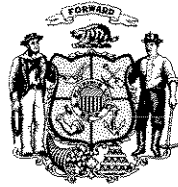


03-101
11



Carol Roessler
STATE SENATOR

December 17, 2003

To: Member of the Senate Committee on Health, Children, Families, Aging and Long Term Care.

From: Senator Carol Roessler, Chair

Re: Clearinghouse Rule 03-101 relating to the child care local pass through program.

CR 03-101 has been referred to the Senate Committee on Health, Children, Families, Aging and Long Term Care. The proposed rule would increase the match rate that local governments and tribes must contribute to receive a child care local pass-through grant. The increased match rate was assumed by legislative funding levels chosen from options expressed in supporting documents for 2003 Wisconsin Act 33. Act 33 also cut the appropriation to the pass-through program by 86%. The proposed rules allow all funds to be committed to continuing grantees to make the best use of the limited funding for the program.

If you would like the Committee to hold a hearing on CR 03-101, please contact Jennifer Halbur in my office at 266-5300 by Friday December 26th.

Jim Doyle
Governor

Roberta Gassman
Secretary



State of Wisconsin

Department of Workforce Development

OFFICE OF THE SECRETARY

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Rule Analysis for Legislative Review

Proposed rules relating to the child care local pass-through program

DWD 59
CR 03-101

Need for rules

The proposed rules increase the match rate that local governments and tribes must contribute to receive a child care local pass-through grant. The increased match rate was assumed by legislative funding levels chosen from options expressed in supporting documents for 2003 Wisconsin Act 33. Act 33 also cut the appropriation to the pass-through program by 86%. The proposed rules allow all funds to be committed to continuing grantees to make the best use of the limited funding for the program.

Public hearing response

A public hearing was held in Madison on November 12, 2003. No comments were received.

Response to Legislative Council staff recommendations

All comments were accepted.

Final regulatory flexibility analysis

The proposed rules do not affect small business as defined in s. 227.114, Stats.

Department contacts

Barbara Stiefvater
Child Care Grants Specialist
266-8200

Elaine S. Pridgen, Rules Coordinator
Office of Legal Counsel
267-9403

State of Wisconsin Department of Workforce Development

Child Care Local Pass-Through Program

Chapter DWD 59

The Wisconsin Department of Workforce Development proposes an order to repeal DWD 59.07(2)(b) and 59.07(2)(e)1.; to amend DWD 59.05(intro), 59.08(intro), and 59.07(2)(d)2.; and to create DWD 59.07(1)(f), relating to the child care local pass-through program.

Analysis Prepared by the Department of Workforce Development

Statutory authority: Sections 49.137 (4m) and 227.11, Stats.

Statutes interpreted: Section 49.137 (4m), Stats.

Relevant federal law: 42 USC 9858 to 9858q; 45 CFR Part 98

The federal Child Care and Development Fund (CCDF), a federal block grant, makes federal child care funding available to states that can contribute the required match at the state's federal medical assistance percentage (FMAP) rate. Wisconsin's current FMAP rate is approximately 42%. The state child care local pass-through program began in 1999 to bring federal CCDF funds into the state that had been left unmatched in the state budget. Through the child care pass-through program, the department awards grants to all local governments and tribes that supply the match required to bring the funds into the state. In the three grant cycles that have occurred thus far, \$11.4 million, \$14 million, and \$17.25 million have been awarded for services in approximately 66 counties to fund activities such as accommodation of children with disabilities, education of providers, and staff retention strategies.

Increased match rate. 2003 Wisconsin Act 33 allocated the state's CCDF funds in a manner that assumes an increase in the match rate that local governments and tribes must contribute to receive pass-through funds. Federal law requires that federal CCDF funds received by the state as a whole be matched at the state's FMAP rate. 2003 Wisconsin Act 33 allocated some of the state's CCDF funds to the direct child care subsidy program under s. 49.155, Stats., with match through general purpose revenue at less than the state's FMAP rate. Budget documents indicate that the legislature intended that local governments contribute a higher match under the pass-through program to cover the state match shortfall in the direct subsidy program and ensure that Wisconsin does not lose valuable federal child care dollars available under CCDF. The Legislative Fiscal Bureau document entitled *Comparative Summary of Budget Recommendations--Governor and Joint Committee on Finance, June 2003* specifies that the Joint Finance option for funding the pass-through program, which was eventually adopted, would require local

