paper #519

### **Birth-to-Three Program (DHFS -- Community Aids and Supportive Living)**

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#### **CURRENT LAW**

The early intervention program for infants and toddlers up to three years of age with disabilities, commonly referred to as the birth-to-three program, is a federal program authorized under Part C of the Individuals with Disabilities Education Act (IDEA). Under the program, Wisconsin supplements federal grant funds with state funds to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for infants and toddlers with disabilities and their families.

The goals of the birth-to-three program, as expressed in the federal legislation, are to: (a) enhance the development of infants and toddlers with disabilities and to minimize their potential for developmental delay; (b) reduce the educational costs to society and schools, by minimizing the need for special education and related services; (c) minimize the likelihood of institutionalization of individuals with disabilities and maximize their potential for independent living in society; (d) enhance the capacity of families to meet the special needs of their infants and toddlers with disabilities; and (e) enhance the capacity of state and local agencies and providers to identify, evaluate and meet the needs of historically underrepresented populations, particularly minority, low-income, inner-city and rural populations.

Counties are responsible for administering the program, based on state and federal guidelines. Counties have the following primary responsibilities:

- Establishing a comprehensive child find system to identify, locate and evaluate children who may be eligible for the birth-to-three program;
- Designating a service coordinator for every child referred to the program for evaluation;

- Ensuring that core services, such as evaluation, service coordination and the development of an individualized family service plan (IFSP) are provided to families at no cost; and
- Determining parental liability for services received in accordance with the IFSP.

Children receive evaluations from a team of professionals to determine whether they are eligible for the program. Each team includes the service coordinator and at least two professionals from different disciplines of suspected areas of need. Such an evaluation must be done in consultation with the child's parents.

A child is considered eligible if he or she is under three years of age and has a developmental delay or is determined to have a physician-diagnosed and documented physical or mental condition that has a high probability of resulting in a developmental delay.

Once eligibility is determined, an assessment is conducted by the early intervention team to further identify the unique needs of the child and his or her family. The results of the assessment are used by a team of professionals, the service coordinator, the parents, other family members and an advocate if requested by the parent, to develop the IFSP. The IFSP must include a statement of the outcomes expected to be achieved for the child and family, how those outcomes will be achieved, a timeline for the provision of services, the manner in which the services will be provided and how the services will be paid.

DHFS allocates funding to counties on a calendar year basis, but supports these county contracts with funds budgeted on a state and federal fiscal year basis. In state fiscal year 2000-01, \$4,759,200 GPR is budgeted for the program. The estimated 2000-01 federal fiscal year federal grant amount is \$6,217,800. In addition, program services are supported by medical assistance (MA) and other third party-payers and county funds.

## **GOVERNOR**

Maintain base funding of \$4,759,200 GPR annually to support the birth-to-three program.

## **DISCUSSION POINTS**

1. During public hearings on the Governor's budget recommendations, the Committee heard testimony from numerous individuals in support of increased funding for the birth-to-three program. This paper provides information on the program and several options the Committee may wish to consider in response to this testimony.

### **County Funding Concerns**

2. As of December 1, 2000, 5,157 children were being served statewide in the birth-to-

three program. From December 1, 1999 through December 1, 2000, the statewide caseload increased by 528 children, or 11%. This increase followed the highest one-year caseload increase in the state's ten-year program history of 676 children from December 1, 1998 to December 1, 1999. There is no readily apparent explanation for this significant increase in caseloads over 1998-1999. However, counties are now serving more children in the birth-to-three program than ever before. With stable state funding and minor increases in federal funding, counties are funding a greater share of total program costs.

The following table shows the increase in the statewide birth-to-three caseload from 1992 to 2000.

**TABLE 1**  
**Statewide Birth-to-Three Caseloads**  
**(as of December 1 of each year)**  
**1992 - 2000**

<u>Calendar Year</u>	<u>Caseload</u>	<u>Percent Change</u>
1992	2,492	--
1993	2,997	20%
1994	3,321	11
1995	3,616	9
1996	3,817	6
1997	3,887	2
1998	3,953	2
1999	4,629	17
2000	5,157	11

1. Birth-to-three is a federal entitlement program; therefore, counties may not place children on waiting lists for services. However, providing additional state funding for the program would reduce the amount of funding counties would otherwise expend to support the program. Additionally, increasing state funding for the program could have an effect on other county human service programs. Since birth-to-three is an entitlement program with increasing costs, counties may reallocate funding from other, non-entitlement programs to fund the birth-to-three services instead.

