Legislative Fiscal Bureau
One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873
Email: fiscal.bureau@legis.wisconsin.gov • Website: http://legis.wisconsin.gov/lfb

June, 2021 | Joint Committee on Finance | Paper #203

Wisconsin Shares Eligibility
(Children and Families -- TANF and Economic Support)

[LFB 2021-23 Budget Summary: Page 88, #7 and #8]

CURRENT LAW

Wisconsin Shares provides child care assistance for low-income families to enable them to work or prepare for employment through Wisconsin Works, or through a combination of work and education or training programs. Under the program, the state subsidizes the cost of child care charged by providers chosen by the parent. The Department of Children and Families (DCF) uses market surveys to establish the maximum reimbursement amount Wisconsin Shares will pay for child care. Families must pay a portion of this amount (the copay), which depends on income, family size, and the number of children in care.

Initial eligibility for Wisconsin Shares is limited to families with gross income of no more than 185% of the federal poverty level (FPL), which is $40,626 for a family of three in 2021. The copayments of participating families whose incomes increase above the 200% FPL threshold increase by $1.00 for every $3.00 by which the family's gross income exceeds 200% of the FPL. These families retain eligibility until either the copayment reduces the subsidy to $0 or their income increases to the exit threshold of 85% of state median income. Once a case has been closed for more than a calendar month, the family must reapply using the 185% FPL standard.

In general, the definition used to determine income includes all earned and unearned income of the individual, except: (a) assistance received for participation in Wisconsin Works; (b) federal and state earned income tax credits and any federal income tax refund; (c) certain types of loans, in-kind income, and vendor payments; (e) income earned by a dependent child; (f) child support payments, if less than $1,250 per month; and (g) federal or state student financial aid or any scholarship used for tuition and books. However, under administrative rules, any income from sources that must be disregarded by federal or state law for purposes of determining eligibility for means-tested programs are not be counted as income.

DISCUSSION POINTS

1. As discussed in a separate paper, the American Rescue Plan Act (ARPA) of 2021 provided substantial one-time funds for child care programs in Wisconsin, including $223.3 million in funding under the Child Care and Development Block Grant Act. This federal funding is available to support eligible services through September 30, 2024. This paper provides options to use some of these additional federal funds, and ongoing TANF funds, to expand eligibility for Wisconsin Shares.

Deduction of Child Support Payments

2. Some children whose parents live in separate households receive child care services supported by Wisconsin Shares. In these cases, each parent has the option to apply for Wisconsin Shares for the time the child is residing in their household.

3. Under DCF's current procedures, child support payments that exceed $1,250 per month are considered unearned income for the child, but earned income for the parent who pays the child support (payor). Consequently, in the case of a payor with shared placement that applies for Wisconsin Shares, the child support payment is double-counted for purposes of income eligibility and for determining copays.

4. For example, assume Larry has monthly earned income of $2,500 and pays $1,255 in child support each month to Wendy on behalf of his four-year-old child. Current law permits both Wendy and Larry to apply for Wisconsin Shares for the portion of time related to their respective shared placement. When Wendy applies, her family's income includes the $1,255 in unearned income attributable to the child support payments for the child. The same is also true for Larry. That is, when Larry applies for Wisconsin Shares, his income is determined as the sum of his earned income ($2,500) and the unearned income for the assistance group (the $1,255 of child support paid on behalf of the child). Thus, although Larry's income is at 172% of the FPL, his income would be considered to be at 259% FPL for purposes of Wisconsin Shares financial eligibility and for determining copays. Larry's child would therefore be ineligible to participate in Wisconsin Shares for Larry's portion of the shared placement because he pays child support that is included in the income for Wendy's portion of the shared placement.

5. The Committee could address the issue of double counting child support payments in situations where there are shared placements so that, in these cases only, neither the portion of the payor's earned income the payor uses to pay child support, nor the child's unearned income deriving from the child support payment, would be counted for purposes of income eligibility and copay determinations. DCF estimates that this change would increase Wisconsin Shares benefits payments by $303,500 annually. In addition, DCF estimates that it would incur one-time costs totaling $380,600 FED in 2021-22 to make this change to its information technology systems that are used for eligibility and benefits determinations. DCF would make the necessary program updates as a matter of policy, without statutory changes. This proposal is offered as Alternative A1.

