



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

April 24, 2003

Joint Committee on Finance

Paper #422

Conditional and Supervised Release Services and Outpatient Competency Examinations (DHFS -- Care and Treatment Facilities)

[LFB 2003-05 Budget Summary: Page 255, #6]

CURRENT LAW

The Department of Health and Family Services (DHFS) is responsible for operating the conditional release, supervised release, and outpatient competency examination programs. All three programs are funded by the same biennial GPR appropriation, while additional funding is budgeted in the Division of Care and Treatment Facilities (DCTF) general program operations appropriation to support competency examinations conducted in Milwaukee County.

Competency examinations are conducted at the direction of the court and are performed on either an inpatient or outpatient basis. Inpatient examinations are conducted at the state mental health institutes (MHIs) by state staff, while outpatient examinations are administered at the MHIs or inside jails or locked units by state staff or by Wisconsin Forensic Unit (WFU) employees under a contract between the state and WFU's parent company, Behavioral Consultants, Inc. In addition, competency examinations may be conducted outside of a jail or locked unit of a facility under certain circumstances, including in cases where an individual is out on bail, parole, or probation. The costs of these examinations are currently funded by the state. In 2001-02, 152 competency examinations were conducted on an inpatient basis, while 682 were conducted on an outpatient basis.

Under the conditional release program, DHFS contracts with the Department of Corrections and other entities to provide services to individuals who have been found not guilty by reasons of mental disease or defect. Clients are either directly placed on conditional release by the court or are conditionally released from one of the state's MHIs. In 2001-02, the average number of individuals who were on conditional release was 251.

Under the supervised release program, DHFS serves individuals who have been committed as sexually violent persons (SVPs) under Chapter 980 of the statutes and have been released by the court under the supervision of DHFS. In 2001-02, the average number of individuals who were on supervised release was 19.

In 2002-03, \$5,226,800 GPR is budgeted to support the conditional release, supervised release, and outpatient competency examination programs. In addition, \$270,900 GPR is budgeted in DCTF's general program operations appropriation to support competency examinations in Milwaukee County. Since all three programs are supported by the same biennial appropriation, DHFS can transfer funding between these programs to reflect actual service costs, which may differ from budget projections. In addition, because these programs are supported by a biennial appropriation, unexpended funds budgeted in the first year of the biennium are carried forward to support costs in the second year of the biennium.

DHFS has projected a shortfall of \$405,300 in this biennial appropriation for 2002-03 and has requested funding transfers to address this projected shortfall under s. 13.10 of the statutes. The Committee has not yet acted on this request.

GOVERNOR

Provide \$1,337,200 GPR in 2003-04 and \$2,675,500 GPR in 2004-05 to increase funding to support: (a) services provided to individuals who are on conditional release (\$136,300 in 2003-04 and \$331,900 in 2004-05); (b) services provided to individuals who are on supervised release (\$1,056,500 in 2003-04 and \$2,121,000 in 2004-05); and (c) outpatient examinations (\$415,300 in 2003-04 and \$493,500 in 2004-05). In addition, reduce funding for DCTF's general program operations budget by \$270,900 GPR annually to delete funding currently budgeted in that appropriation to support outpatient competency examinations for individuals who are on supervised and conditional release.

In addition: (a) delete the requirement that DHFS use funding budgeted in the appropriation for competency examinations conducted in Milwaukee County so that the appropriation would support competency examinations conducted in all parts of the state; (b) specify that only competency examinations conducted in jails or in locked units of facilities could be funded from the appropriation. Consequently, counties would be responsible for the costs of competency examinations conducted outside of a jail or locked unit of a facility, with the exception of counties whose examinations are supported by the Milwaukee Forensic Unit (Milwaukee, Waukesha, Racine, and Kenosha Counties).

DISCUSSION POINTS

1. The costs of the conditional release, supervised release and outpatient competency examination programs are affected by: (a) caseload; and (b) contracting costs.