agencies to contribute 52% matching funds in 2003-2004 and slightly more in 2004-2005. This document is available at <http://www.legis.state.wi.us/lfb/2003-05budget/JFC/dwd.pdf>. The pass-through program is discussed at page 35 of the Workforce Development paper and page 731 of the comprehensive document. The current Chapter DWD 59 requires that local governments and tribes contribute matching funds at the FMAP rate to be eligible for pass-through funds. This order amends the rule so that the match rate for a given year will be dependent on legislative allocation of federal CCDF funds and the level of match for these funds in other eligible child care programs. The department will determine the match rate to be either the FMAP rate or a higher percentage rate needed to meet the state's match requirements under federal CCDF law and state budget appropriations affecting the CCDF funds.

Administrative process. 2003 Wisconsin Act 33 also reduced funding to the child care local pass-through program by 86%. This dramatically reduced funding necessitates a change in the process for awarding grants. Chapter DWD 59 currently requires a 2-step grant process wherein a statewide request for continuation plans is issued and grants awarded for continuing grants, with funds set aside for a second statewide request for proposals for initial grants. Current grantees receive up to 75% of the funds under a noncompetitive process for 2 years following the receipt of the initial grant, and can compete, along with any eligible jurisdiction in the state, for the remaining 25% or more as initial grantees under the same matching terms.

This rulemaking order changes that process to allow all funds to be committed to continuing grants if there is insufficient funding to provide continuing grants of at least 50% of the eligible grantees' initial grant levels from the previous two grant cycles. Jurisdictions receiving continuing grants generally provide more service for the program dollar because they have already done the start-up work and are building the sustainability of programs that are filling a community need. There are currently 63 initial grantees representing approximately 130 jurisdictions in over 60 counties. If grants were awarded to new grantees, the amount of initial grants that could be awarded would be quite small, given the limited funding for the pass-through program. An inordinate amount of these small grants would be spent on start-up costs and some grantees may reject the grant once it is awarded.

Even if the grant process is not changed to allow all funds to be committed to continuing grants, it is likely that current grantees would still receive most of the funds available under the open initial grant process. While the initial grants process is open and awards funds to all eligible applicants, current grantees are likely to claim most, if not all, of the funds available under any new initial grants process. They were the only jurisdictions submitting eligible applications in 2002, have demonstrated interest in the pass-through program, have services in progress that are facing significant budget shortfalls, have experience with the grant application process, and have the matching funds in hand. A two-step grant award process with such limited funds available to distribute is unwieldy and wasteful. The same people at the local level are likely to be filling out 2 applications to receive both a continuing and initial grant, while department staff would have the workload of preparing, distributing, reviewing, and calculating 2 sets of grant awards. This would not only waste state and local staff resources on low-

value administrative processes, it would waste state and local public funds at a time when they are in short supply. This could further undermine state and local efforts to ensure a reasonable supply of reliable and quality child care for families who depend on this service in order to work.

This order also amends the rule to provide that if initial grants are awarded, no initial grant will be awarded if the amount would be less than \$500.

SECTION 1. DWD 59.05 (intro.) is amended to read:

DWD 59.05 (intro.) A local government or tribe that applies for funds under this chapter shall certify that matching expenditures represent expenditures eligible for federal match as required under ~~42 USC 618~~, 42 USC 9858-9858q, 45 CFR Parts 98 and 99; this chapter; and the RFP. The department shall determine the minimum match expenditure required under 42 USC 618 is to be either the federal medical assistance percentage for Wisconsin for the federal fiscal year in which the match expenditure occurs or a higher percentage rate needed to meet the state's match requirements under 45 CFR 98.53 and 45 CFR 98.63 as affected by ss. 20.445 (3)(cm), 20.445 (3)(md), and 49.175 (1)(qm), Stats. The department may round this percentage of required match to the nearest higher full percentage point. A match expenditure shall comply with the following criteria:

SECTION 2. DWD 59.08 (1)(intro.) is amended to read:

DWD 59.08 (1) (intro.) No initial grant may be awarded if there is insufficient funding appropriation under s. 49.175 (1)(qm), Stats, to provide continuing grants under sub. (2) of at least 50% of the eligible grantees' initial grant levels from the previous two grant cycles. ~~The~~ If initial grants are awarded, the amount of an initial grant shall be based on the following:

SECTION 3. DWD 59.07 (1)(f) is created to read:

DWD 59.07 (1)(f) No initial grant may be awarded if the amount of the grant would be less than \$500.

