



Legislative Fiscal Bureau

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June 21, 2006

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Health and Family Services: Section 13.10 Request for Funding for Community Integration Waiver Services -- Agenda Item II

REQUEST

The Department of Health and Family Services (DHFS) requests a permanent base transfer of \$509,000 GPR in 2006-07 from the medical assistance (MA) program benefits appropriation to the community options program (COP) and long-term support pilot projects appropriation to fund ongoing MA-eligible home- and community-based waiver services for 45 individuals under the community integration program (CIP IB). Based on the current MA federal matching rate for these services (approximately 57.5%), an additional \$689,200 FED would be available in 2006-07 to support waiver services, or \$1,198,200 (all funds).

St. Coletta of Wisconsin, a charitable organization that provides services to persons with developmental disabilities, recently notified Jefferson County officials that the organization planned to discharge these 45 individuals beginning on July 1, 2006. If these individuals are discharged, Jefferson County would become responsible for ensuring that they receive services. In a March 29, 2006, letter from DHFS Secretary Helene Nelson, the Department estimated the cost of providing services to these 45 individuals through the CIP IB program to be approximately \$1.2 million annually, with \$509,000 being required in local or state funding to leverage federal MA matching funds.

The Department recently received settlements from three antitrust cases with prescription drug companies. To date, \$465,700 has been received and an additional \$43,400 is expected in the near future, for a total of \$509,100. The Department proposes to use this funding to transfer to the COP program.

BACKGROUND

CIP IB. The CIP IB program provides community-based services for individuals who are relocated or diverted from intermediate care facilities for the mentally retarded (ICFs-MR) other than the state centers for the developmentally disabled. These services, which are only available to MA recipients who are enrolled in the MA waiver programs, include supportive home services (such as services clients receive in community-based residential facilities, adult family homes and independent apartments), respite care, and transportation services, among others. CIP IB clients receive MA "card services," such as physician services, pharmacy, and medical supplies, in the same way that other MA recipients receive these services -- providers bill the state's MA program and receive payment based on a maximum fee schedule.

In contrast to the method the MA program pays for card services, DHFS allocates a sum-certain amount of funding to counties to support CIP IB-eligible waiver services, based on the total amount of funding the Legislature budgets for the program. In the past, when the Governor and the Legislature have authorized funding to serve additional people under CIP IB, DHFS has allocated the additional funding to counties by considering such factors as the number of individuals each county currently serves through the waiver programs, the number of individuals on waiting lists in each county, and each county's level of support for the program that is derived from county funds, such as community aids and local property tax levy.

A county may create a CIP IB "slot" by supporting the non-federal share of the cost of the slot with county funds. Finally, a CIP IB slot can also be created following the closure of a bed in an ICF-MR.

In calendar year 2006, DHFS has allocated approximately \$38.0 million GPR to support CIP IB services to counties. It is estimated that counties will expend approximately \$118.7 million of other funds, primarily from the local tax levy and funding counties receive from state aid payments, to support these services in calendar year 2006. The combination of state and county funds (\$156.7 million) is estimated to generate approximately \$213.0 million of federal MA matching funds to support CIP IB waiver services in calendar year 2006. In total, it is anticipated that approximately \$369.7 million (all funds) will be spent on CIP IB waiver services in calendar year 2006.

As of the end of May, 2006, there were 10,817 CIP IB slots, including: (a) 3,005 state-matched slots; (b) 427 state-matched slots that were created under the state's ICF-MR restructuring initiative; and (c) 7,385 locally-matched slots. Despite this commitment of state, local, and federal funding, the waiting list for community waiver services for persons with developmental disabilities exceeds 3,700 people, 420 of which have been waiting to receive services through waiver programs for ten or more years.

St. Coletta of Wisconsin. St. Coletta of Wisconsin was founded in 1904 by the Sisters of St. Francis of Assisi for the purpose of providing services to persons with developmental disabilities.