6. Provisions in AB 68/SB 111 would also provide funding for DCF to address this issue, but the treatment of child support payments as income would apply for all cases where the payor provides child support for a child outside the home, not solely in cases involving shared placements. For example, a payor applying for Wisconsin Shares for a child living at home would deduct child support payments made on behalf of a second child that does not reside in the home.

7. AB 68/SB 111 would increase funding for Wisconsin Shares benefits by $1,332,400 FED annually, beginning in 2021-22, to implement this change. This funding would support the estimated costs of: (a) reduced revenue from copayments, which would increase Wisconsin Shares issuance ($180,000 annually); (b) deducting child support payments from earned income of the payors ($848,900 annually); and (c) deducting child support payments from the unearned income of the child's financial assistance group ($303,500 annually). The bill would increase funding for the state's administration of Wisconsin Shares by $380,600 FED in 2021-22 to support one-time information technology systems changes ($380,600 in 2021-22). The total estimated cost of this change is $3,045,000 FED in the biennium. The bill contains no statutory changes relating to this change in the treatment of gross income, as DCF has implemented the current practice as a matter of policy. This option is presented as Alternative A2.

In summary, current practice double counts the child support payment when both the payor and payee apply for Wisconsin Shares on behalf of different children. Once, as the earned income of the payor when applying on behalf of a child in the home, and again as the unearned income of the payee family when they apply for Wisconsin Shares benefits.

8. Under either approaches offered in Alternatives A1 or A2, the deduction would accurately reflect that the child support payment is not supporting the child living at home, and would therefore more fairly reflect the income of the family applying for child care subsidies.

9. However, applying the deduction to all cases of child support paid on behalf of children residing outside the home could result in more favorable treatment of such families compared to families that take care of all their children in the home. For example, a three-person family with two children living at home would not receive a deduction, whereas a two-person family would receive a deduction for paying child support on behalf of a second child living outside the home. Even though these two families may have the same income and expenses, the same expenses earn a deduction for Wisconsin Shares eligibility and copay determination simply because they are paid via child support.

10. Further, the proposed treatment of child support payments under Alternative A2 is inconsistent with the treatment of child support payments provided under the state and federal individual income tax. For purposes of tax law, child support payments are not deductible by the payor, nor taxable to the payee (the custodial parent). This is because the personal expenses of supporting a child are generally not tax deductible, and so the earned income remains taxable just like income spent for other nondeductible reasons. Consequently, the Committee may decide that the fact that a family pays child support on behalf of a child outside the home is not a sufficient reason to provide a deduction for purposes of Wisconsin Shares income eligibility.

11. If the Committee wishes to make a change to the in the treatment of child support payments for the purpose of determining eligibility and benefits under Wisconsin Shares, as provided

under Alternative A2, it could also create a statutory provision that specifies that any child support payments a custodial parent receives will be deducted from the custodial parent's countable income, but not the payor's countable income (Alternative A3).

Income Disregard for Direct Care Workers

12. In the Budget in Brief, the administration indicated that Wisconsin faces a critical shortage of direct care workers to serve people with chronic conditions and disabilities, as well as the state's growing population of older residents. The Governor's Taskforce on Caregiving recommended that the Wisconsin Shares program be modified to permit direct support professionals to disregard a portion of their income related to caregiving without losing eligibility to child care subsidies under Wisconsin Shares.

13. DCF estimated that allowing direct care workers to disregard $10,000 of income when applying for and calculating Wisconsin Shares subsidies would cost $600,000 annually due to reduced copayments by participating families. AB 68/SB 111 would increase funding for Wisconsin Share benefits to fund this cost estimate.

14. However, because the policy would also apply to financial eligibility determinations, there would be an additional cost for subsidies paid on behalf of families that otherwise would not be eligible. Based on participation data in Wisconsin Shares and employment and wage data from the Quarterly Census of Employment and Wages, in Wisconsin in 2019 it is estimated that an additional 500 families could become eligible and apply for subsidies under the policy. Assuming an average cost of $600 per case per month, it is estimated that costs could increase by $3.6 million FED annually above the amount in the bill ($0.6 million FED) so that the total cost of this disregard would be $4.2 million annually.