SECTION 4. DWD 59.07 (2)(b) is repealed.

SECTION 5. DWD 59.07 (2)(d)2. is amended to read:

DWD 59.07 (2)(d)2. At a level of up to 75% of the initial grant if match requirements are met. Additional funds may be provided if the applicant identifies sufficient match and funds are available under initial grant rules.

SECTION 6. DWD 59.07 (2)(e)1. is repealed.

SECTION 7. EFFECTIVE DATE. . This rule shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22 (2)(intro.), Stats.

FISCAL ESTIMATE
DOA-2048 N(R03/97)

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
DWD 59
Amendment No. if Applicable

Subject
Child care local pass-through grants

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

1. Increase Costs
 Permissive Mandatory
2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

345

Assumptions Used in Arriving at Fiscal Estimate

Local governments will be contributing an increased match rate to receive a pass-through grant. The match rate in the current rule would prohibit Wisconsin from drawing the full federal funding available under the Child Care Development Funds block grant. The increased match rate will cover the GPR match shortfall in funds appropriated to the child care direct subsidy program. Legislative intent in 2003 Wisconsin Act 33 is that local governments contribute an increased match rate in the pass-through program so Wisconsin draws the full CCDF dollars available.

2003 Wisconsin Act 33 provides \$2,475,100 in SFY04 and \$2,478,500 in SFY05 for child care local pass-through grants. The match rate will increase from approximately 42% to approximately 52% for the current biennium and may vary in future years depending on legislative allocation of federal CCDF dollars. The net annualized fiscal impact on the fiscal worksheet is based on the current allocation.

Long-Range Fiscal Implications

The long-term fiscal impact will vary depending on future legislative allocations of Wisconsin's federal CCDF dollars.

Agency/Prepared by: (Name & Phone No.)
DWD/Elaine Pridgen 267-9403

Authorized Signature/Telephone No. 266-9427

Edward Bernstein

Date

10/7/03

FISCAL ESTIMATE WORKSHEET

2003 Session

Detailed Estimate of Annual Fiscal Effect
DOA-2047 (R10/94)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. DWD 59	Amendment No.
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Subject
Child care local pass-through grant

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

0

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$0	\$0 -
(FTE Position Changes)	0 (FTE)	0	0
State Operations - Other Costs	0	0	-
Local Assistance	0	0	-
Aids to Individuals or Organizations	0	0	-
TOTAL State Costs by Category		\$0	\$
B. State Costs by Source of Funds			
GPR		\$0	\$0-
FED		0	0
PRO/PRS		0	0
SEG/SEG-S		0	0
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED (increased CCDF match received)		\$1,289,800	-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$1,289,800	\$0-

NET ANNUALIZED FISCAL IMPACT

	STATE	LOCAL
NET CHANGE IN COSTS	0	\$918,400
NET CHANGE IN REVENUES	\$1,289,800	\$0

Agency/Prepared by: (Name & Phone No.)
DWD/ Elaine Pridgen 267-9403

Authorized Signature/Telephone No.

Edward J. Susten 266-9407

Date
10/7/03



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Terry C. Anderson
Legislative Council Director

Richard Sweet
Clearinghouse Assistant Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 03-101

AN ORDER to repeal DWD 59.07 (2) (b) and (e) 1.; to amend DWD 59.05 (intro.), 59.08 (intro.) and 59.07 (2) (d) 2.; and to create DWD 59.07 (1) (f), relating to the child care local pass through program.

Submitted by **DEPARTMENT OF WORKFORCE DEVELOPMENT**

10-13-2003 RECEIVED BY LEGISLATIVE COUNCIL.

11-10-2003 REPORT SENT TO AGENCY.

RS:LR

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 03-101

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

2. Form, Style and Placement in Administrative Code

The introductory clause of the rule should be rewritten in the correct format, as follows: “to repeal DWD . . . ; to amend DWD . . . ; and to create DWD”

4. Adequacy of References to Related Statutes, Rules and Forms

Both ss. DWD 59.05 (intro.) and 59.08 (1) (intro.) refer to “Chapter 20, Stats.” This reference should be made to a more precise appropriation. In addition, it does not appear that there are any match requirements specified in ch. 20 for this program, as provided in s. DWD 59.05 (intro.).

5. Clarity, Grammar, Punctuation and Use of Plain Language

The references to (intro.) in SECTIONS 1 and 2 of the rule should include a period at the end of the word “intro.”