2. Federal funds are available under Part C of IDEA. The amount of funding a state is allocated is determined by a formula based on the number of children up to age three in a state, in relation to the national population of children up to age three. The following table shows the level of federal funding Wisconsin has received from federal fiscal year 1996 through 2000.

**TABLE 2**

**Federal Funding Allocations to Wisconsin  
Federal Fiscal Year 1995-96 to 1999-00**

<u>Federal Fiscal Year</u>	<u>State Allocation</u>
1995-96	\$5,553,800
1996-97	5,553,800
1997-98	5,672,900
1998-99	6,003,000
1999-00	6,102,700

This funding can be used by the state for: (a) maintenance and implementation of the statewide birth-to-three program; (b) direct early intervention services for eligible children and their families; and (c) expansion and improvement on services for eligible children and their families.

3. In 2000-01, \$4,759,200 GPR and \$5,289,400 FED was distributed to counties and tribes to support their birth-to-three programs. DHFS distributes state and federal birth-to-three funds to counties under a formula that uses three factors: (a) the amount of funding the county formally received under Chapter 1, a special education program that was a precursor to the birth-to-three program, so that counties were held harmless once the Chapter 1 federal funds were no longer available; (b) the community aids formula; and (c) 2.5% of the 1990 birth rate.

4. Each county must satisfy a maintenance of effort (MOE) requirement so that, in each year, the county must spend at least as much on early intervention services as the county spent in calendar year 1990. In that year, counties reported spending a total of \$5,371,460 for these services. MOE levels vary from zero in Jackson and Price counties to \$1,401,100 in Milwaukee County. Since 1997, the amount of total program costs that are supported by county funds have increased from \$7,989,900 (42%) in 1997 to \$9,337,400 (45%) in 1999.

5. DHFS distributes all of the GPR funding budgeted for the birth-to-three program to counties and tribes. Of the federal funds, in state fiscal year 2000-01, \$5,099,200 was provided to counties and \$1,003,500 was retained by DHFS to cover vendor contracts and administrative and operating costs. DHFS vendor, administrative and operating costs include support for 4.5 FED positions, direct program costs, and federally required services and supportive programs for counties. These state costs are considered by DHFS as indirect funding to counties, since they support the county birth-to-three programs.

6. Counties are expecting their costs to support the birth-to-three program to increase over the next few years because of changes in state and federal policy, and continued decreasing revenue from private insurance companies to support program costs as described in the discussion points below.

7. *Newborn Hearing Screening Program.* 1999 Act 9, the 1999-01 biennial budget act,

established the newborn hearing screening program. Under this program, an infant (birth to three months of age) may be tested, using currently available medical techniques, to determine if the infant has a hearing loss. Beginning July 1, 2002, and annually thereafter, DHFS is required to collect information from hospitals for the previous calendar year on the number of deliveries in each hospital and whether the hospital has a newborn hearing screening program. DHFS is then required to use this information to determine the percentage of deliveries in the state that are performed in hospitals with newborn hearing screening programs by July 1, 2003, and annually thereafter.

If, by August 5, 2003, DHFS determines that fewer than 88% of all deliveries in the state are performed in hospitals that have a newborn hearing screening program, DHFS will notify all hospitals that every hospital must establish a newborn hearing screening program that is available to all infants delivered in the hospital by January 1, 2004.

8. This change in state law is expected to increase the birth-to-three caseload and therefore, increase program costs. DHFS staff expect this new law, when fully implemented, to increase statewide caseloads by an estimated 200 cases per year. Even though some of these children would have been enrolled in the birth-to-three program without the newborn hearing screening program, their developmental delays may have been detected at a later stage, and therefore these children would have received services available under the birth-to-three program for a shorter duration.

9. *Private Insurance Reimbursement Changes.* Federal policy changes have increased the amount of services children receive in natural environments – where the child would be if he/she did not have disability – so that more services are provided in the child's home or day care center, rather than in clinics. From December, 1992, through December, 1999, there has been a 10.6% decrease in the number of services provided in classrooms and a 303.5% increase in the number of services provided in homes. These services are less frequently reimbursed by private insurance policies.

10. Additionally, private insurance companies are increasingly treating birth-to-three services as habilitative (services that provide a skill that an individual never had) rather than rehabilitative services (services to help an individual regain the capacity to execute a previously held skill), and thus are not funding these services.