Over time, St. Colleta has shifted its emphasis from providing institutional care to integrating clients within communities. Historically, as part of its charitable mission, the organization has offered free or subsidized care to clients who are unable to pay for services. However, in recent years, the organization has reported that the increasing cost to provide services, compounded by the decrease in the amount of free care formerly provided by its supporting religious order, has significantly reduced the foundation's financial reserves. Consequently, St. Coletta has been seeking alternative means of financial support for dependent clients, including applying for MA community waiver services for clients who meet eligibility standards. The foundation supports clients in Jefferson County, Fort Atkinson, Madison, Waukesha, and Illinois in settings that range from private apartments to adult family homes and community-based residential facilities (CBRFs).

St. Coletta has tried to secure funding through the CIP IB program for 45 developmentally disabled clients under the agency's care who have been identified as residents of Jefferson County. However, due to a high demand for waiver slots and an existing waiting list for services, these individuals have not yet been able to enroll in the program. The staff of St. Coletta recently notified Jefferson County officials that the organization planned to discharge these 45 individuals beginning on July 1, 2006, if community waiver slots were not made available to help defray the cost of the clients' care. If the individuals are discharged, Jefferson County would become responsible for ensuring that they receive services.

Currently, 128 of the 327 clients served by St. Coletta in Wisconsin and Illinois are supported by funding provided through MA waiver programs. This total includes 61 individuals participating in CIP IB, five in COP, and 62 in the community integrated living arrangement (CILA) program (an MA waiver program administered by the State of Illinois that provides community-based services for Illinois residents with disabilities). Eleven Wisconsin counties currently contribute funds to support community-based waiver services St. Coletta provides to their residents: Milwaukee (10 individuals), Marathon (1), Kenosha (2), Walworth (4), Lafayette (1), Washington (1), Dodge (3), Waukesha (23), Jefferson (5), Rock (1), and Dane (15). The responsibility for providing the required local match for services under the community waivers program lies with each client's county of residence.

Initially, St. Coletta managers proposed providing the local match for the CIP IB slots from the foundation's funding. However, federal MA law prohibits states from using provider donations as the non-federal share of the costs of MA-eligible services. Consequently, either the state or the county would need to provide funding that would be matched with federal funds for MA-eligible services.

Settlements with Drug Companies. The Department recently received settlements from three antitrust cases with prescription drug companies. The first, from King Pharmaceuticals, Inc., was a result of incorrectly reported drug prices; the second and third settlements from GlaxoSmithKline related to patent litigation that delayed the generic release of Paxil and Augmentin. As the settlements each related to the state paying higher costs for prescription medications covered under MA than they otherwise would have, settlement revenues were directed to be provided for MA-

related costs. To date, \$465,700 has been received and an additional \$43,400 is expected in the near future.

The Department proposes to use this funding to transfer to the COP program. However, while the revenue identified in the request is one-time in nature, the 45 CIP IB slots that would be created under the DHFS request would increase the state's cost to continue by over \$509,000 GPR annually.

ANALYSIS

The Department's request does not refer to St. Coletta's decision to discontinue support for services for 45 Jefferson County residents, nor does the Department propose to allocate all of the requested funding for Jefferson County to provide services to these individuals. Instead, DHFS indicates that, if its request is approved, it would allocate funding to counties based on the types of factors it has used in the past to allocate additional funding for the home- and community-based waiver programs, such as number of persons each county is currently serving under the waiver program, the number of persons on each county's waiting list, and each county's contribution to the costs serving individuals under the program.

As previously indicated, the amount of funding budgeted for MA home- and community-based waiver services is a sum certain amount that is determined as part of the Legislature's budget deliberations. The Department has not demonstrated how this request, as submitted, meets the criteria for Committee approval under s. 13.101(4) of the statutes. Under s. 13.101(4), the Committee may transfer funds between appropriations if it finds that: (a) unnecessary duplication of functions can be eliminated; (b) more efficient and effective methods for performing programs will result; or (c) legislative intent will be more effectively carried out because of the transfer; and the purposes for which the transfer is requested have been authorized or directed by the Legislature. On the other hand, the Committee may determine that transferring surplus MA funds to address unforeseen circumstances in Jefferson County is a legitimate exercise of the Committee's authority.

