



## Legislative Fiscal Bureau

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May 8, 2007

Joint Committee on Finance

Paper #437

### **License Fees for CBRFs and Adult Family Homes (DHFS – Disability and Elder Services)**

#### *Bill Agency*

[LFB 2007-09 Budget Summary: Page 332, #9]

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#### **CURRENT LAW**

Community-based residential facilities (CBRFs) are community facilities where five or more adults who are not related to the operator or administrator and who do not require care above intermediate level of care reside and receive care, treatment, or services that is more than simply room and board, but does not include more than three hours of nursing care per week per resident. CBRFs range in size from five to 257 beds. As of January, 2007, there were 1,379 licensed CBRFs in the state, with a total capacity of 22,379 beds.

An adult family home (AFH) is a place where three or four adults who are not related to the operator reside and receive care, treatment, or services that are above the level of room and board and may include up to seven hours per week of nursing care per resident. As of January, 2007, there were 1,049 AFHs in Wisconsin, with a total capacity of 4,059 residents.

Client groups served by CBRFs and AFHs include elderly individuals, individuals with alcohol or drug dependency, correctional clients, individuals with physical or developmental disabilities, individuals with mental illness, Alzheimer's disease, AIDS, or traumatic brain injury, pregnant women, people who are terminally ill, and individuals who are served under the state's medical assistance (MA) long-term care waiver programs.

The following licensing fees are established by statute: (a) for an AFH, a biennial fee of \$135; (b) for a CBRF, a biennial fee of \$306, plus a biennial fee of \$39.60 per resident. The revenues generated by these fees support DHFS staff positions that oversee and license these facilities.

## **GOVERNOR**

Authorize DHFS to establish, by rule, biennial license fees for AFHs and CBRFs, including CBRF per resident fees. Direct DHFS to submit rules to implement the fees to the Legislative Council staff no later than November 1, 2007.

## **DISCUSSION POINTS**

1. The Department of Administration's budget staff indicates that this provision was included in the bill in response to a request from DHFS. At the time that the Department was preparing its biennial budget request, there was some uncertainty as to whether or not the estimated revenues generated by the current fees would be sufficient to support anticipated staff costs over the 2007-09 biennium. Rather than proactively request an increase in fees that may or may not be necessary, DHFS staff requested the ability to determine the amount of the fees in administrative rule, so that the Department would have greater flexibility to modify fees as the need arose, rather than through biennial budget requests.

2. The Department has since estimated that anticipated revenues from the current fees are likely to be sufficient to support anticipated program costs in the 2007-09 biennium. Consequently, it may not be necessary to provide DHFS with this authority. Further, while fee increases have historically been addressed as part of the biennial budget process, these fees could be modified under separate legislation should fee increases become necessary in the future.

3. Alternatively, it could be argued that while allowing the Department to establish these fees through administrative rule may decrease legislative oversight, the requirement that administrative rule changes be reviewed and approved by legislative committees prior to implementation preserves a level of legislative oversight. If the Committee determines that the amount of oversight provided through legislative review of administrative rule changes is sufficient, the Committee could approve the Governor's recommendations.

## **ALTERNATIVES TO BILL**

1. Approve the Governor's recommendation to allow DHFS to establish, by rule, biennial license fees for AFHs and CBRFs, including CBRF per resident fees. Direct DHFS to submit rules to implement the fees to the Legislative Council staff no later than November 1, 2007.

2. Delete provision.

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