



## Legislative Fiscal Bureau

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April 18, 2023

TO: Members  
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Unsupported Overdrafts - Department of Health Services -- Agenda Item V

### REQUEST

On December 28, 2022, DOA Secretary-designee Blumenfeld submitted plans under s. 16.513 for unsupported overdrafts in 17 appropriations for 2021-22. On January 19, 2023, an objection was raised regarding two of the three plans submitted under the Department of Health Services (DHS), plans for the other items were approved. Therefore, the request to approve the DHS plans has been scheduled for a meeting of the Committee under s. 13.10 of the statutes.

### BACKGROUND

The DHS Division of Care and Treatment Services operates three residential facilities for the care of persons with developmental disabilities: Northern Wisconsin Center (NWC) in Chippewa Falls; Central Wisconsin Center (CWC) in Madison; and Southern Wisconsin Center (SWC) in Union Grove.

Currently, two of the three state centers, CWC and SWC, serve individuals with developmental disabilities on a long-term basis. NWC used to also operate a long-term program. However, 2003 Wisconsin Act 33 required DHS to relocate NWC's residents to either a community-based setting or to another intermediate care facility for individuals with intellectual disabilities, but authorized the facility to continue to provide short-term services.

An individual may be admitted to one of the state centers on a short-term basis to receive an evaluation, assessment, crisis intervention services, or to allow the county and provider adequate time to redesign a community support plan. Short-term programs are the intensive treatment programs (ITPs) at all three state centers and the medical short-term care program at CWC. Short-term admissions provide services to individuals who need active treatment that includes aggressive, consistent implementation of a program of specialized and generic training, treatment, and health

services. A short-term admission is typically for a 30- to 90-day period, but may be extended to 180 days with mutual agreement of the referring entity and the director of the state center. Short-term admissions are typically voluntary admissions.

## ANALYSIS

DHS indicates unsupported overdrafts in two appropriations in the Department's September 28, 2022, submission to the Department of Administration, both relating to NWC.

**Interagency and Intra-agency Programs.** As previously mentioned DHS administers only a short-term treatment program at NWC, which specializes in serving adults and children with intellectual disabilities that also have mental illness and aggressive or challenging behaviors. In 2021-22, NWC had an average daily population of 11 individuals.

DHS uses a program revenue appropriation [20.435(2)(kx)] to expend all moneys it receives from other state agencies and all moneys transferred from other units within DHS to fund the costs of utilities and maintenance of common areas and vacant buildings at NWC. At the end of 2021- 22, the appropriation had an unsupported deficit of \$6,442,700. The deficit occurred primarily because costs that were previously eligible for reimbursement under the state's medical assistance (MA) program are no longer MA-eligible, due to the reduction in long-term care services provided by the facility since 2004-05.

DHS indicates that it intends to address the deficit using two primary strategies. First, in April, 2022, DHS accepted a \$2,330,000 offer to purchase five parcels of land on the Northern Center campus. This sale was closed, and DHS received the funds, in 2022-23. The Wisconsin statutes authorize DHS to sell surplus land on the Northern Center campus, with proceeds deposited in the appropriation under s. 20.435(2)(gk).

In order to expend these proceeds DHS must seek and receive approval from the Joint Committee on Finance. Under Wis. Stat. 13.101(17), the Committee may approve expenditure of these funds "only to support any state activity, including by the department of veterans affairs, that is conducted or performed on the property that is occupied or managed by the department of health services or the department of corrections...at the Northern Center for the Developmentally Disabled."

Second, in its agency budget request, submitted on September 15, 2022, DHS sought authority to retain Medicaid reimbursements received by the State Centers for depreciation and interest costs (\$5.9 million in 2023-24 and \$6 million in 2024-25). Without this authority, those funds would otherwise be credited to the general fund as GPR-earned (except for the \$1 million retained annually as authorized in 2017 Wisconsin Act 59). The Department indicates that it generated \$5.6 million in GPR-earned revenue from the State Centers in 2021-22. In its plan, DHS indicates that retained GPR-earned would be put towards the accumulated deficit and to cover future unreimbursed campus costs.

Subsequently, the Governor's 2023-25 biennial budget (2023 Wisconsin AB 43/SB 70),

introduced on February 15, 2023, also included the authority for DHS to retain Medicaid reimbursements received by the State Centers for depreciation and interest costs (\$5.9 million in 2023-24 and \$6 million in 2024-25) via the Administration's estimates of GPR-earned to be credited to the general fund.