Jefferson County officials indicate that there are no local funds available to support services for its county residents that St. Coletta will no longer subsidize. The county is home to a significant population of persons with developmental disabilities, many of whom have been drawn to the area by the community resources provided by St. Coletta and by the Bethesda Lutheran Group Home, both of which provide care and community support programs for developmentally disabled persons. Consequently, the county contributes a somewhat disproportionate share of its available resources to provide community-based services to developmentally disabled individuals. In calendar year 2005, Jefferson County contributed \$1.9 million towards the cost of supporting 373 CIP IB slots, with state and federal funds providing an additional \$6.4 million for that same purpose. There are currently 126 residents on the county's waiting list for services under the waiver program, including 25 of the 45 St. Coletta residents who may be discharged beginning July 1.

While Jefferson County could provide minimal services, such as housing and case management services, to the 45 clients to fulfill the county's legal responsibility to provide services to these individuals, Jefferson County human services staff have determined that the individuals' needs would be met best by maintaining their current level of services and leveraging federal MA matching funds through the CIP IB program. Supporting these individuals through the community waiver program would allow them to remain in similar living arrangements, and to continue to receive day-program services that they have been receiving with St. Coletta's support. Based on the initial assessment of the needs of these 45 individuals and the estimated cost of providing services to a comparable population in Jefferson County, the county and DHFS estimate that the cost of serving these 45 individuals under CIP IB may be approximately \$1.2 million annually. Of that amount, \$509,000 would be required as a state or locally-supported match to leverage approximately \$689,200 in federal funds.

If funding were provided to serve these 45 individuals under the CIP IB program, the county would assess each individual to determine the appropriate level of care he or she requires and a case manager would develop individualized care plans. Each client's maximum average per day allowance for state reimbursement would also be determined at that time. The amount of funding requested by the Department reflects an initial assessment of the needs of the 45 individuals, and the average cost to serve clients with those needs in Jefferson County. Should costs exceed the amount provided in the request, Jefferson County may be required to provide additional funding. Further, since room and board costs cannot be funded under the MA waiver programs, the county expects to incur additional costs for housing for these individuals (currently estimated to be \$17,000 annually).

Under federal law, waiver clients must be offered a choice of qualified providers from whom they will receive services. Counties may not limit the pool of qualified providers by offering an exclusive agency contract to a provider, even if that provider presents the lowest-cost alternative. County agencies may establish a rate, specific to the services required, and other providers (including those selected by the participant) must be given the opportunity to meet that rate. While St. Coletta has indicated a strong interest in continuing to serve these clients, some or all of the clients may choose to receive services from other providers. In addition, St. Coletta may decide not to accept the offered daily rate if the agency considers the reimbursement to be below its anticipated costs to provide service. If this occurs, some individuals who currently receive services from St. Coletta may instead receive services from other providers.

Currently, the maximum average per day allowance for state reimbursement under CIP IB is \$49.67. However, the median cost per day for supporting CIP IB waiver services in the current calendar year is estimated to be \$73.33. Counties fund the difference between the amount available from the state under the maximum average per day allowance and actual costs they incur from a variety of sources, including community aids, the county tax levy, and funding they receive through the community options program (COP). In general, counties use COP funds to supplement funding for MA waiver clients in three areas: (1) to provide pre-relocation funding; (2) to purchase services that cannot be funded under the waivers or to provide services to individuals who are not eligible for the waivers; and (3) to supplement funding provided under MA waiver programs. Under the request, the funding for these CIP IB slots would be provided through COP, allowing DHFS the flexibility to provide full funding to counties for the cost of serving the individuals placed in the 45 slots.

Several alternatives are presented for the Committee's consideration. First, the Committee could approve the DHFS request (Alternative 1), which would provide additional COP funding for DHFS to distribute to counties, based on criteria DHFS has used in the past to distribute funding increases for the MA home- and community-based waiver programs.