Outpatient Competency Examinations

2. Competency examinations ordered by courts may be conducted on either an inpatient or an outpatient basis. Outpatient examinations include a comprehensive clinical interview, psychological testing, a review of medical and court records, and interviews with other parties. Inpatient examinations consist of a 15-day intensive evaluation at a MHI, including a full admission assessment, ongoing observation, a review of medical and court records, and a formal interview and assessment. Inpatient examinations are only conducted when: (a) the individual is considered to be dangerous to himself or herself or to staff members; or (b) the individual refuses to participate in an outpatient competency examination.

3. The total number of inpatient and outpatient competency examinations conducted has increased significantly during the last several years, from 539 examinations in calendar year 1996 to a projected 972 examinations in 2002-03. Outpatient competency examinations more than doubled over the same time period, from 363 to an estimated 828, while the number of inpatient competency examinations conducted decreased slightly, from 176 in 1996 to 144 projected in 2002-03.

4. DOA estimates that the following number of outpatient competency examinations will be conducted in future years: 828 in 2002-03, 1,025 in 2003-04, and 1,128 in 2004-05. Since 552 examinations were conducted over the first eight months of this fiscal year, 828 appears to be a reasonable projection for 2002-03. However, a linear trend of data indicates that the number of examinations in 2004-05 should be slightly higher than DOA projected.

5. Outpatient competency examinations are conducted by the Mendota MHI for southwestern counties, by Winnebago MHI for three counties (Brown, Winnebago, and Fond du Lac Counties), and, under contract, by WFU in the northern and eastern regions of Wisconsin. DHFS estimates that 65% of all outpatient examinations will be conducted by WFU, while the remaining 35% will be conducted by state staff at the MHIs in 2003-04 and 2004-05.

6. Under the current contract, WFU is compensated up to \$1,350 per evaluation to conduct the examination, compile the report, review records, testify in court, and consult with attorneys. The average cost per outpatient examination is currently \$1,344, while the average cost per examination for MHI staff time and travel is approximately \$350. Although costs are significantly lower for MHI staff, their service areas are currently concentrated around the facilities so that travel time and associated costs are limited.

7. The salary and fringe benefit costs for state employees at the MHIs who conduct outpatient competency evaluations are budgeted in the MHIs' appropriations. Since the number of outpatient competency examinations to be conducted is projected to increase over the biennium and DOA assumes that 35% of all outpatient competency exams will be conducted by DHFS staff, the workload for staff at the MHIs will also increase. DHFS indicates that the MHIs' staff will absorb the additional workload at no cost to the state.

Conditional and Supervised Release

8. The average number of individuals on conditional release program increased from 231 in 1999-2000 to a projected 261 in 2002-03. The number of individuals participating in the supervised release program increased from 14 to a projected 21 over the same period (six additional individuals are waiting for community placement).

9. The DOA caseload projections for the conditional release and supervised release programs for fiscal years 2002-03 through 2004-05 are shown below:

	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>
Conditional Release	261	270	280
Supervised Release	25	32	47

The conditional release population projections are confirmed by a historical trend of data from 1999-2000 to present. However, the trend over the same period would suggest that the number of individuals on supervised release will increase to 30 in 2003-04 and 37 in 2004-05.

10. DHFS currently contracts with the Department of Corrections (DOC), ATTIC Correctional Services, Inc., and other providers for services rendered under the conditional and supervised release programs. The DOC contract provides for the statewide supervision of conditional release clients, as well as for the representation of DHFS in related revocation hearings. Conditional release contract providers are responsible for general program oversight and the provision of services identified in a client's treatment plan. These services may include case management, medication administration and monitoring, the development of comprehensive treatment plans, crisis response, and staff resources. In 2002-03, \$3,991,000 is budgeted to support these contracts.

