



Legislative Fiscal Bureau

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February 22, 2022

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Children and Families: Request for Release of Funding for Subsidized Guardianship Reimbursements -- Agenda Item I

On February 4, 2022, the Department of Children and Families (DCF) submitted a request under s. 13.101 of the statutes for the release of \$2.4 million GPR in 2021-22 and \$5.2 million GPR in 2022-23 from the Committee's program supplements appropriation to the Department's appropriation under s. 20.437(1)(dd) to fund reimbursements to counties and tribes for subsidized guardianship payments.

Under 2021 Act 132, DCF is required to reimburse counties and tribes for the cost of making these reimbursement payments, beginning January 1, 2022. However, DCF is not currently budgeted funding for this purpose.

BACKGROUND

Subsidized Guardianship. Wisconsin statutes establish guardianship, adoption, and family reunification as the three primary options for the permanent care of any child placed by a child welfare agency into foster care, kinship care, or any other temporary out-of-home care. Unlike adoption, a child can be placed into permanent guardianship without the termination of the child's parents' rights.

A guardian may receive a monthly payment if the guardian enters into a subsidized guardianship agreement with a child welfare agency before the court grants the guardianship order. The initial amount of the monthly payment is based on the circumstances of the guardian and the needs of the child, but may not exceed the monthly foster care payment that was made on behalf of the child in the month immediately preceding the guardianship order.

In order for a guardian to receive payment, the child must: (a) have been removed from the home under a voluntary agreement or court order containing a finding that continued placement in

the home would be contrary to the welfare of the child; (b) have been residing with the guardian (licensed as the child's foster parent) for at least six consecutive months immediately before the guardianship; (c) demonstrate a strong attachment to the guardian, who must be a relative of the child or have a significant emotional relationship with the child or the child's family that is similar to a familial relationship; and (d) have been consulted regarding the guardianship arrangement, if the child is over the age of 14. In addition, the placing agency must have determined that neither the child's return to the home nor adoption would be in the child's better interest. Further, the guardian must have a strong commitment to caring permanently for the child and meet, along with any other adults residing in the home, background check requirements.

Milwaukee County does not operate its own child welfare system. Instead, the Division of Milwaukee County Child Protective Services (DMCPS) administers child welfare services in that county. Prior to January 1, 2022, every other county and all tribes and bands bore the financial responsibility for subsidized guardianship payments as part of their costs of providing child welfare services. To the extent that funding was available, counties used state and federal funding from their allocations of children and family aids to fund these costs. For children in Wisconsin's eleven federally-recognized Native American tribes, the tribes funded the costs of subsidized guardianship payments from a separate state allocation that supports costs of tribal children in out-of-home care.

DCF claims federal matching funds under Title IV-E of the Social Security Act for the costs of subsidized guardianship payments for children who are removed from families with low incomes and assets and whose cases meet other procedural requirements. The federal funds typically fund approximately 60% of the costs of subsidized guardianship payments for Title IV-E eligible children. However, not all children for whom subsidized guardianship payments are made are IV-E eligible. Consequently, the percentage of the costs of all subsidized guardianship payments that can be claimed under federal Title IV-E is approximately 36%.

2021-23 Budget Act and 2021 Act 132. The 2021-23 budget act (Act 58) provided \$2.4 million GPR in 2021-22 and \$5.2 million GPR in 2022-23 in the Joint Committee on Finance program supplements appropriation to fund subsidized guardianship payments.

Following passage of the budget, Senate Bill 491 passed, and was enacted as 2021 Act 132 on February 4, 2021. The act requires DCF to reimburse counties and tribes directly for the costs they incur for making subsidized guardianship payments, and removed references to subsidized guardianship from statutes pertaining to children and family aids funding and the allocation made to tribes and bands. Act 132 did not increase funding for DCF to make these reimbursement payments. In its fiscal estimate to the bill, DCF noted its intent to submit a request for the release of the funding placed in the Committee's program supplements appropriation under Act 58 to fund the anticipated costs of the reimbursements.

ANALYSIS

The following table provides information on the number of subsidized guardianship cases and total payments for counties other than Milwaukee from calendar years 2016 through 2021, and projections for calendar years 2022 and 2023.

**Subsidized Guardianship Actual and Projected Caseload and Costs
Calendar Years 2016 through 2023**

<u>CY</u>	<u>Caseload</u>			<u>All Funds Costs</u>		
	<u>No. of Children</u>	<u>Change from Previous Year Number</u>	<u>Percent</u>	<u>Total</u>	<u>Change from Previous Year Amount</u>	<u>Percent</u>
2016	408			\$2,002,800		
2017	521	113	27.7%	2,737,400	\$734,600	36.7%
2018	649	128	24.6	3,686,600	949,200	34.7
2019	801	152	23.4	4,584,100	897,500	24.3
2020	930	129	16.1	5,511,700	927,600	20.2
2021	1,006	76	8.2	6,074,500	562,800	10.2
2022 (est.)	1,191	185	18.4	7,250,400	1,175,900	19.4
2023 (est.)	1,324	133	11.2	8,136,800	886,400	12.2

As shown in the table, the amount of funding counties have expended to support subsidized guardianship payments has increased in each year, primarily due to annual increases in the number of children for whom these payments were made.

In the time since the development of the projections used in the 2021-23 budget deliberations, actual caseload and cost information for calendar year 2021 has become available. These figures were somewhat below the trend of previous years; however, the COVID-19 pandemic and associated school closures for in-person instruction temporarily decreased reporting of children suspected of abuse or neglect to child welfare agencies. With most in-person instruction having resumed in most schools, it is uncertain to what degree, and how quickly, the rate of new subsidized guardianships will return to pre-pandemic trends.

Other uncertainties remain that were present in the original forecast. As previously indicated, subsidized guardianship caseloads have grown significantly over the past six years, and that growth is projected to continue. However, a variety of factors may cause that growth to accelerate or to taper off toward a steady state over the coming years. The share of costs covered by Title IV-E revenue may also vary from year to year.

While the potential for deviations above or below the projection is significant, these deviations would likely be within a range that DCF could absorb if the requested funds are approved.

CONCLUSION

Based on a review of these caseload and cost trends, and in light of the uncertainty of the future costs of these payments, the Department's estimates of funding that will be needed in the 2021-23 biennium to reimburse counties and tribes for subsidized guardianship payments, beginning January 1, appear reasonable. For this reason, the Committee could approve the DCF request.

Prepared by: Carl Plant