11. *MA Eligibility.* DHFS staff estimate that 75% of the children currently enrolled in the birth-to-three program are MA eligible. Therefore, the MA eligible services that these children receive are billed to MA. However, with changes in the federal regulations in 1997 that increased the amount of services children receive in natural environments, even though the services may still be MA reimbursable, service providers' travel time and transportation costs are not. Counties and service providers are therefore now absorbing these additional costs. DHFS staff estimate that the costs associated with the natural environment requirement totals approximately \$3,000,000 annually.

## **Eligibility Changes**

12. Under federal law, states may change eligibility requirements and parents' share of costs. DHFS staff, in collaboration with counties, have examined both of these options as a way to reduce counties' costs. DHFS staff have developed a new cost-share system that is currently being used on a trial basis by counties. This is expected to increase the amount of revenue available to counties to support birth-to-three program costs. However, since many families with children enrolled in the program would still be exempt from the cost-share provisions, this change is not expected to address the counties' concerns over their increasing costs of providing services.

13. Under current administrative rule, a child is eligible for the birth-to-three program if he or she has a diagnosed physical or mental condition which will likely result in a developmental delay or if the IFSP team determines that the child is developmentally delayed. A developmental delay is currently defined as a delay of at least 25% in one or more areas of development.

14. DHFS has identified two ways to reduce eligibility for this program as a means of reducing program costs. First, the definition of a developmental delay could be modified to require a 25% total delay for a given developmental area, rather than solely a delay in one aspect of the developmental area. DHFS staff estimate that, under this change, 300 fewer children would be eligible for the program in a given year, at an estimated annual cost savings of \$1.3 million.

Second, the level of delay could be increased from 25% to 30% in one area of development. DHFS staff estimate that under this change, approximately 1,000 fewer children would be eligible for the program, at an estimated cost savings of \$1.4 million in the first year of implementation and \$2.8 million in the second year.

Either of the eligibility or cost-share options would not require statutory language changes, but would require changes to the administrative code.

15. However, DHFS staff indicate that counties are not supportive of changes in eligibility because early intervention services, as provided in the birth-to-three program, result in cost savings to the county and state in the long run by reducing the level of special education and other supportive services required for the child over his or her life. For this reason, DHFS may not propose administrative rule changes to modify these definitions if additional GPR funding is provided for the program in the 2001-03 budget.

## **Funding Options**

16. The Committee could decide to increase funding for the birth-to-three program to enable counties to serve the higher projected caseload while maintaining the level and quality of services provided to families. Even though this program is an entitlement, counties have indicated to DHFS that they are unable to support the higher caseloads at the same level of care, based on current state and federal funding provided for the program and their need to meet other human service needs. Continuing to provide counties with the same level of state funding may affect the level and quality of services that families receive under the program. Several options are presented for the Committee's consideration.

17. *Fund Specified Percentage of Total State, Federal and County Costs.* The Committee could decide to increase funding for the program to enable DHFS to increase counties' birth-to-three allocations such that each county would receive an amount that represents a specified minimum percentage of the total state, federal and county costs incurred in calendar year 1999. For example, under one alternative, \$2,039,300 GPR annually would be provided to increase funding for 43 counties so that these counties' future allocations would represent 60% of total state, federal and county calendar year 1999 costs. DHFS staff have indicated that those counties that currently support 60% or more of their program costs with state and federal funds report fewer fiscal problems and better program capacity in their birth-to-three program. Counties that do not receive at least 60% of their costs from state and federal funding report greater difficulties providing all necessary components of the birth-to-three program. This does not take into account projected future increases in costs. Rather, this alternative would target additional funding to counties with the smallest percentage of costs that are currently reimbursed by the state.

18. Alternatively, the Committee could increase counties' birth-to-three allocations such that each county would receive an amount that represents 50% of the total state, federal and county calendar year 1999 costs. This alternative would provide \$804,200 GPR annually to increase funding for 27 counties so that these counties' future allocations would represent 50% of the total state, federal and county calendar year 1999 costs. This alternative does not take into account projected future increases in costs. Rather, this alternative would also target additional funding to counties with the smallest percentage of costs that are currently reimbursed by the state.

19. *Fund a Portion of the County Overmatch.* The Committee could provide counties with funding equal to the difference between county expenditures and county MOE requirements, or, in other words, equal to the county overmatch. In 1999, the overmatch for this program was \$4,015,300. Consequently, the Committee could increase funding by this amount annually in order to fully fund the amount of the overmatch reported in that year.