11. ATTIC Correctional Services, Inc. provides case management and residency search services to individuals on supervised release. DHFS is responsible for reimbursing the actual costs of services provided to individuals and billed monthly by ATTIC for these charges. A total of \$751,500 is currently budgeted annually to support all services provided to individuals or supervised release (including the cost of the contract with ATTIC, Inc.). However, DOA estimates that an additional \$2,771,300 will be needed in 2003-05 to support the supervised release program. The original request did not include any inflationary increase; therefore, the projected costs per client have since been modified.

12. Under the Governor's recommendations, the cost of the DOA contract is projected to increase by \$15,000 annually from \$500,000 in 2002-03 to \$530,000 in 2004-05, while the actual costs per client under the conditional release contracts are projected to increase by 1.11% in 2003-04 and by 1.25% in 2004-05. The DOC contract expenditures for 2002-03 and the 2001-02 actual costs per client (inflated to 2002-03) for other conditional release contracts have been reestimated

and are slightly different than the cost estimates incorporated in the Governor's bill. A 3% increase was also added to the base DOC contract costs to reflect inflationary expectations in each year of the biennium rather than a flat \$15,000 increase each year.

13. Inflationary increases for the other conditional release contracts reflect the fact that contract providers are required to pursue third-party payers, including medical assistance and client contributions, before billing DHFS for the cost of services. A significant portion of the costs of providing services to individuals on conditional release is funded from third-party payers; therefore, only a fraction of the inflationary cost increases are paid by DHFS.

14. It is difficult for DHFS to control costs under the conditional release, supervised release, and competency examination programs, since the state is responsible for providing services to persons under these programs, and courts, rather than DHFS, determine if individuals require services under these programs. If sufficient funding is not provided in the biennial budget to meet the costs of these programs, DHFS would probably have to submit a request under s. 13.10.

15. Based on the assumptions described above, the costs for the conditional release, supervised release, and outpatient competency examination programs are projected to increase to \$6,832,600 GPR in 2003-04 and \$7,857,400 GPR in 2004-05. This would be an increase of \$1,334,900 GPR in 2003-04 and \$2,359,700 GPR in 2004-05 from the base, but \$318,100 less than the funding provided in the bill for the 2003-05 biennium. This decrease is largely due to the reallocation of the total supervised release population projections over the biennium to reflect historical trends.

16. The attachment to this paper summarizes the current estimates of caseload and costs for these programs in the 2003-05 biennium.

ALTERNATIVES

1. Approve the Governor's recommendations, including statutory changes to the program.

2. Modify the Governor's recommendations by reducing funding by \$2,300 GPR in 2003-04 and by \$315,800 GPR in 2004-05 to reflect the reestimates described in this paper.

Alternative 2	GPR
2003-05 FUNDING (Change to Bill)	- \$318,100

Prepared by: Jessica L. Stoller
Attachment

ATTACHMENT

**Outpatient Competency Examination, Condition Release,
and Supervised Release Programs
2000-01 thru 2004-05**

Caseload

	<u>Actual 2000-01</u>	<u>Actual 2001-02</u>	<u>Estimate 2002-03</u>	<u>Estimate 2003-04</u>	<u>Estimate 2004-05</u>
Outpatient Examinations	401	682	828	1,024	1,177
Conditional Release (Clients)	244	251	261	271	280
Supervised Release (Clients)	13	19	21	30	37

**Projected Expenditures
(2003-05 Biennium)**

	<u>2003-04</u>	<u>2004-05</u>	<u>2003-05</u>
Outpatient Examinations	\$899,100	\$1,032,000	\$1,931,100
Conditional Release	4,150,800	4,333,800	8,484,600
Supervised Release	<u>1,782,700</u>	<u>2,491,600</u>	<u>4,274,300</u>
Total	\$6,832,600	\$7,857,400	\$14,690,000
 Governor's Bill	 \$6,834,900	 \$8,173,200	 \$15,008,100
 Difference (Change to Bill)	 -\$2,300	 -\$315,800	 -\$318,100