15. On the other hand, the Committee could determine that the same income eligibility standards should apply for all applicants, regardless of their occupation. For that reason, the Committee may decide to take no action on this item, and instead consider eligibility changes which would apply for all applicants.

Expanded Eligibility Threshold

16. Under current law, applicants are financially eligible for Wisconsin Shares if their annual income is at or below 185% of the FPL. They remain financially eligible so long as their income remains at or below the exit threshold of 85% of the state median income ($68,382 for a family of three based on the standard used for the federal low income home energy assistance program). However, the required copays increase by $1 for every $3 a participating family's income increases above the 200% FPL phase-out threshold.

17. Due to the difference between the initial eligibility threshold and the phase-out threshold, applicants with incomes of more than 185% of the FPL and less than 200% of the FPL are not eligible to participate in Wisconsin Shares, even though other families having that same income may remain in the program because they qualified under the initial 185% FPL threshold.

18. In order to provide for more equitable treatment of applicants with incomes between 185% and 200% of the FPL, the Committee could change current law to set a single initial eligibility and phase-out threshold at 200% of the FPL, after which copays would increase up to the exit threshold at 85% of the state median income, as under current law (Alternative C1).

19. It is estimated that increasing the initial income eligibility threshold from 185% of the FPL to 200% of the FPL would increase expenditures for child care subsidies in Wisconsin Shares by approximately $5,000,000 FED annually. The estimate is derived from the average cost of care using Wisconsin Shares data in 2019 from DCF for a projected income distribution of participating families. The distribution of participating families was estimated by comparing tax sample information provided by the Department of Revenue on the income distribution of federal income tax filers in Wisconsin for tax year 2018 (the most recent year available).

20. Another option would be to increase the phase-out threshold of 200% of the FPL to 220% of the FPL, in addition to increasing the initial eligibility threshold to 200% of the FPL (Alternative C2). It is estimated that increasing both the initial eligibility threshold and the phase-out threshold in this manner would increase expenditures by $22,000,000 FED annually.

ALTERNATIVES

A. Deduct Child Support Payments from Income

1. Increase Wisconsin Shares benefit funding by $303,500 FED annually to support the costs of deducting child support payments in cases of shared placements for the purpose of determining Wisconsin Shares income eligibility and benefits. In addition, provide $380,600 FED in 2021-22 to support the one-time costs of modifying information technology systems to automatically deduct child support payments.

ALT A1	Change to Base
FED	$987,600

2. Increase Wisconsin Shares benefits funding by $1,332,400 FED annually to support the costs of implementing a program to deduct child support payments for the purpose of determining Wisconsin Shares income eligibility and benefits in all cases where the payor pays child support on behalf of a child residing outside the home. Also, provide $380,600 in 2021-22 to support the one-time costs of modifying information technology systems to automatically deduct child support payments.

ALT A2	Change to Base
FED	$3,045,400

3. Adopt the funding change in Alternative A2. In addition, add a statutory provision that

would require, for the purposes of determining eligibility and copayments for Wisconsin Shares, that child support payments be deducted from the countable income of the custodial parent who receives the child support payments, but not from the individual who pays the child support.

ALT A3	Change to Base
FED	$3,045,400

4. Take no action.

B. Income Disregard for Direct Care Workers

1. Provide $4,200,000 FED annually to support the cost of disregarding up to $10,000 of income of direct care workers when applying for and calculating Wisconsin Shares.

ALT B1	Change to Base
FED	$8,400,000

2. Take no action.

C. Expand Financial Eligibility Threshold

1. Provide $5,000,000 FED annually to increase the initial eligibility threshold for Wisconsin Shares from 185% of the FPL to 200% of the FPL.

ALT C1	Change to Base
FED	$10,000,000

2. Provide $22,000,000 FED annually to: (a) increase the initial eligibility threshold for Wisconsin Shares from 185% of the FPL to 200% of the FPL; and (b) increase the exit threshold from 200% of the FPL to 220% of the FPL.

ALT C2	Change to Base
FED	$44,000,000

3. Take no action.

Prepared by: John D. Gentry