Second, the Committee could approve the transfer of funding as requested by DHFS, but direct that all of the additional funding be provided to Jefferson County to support CIP IB services for the individuals that St. Coletta intends to discharge (Alternative 2). This alternative would address the current need for funding to maintain services for these individuals. Under this alternative, Jefferson County would not need to reallocate funding from other programs to serve these individuals, since the preliminary estimate of the annual cost of serving these clients (\$1.2 million) would be funded through this permanent transfer.

Third, the Committee could approve the transfer as requested by DHFS, direct that all of the additional funding be provided to Jefferson County, but specify that this transfer would be a one-time transfer of funds in 2006-07 (Alternative 3). Under this alternative, Jefferson County would be required to provide support for these individuals, beginning July 1, 2007. This alternative would address a short-term problem for the county, since the county's calendar year 2006 budget has been established. However, the county would need to budget for the additional costs of serving this population for one half of calendar year 2007 and each year thereafter. The advantage to this alternative is that it would provide support for Jefferson County but would not result in a permanent increase in funding needed to support the MA program in the 2007-09 biennium.

Fourth, the Committee could reduce the amount of the transfer, from \$509,000 GPR to \$346,600 GPR, to provide support for the additional CIP IB slots for Jefferson County at the current maximum state rate of \$49.67 per day, rather than to fund the total estimated costs of serving these 45 clients that will be discharged from St. Coletta. Under this alternative (Alternative 4), Jefferson County would be responsible for waiver costs that exceed the state reimbursement amount, which is estimated to be approximately \$162,400 per year. The same amount of federal matching funds would be available under this alternative (an estimated \$689,200 FED). However,

the state match for services to these individuals would be provided from a combination of state and county funds. This amount of funding could also be provided on a one-time basis in 2006-07 (Alternative 5).

Finally, the Committee could deny the request (Alternative 6). Under this alternative, Jefferson County would be responsible for the entire state share of the costs of providing waiver services to the 45 individuals that St. Coletta intends to discharge.

ALTERNATIVES

1. Approve the Department's request to provide for a permanent base transfer of \$509,000 GPR in 2006-07 from the MA program benefits appropriation (s. 20.435(4)(b)) to the COP and long-term support pilot projects appropriation (s. 20.435(7)(bd)) to allow 45 additional individuals to be served under the community integration (CIP IB) program.

2. Approve the Department's request to provide for a permanent base transfer of \$509,000 GPR in 2006-07 from the MA program benefits appropriation to the COP and long-term support pilot projects appropriation to allow 45 additional individuals to be served under the community integration (CIP IB) program. However, direct the Department to provide all of this funding to Jefferson County to support CIP IB services for Jefferson County residents who are currently receiving services from St. Coletta but are not yet participating in CIP IB. Require Jefferson County use any remaining funding, if any, to support CIP IB services to other persons with developmental disabilities who are currently on Jefferson County's waiting list.

3. Approve the Department's request to transfer of \$509,000 GPR in 2006-07 from the MA program benefits appropriation to the COP and long-term support pilot projects appropriation to allow 45 additional individuals to be served under the community integration (CIP IB) program. However, direct the Department to provide all of this funding to Jefferson County to support CIP IB services for Jefferson County residents who are currently receiving services from St. Coletta but are not yet participating in CIP IB. In addition, specify that this would be a one-time transfer in 2006-07.

4. Authorize a permanent base transfer of \$346,600 GPR in 2006-07 from the MA program benefits appropriation to the COP and long-term support pilot projects appropriation to allow 45 additional individuals to be served under the community integration (CIP IB) program, based on the current maximum CIP IB rate of \$49.67 per day. Direct the Department to provide all of this funding to Jefferson County to support CIP IB services for Jefferson County residents who are currently receiving services from St. Coletta but are not yet participating in CIP IB.

5. Authorize a one-time transfer of \$346,600 GPR in 2006-07 from the MA program benefits appropriation to the COP and long-term support pilot projects appropriation to allow 45 additional individuals to be served under the community integration (CIP IB) program, based on the

current maximum CIP IB rate of \$49.67 per day. Direct the Department to provide all of this funding to Jefferson County to support CIP IB services for Jefferson County residents who are currently receiving services from St. Coletta but are not yet participating in CIP IB.

6. Deny the request.

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