20. Similar to the previous alternative, the Committee could increase funding so that the state would pay the difference between the current overmatch amount (\$4,015,300) and an amount that represented a 50% increase in each county's 1990 MOE amount. Under this option, a total of \$2,325,500 GPR would be provided annually to 36 counties. The counties that would not receive additional funding under this alternative would be those counties that did not expend at least 150% of their 1990 MOE amount in 1999. This estimate does not include projected increases in the birth-to-three caseload over the next three years.

21. *Fund a Portion of the Projected Caseload.* To take into account future projected increases in birth-to-three caseloads, the committee could provide funding equal to 60% of the 1997 average annual expenditures per child ( $\$4,902 \times .60 = \$2,941$ ), multiplied by the DHFS estimate of the number of children who will be served in the future (5,101 annually). The 1997 average annual expenditure per child is used here because DHFS staff indicate that 1997 was the most recent year in which the average expenditure per child was sufficient to meet the needs of children and families. However, counties in which state and federal funds would exceed 60% of the costs of providing services to this projected caseload would not receive more or less funds under this proposal. It is estimated that approximately \$5,408,500 GPR would be needed annually to fund this proposal to an

estimated 48 counties. This estimate is based on the 1997 expenditure level per child, a point where DHFS staff indicate that counties had adequate funds to meet the needs of children and families.

22. The Committee could also require counties to maintain their level of funding commitment in calendar year 1999. This would reestablish the maintenance of effort requirement for counties at their 1999 level of spending. However, for this requirement to be equitable, the Committee could authorize DHFS to exempt counties that can demonstrate extraordinary efforts in from this requirement and establish that county's MOE at a different level.

23. *MA Enhanced Rate Maximum Reimbursement.* Another option to support counties' costs to fund birth-to-three services would be to increase the maximum MA reimbursement rate for services provided to children enrolled in birth-to-three in the child's natural environment. By providing an enhanced maximum reimbursement rate for services provided in this environment, providers would no longer require additional reimbursement from counties for transportation and travel costs associated with providing services in a child's natural environment. In addition, providers who are not receiving reimbursement for transportation and travel costs from counties would be able to support these higher costs with the enhanced maximum reimbursement rate.

24. To implement an enhanced maximum reimbursement rate would require: (a) a change to the state's MA state plan; (b) a public notice of the rate change prior to its implementation; and (c) programming changes to the MA claims processing system so that providers could identify whether a service was provided to a birth-to-three enrollee in a natural environment. Because of the timing involved with these actions, DHFS indicates that it would be appropriate to have such a change effective January 1, 2002.

25. It is estimated that the cost of funding providers' costs to provide services in a natural environment through an enhancement to the MA maximum reimbursement rate, effective January 1, 2002, would total \$1,553,100 (\$640,700 GPR and \$912,400 FED) in 2001-02 and \$3,148,200 (\$1,306,400 GPR and \$1,841,800 FED) in 2002-03. It is estimated that this funding would provide an enhancement equal to 27% of the maximum reimbursement rate available for services provided to MA-eligible children enrolled in birth-to-three.

26. The Committee could require DHFS to implement the enhancement to MA maximum reimbursement rates by appropriating the estimated amount of GPR to the MA benefits appropriation.

27. Alternatively, if the Committee wishes to assist counties in accessing additional federal funds available under MA to support birth-to-three costs without appropriating additional GPR, the Committee could budget the estimated amount of GPR funds in the MA benefits appropriation and provide a corresponding decrease in the GPR appropriation for the birth-to-three program. Since increasing MA reimbursements for these services would relieve a portion of counties' costs of providing these services, decreasing the birth-to-three appropriation to offset the increase in MA could be appropriate. Counties would still benefit under this alternative, since it would increase the amount of federal funds available to fund a portion of birth-to-three costs, but it would not provide any additional GPR for program costs.



## ALTERNATIVES

### A. Governor's Recommendation

1. Maintain base GPR funding for the program (\$4,759,200 GPR annually).

### B. Fund Specified Minimum Percentage of the Total State, Federal and County Costs

1. Provide \$1,019,700 GPR in 2001-02 and \$2,039,300 GPR in 2002-03 to DHFS to increase counties' birth-to-three allocations, beginning in January, 2002, such that each county would receive an amount that represents 60% of the total state, federal and county calendar year 1999 costs. Require counties to maintain their calendar year 1999 level of funding for the birth-to-three program. Authorize DHFS to exempt counties that can demonstrate extraordinary efforts in calendar year 1999 from this requirement and establish that county's maintenance of effort at an agreed upon level.