**Alternative Services of Institutes and Centers.** In addition to the PR appropriation that supports utility and maintenance costs at NWC, DHS is budgeted funding to support "alternative services" offered at the three State Centers and the two state mental health institutes (MHIs). At the MHIs, these alternative services may include mental health outpatient treatment and services, day programming, consultation and services in residential facilities, including group homes, residential care centers for children and youth, and community-based residential facilities. The State Centers may offer alternative services such as short-term residential services, dental services, mental health services, therapy services, psychiatric and psychological services, general medical services, pharmacy services, and orthotics. The costs of these alternative services are budgeted under s. 20.435(2)(g) of the statutes.

At the close of fiscal year 2021-22, the appropriation had an estimated cash deficit of \$13,222,300 offset by receivables totaling \$1,314,600 and capital assets totaling \$356,600. Accordingly, at the close of fiscal year 2020-21, this appropriation had an estimated unsupported overdraft of \$11,551,100. DHS indicates that this overdraft relates to the provision of intensive treatment services to residents at NWC as discussed below.

Each year, DHS establishes an interim per diem rate for treatment services provided at NWC. DHS bills counties, managed care organizations, and the Medicaid program based on this interim rate. At the close of the year, DHS prepares a cost settlement based on actual costs of providing these services, and submits an additional Medicaid claim for the difference between the amounts claimed and its actual costs. Because this settlement is not finalized until after the close of the fiscal year, DHS records a "receivable" in the appropriation based on the amount it anticipates receiving from the Medicaid program.

DHS indicates that, in previous years, the amounts receivable were calculated as the difference between total costs expended for intensive treatment services at NWC and the revenue NWC received through the interim rate. DHS recorded these receivables based on the assumption that NWC would receive full reimbursement of the amounts receivable from the Medicaid program.

DHS cites several additional factors that have resulted in the unsupported overdraft, including: (a) DHS' use of a single uniform charge for Intensive Treatment Program (ITP) services at the three State Centers, which is significantly below NWC's actual costs of providing ITP services; (b) the State Centers not being fully reimbursed for the cost of paying the state's assessment on licensed beds in intermediate care facilities for individuals with intellectual disabilities due to the vacancy rate at NWC; (c) the MA practice of reimbursing the State Centers' per capital assets based on multiyear depreciation schedules, which means the State Centers incur the cost of vehicles and equipment but must run a cash deficit until the depreciation schedule is complete; and (d) until state fiscal year 2014-15, DHS lapsed all depreciation and debt service costs relating to the State Centers to the general fund, including depreciation and debt service costs that were not reimbursed by

Medicaid.

DHS indicates that it intends to continue addressing the deficit through changes in 2017 Wisconsin Act 59. These changes allow DHS to retain \$1,000,000 per year in current year GPR-Earned revenues to apply against the deficit. Second, they authorize DHS to incur liabilities in this appropriation, in excess of revenues, up to the value of equipment and buildings financed from the appropriation. This latter change allows DHS to account for such assets in future cash overdraft statements, which DHS states provides a more complete picture of the appropriation by accounting for both cash and non-cash assets.

In its submission to DOA, DHS recommends seeking authority through the biennial budget process to retain a larger amount of GPR-earned revenues to reduce the deficit more quickly in coming years. As previously discussed, in its 2023-25 agency budget request, submitted on September 15, 2022, DHS sought authority to increase the amounts retained from Medicaid reimbursements for depreciation and interest costs (\$5.9 million in 2023-24 and \$6 million in 2024-25). This authority was subsequently included in the Governor's 2023-25 biennial budget, introduced on February 15, 2023.

Together, the unsupported overdrafts in 20.435(2)(kx) and 20.435(2)(g) totaled approximately \$18 million at the end of 2021-22. While the plan submitted by the Administration may reduce or eliminate the existing overdrafts over a number of years, the plan does not address broader issues relating to the cost-effectiveness of continuing to provide intensive treatment services at NWC.

Alternatively, if the plan is denied, the Committee could choose to take future action on this item as part of the budget deliberations since the retention of additional GPR-earned is currently before the Committee as part of the Governor's 2023-25 biennial budget. Further, since Wis. Stat. 13.101(17) provides the Committee approval authority on the expenditure of proceeds from the land sale at the NWC campus, denial of the current plan should not be construed to bar such action in the future.

## **ALTERNATIVES**

1. Approve the plan.
2. Deny the plan.

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