<b>Alternative B1</b>	<b>GPR</b>
<b>2001-03 FUNDING</b> (Change to Bill)	\$3,059,000

2. Provide \$402,100 GPR in 2001-02 and \$804,200 GPR in 2002-03 to increase counties' birth-to-three allocations, beginning in January, 2002, such that each county would receive an amount that represents 50% of the total state, federal and county calendar year 1999 costs. Require counties to maintain their calendar year 1999 level of funding for the birth-to-three program. Authorize DHFS to exempt counties that can demonstrate extraordinary efforts in calendar year 1999 from this requirement and establish that county's maintenance of effort at an agreed upon level.

<b>Alternative B2</b>	<b>GPR</b>
<b>2001-03 FUNDING</b> (Change to Bill)	\$1,206,300

### C. Fund a Portion of the County Overmatch

1. Provide \$2,007,700 GPR in 2001-02 and \$4,015,300 GPR in 2002-03 to increase counties' birth-to-three allocations, beginning in January, 2002, such that each county would receive an amount that equals their overmatch expenditures in calendar year 1999. Require counties to maintain their calendar year 1999 level of funding for the birth-to-three program. Authorize DHFS to exempt counties that can demonstrate extraordinary efforts in calendar year 1999 from this requirement and establish that county's maintenance of effort at an agreed upon level.

<b>Alternative C1</b>	<b>GPR</b>
<b>2001-03 FUNDING</b> (Change to Bill)	\$6,023,000

2. Provide \$1,162,800 GPR in 2001-02 and \$2,325,500 GPR in 2002-03 to increase counties' birth-to-three allocations, beginning in January, 2002, such that each county would receive an amount that represents additional expenditures in calendar year 1999 above 150% of the county's 1990 MOE level. Require counties to maintain their calendar year 1999 level of funding for the birth-to-three program. Authorize DHFS to exempt counties that can demonstrate extraordinary efforts in calendar year 1999 from this requirement and establish that county's maintenance of effort at an agreed upon level.

<u>Alternative C2</u>	<u>GPR</u>
<b>2001-03 FUNDING</b> (Change to Bill)	\$3,488,300

**D. Fund a Portion of the Projected Caseload**

1. Provide \$2,704,300 GPR in 2001-02 and \$5,408,500 GPR in 2002-03 to increase counties' birth-to-three allocations, beginning in January, 2002, such that each county would receive an amount that supports 60% of the costs of the providing services to the projected caseload over the biennium. However, counties in which state and federal funds would exceed 60% of the costs of providing services to this projected caseload would not receive any change in their funding allocations. Require counties to maintain their calendar year 1999 level of funding for the birth-to-three program. Authorize DHFS to exempt counties that can demonstrate extraordinary efforts in calendar year 1999 from this requirement and establish that county's maintenance of effort at an agreed upon level.

<u>Alternative D1</u>	<u>GPR</u>
<b>2001-03 FUNDING</b> (Change to Bill)	\$8,112,800

**E. MA Enhanced Reimbursement Rate**

1. Provide \$1,553,100 (\$640,700 GPR and \$912,400 FED) in 2001-02 and \$3,148,200 (\$1,306,400 GPR and \$1,841,800 FED) in 2002-03 in the MA benefits appropriations to fund the cost of providing an enhancement to the maximum MA reimbursement rate available for MA services provided to children enrolled in the birth-to-three program and provided in the child's natural environment. This enhancement would first be available January 1, 2002.

<u>Alternative E1</u>	<u>GPR</u>	<u>FED</u>	<u>Total</u>
<b>2001-03 FUNDING</b> (Change to Bill)	\$1,947,100	\$2,754,200	\$4,701,300

2. Adopt Alternative E1, but provide a corresponding decrease in the GPR appropriation for birth-to-three (\$640,700 in 2001-02 and \$1,306,400 in 2002-03) to offset the GPR increase in the MA benefits appropriation to reflect that the increase in MA benefits would reduce counties' costs of providing services in a child's natural environment. Authorize DHFS to reduce

allocations only for counties that had been funding MA providers' transportation and travel time costs in calendar year 1999.

<u>Alternative E2</u>	<u>FED</u>
<b>2001-03 FUNDING</b> (Change to Bill)	\$2,754,200

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