



Legislative Fiscal Bureau

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February 25, 2013

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Expenditure Plan for Income Augmentation Funds -- Agenda Item II

On October 2, 2012, the Joint Committee on Finance received a proposal from the Department of Administration (DOA) to allocate federal income augmentation revenues pursuant to ss. 46.46(2) and 48.567(2) of the statutes. Income augmentation revenues are federal medical assistance (MA), Medicare, and child welfare moneys the Department of Health Services (DHS) and the Department of Children and Families (DCF) receive as a result of income augmentation activities for which the state has contracted. The state claims these federal funds based on certain costs that are initially paid with state and local funds that are federally reimbursable. Consequently, the state may use these funds for any purpose.

Currently, all income augmentation revenue the state receives is based on claims DHS submits under the MA program. These moneys are initially credited to a federal appropriation in DHS [s.20.435(8)(mb)], and then transferred to a program revenue (PR) appropriation in DCF [(20.437(3)(kp)].

Under the current proposal, the administration identified amounts DHS had collected and reconciled in the 2011-12 fiscal year (\$25,266,200), and federal income augmentation revenues received prior to 2011-12 that DCF carried forward to 2011-12 (\$789,900). A copy of the administration's plan is attached.

On October 19, 2012, the Co-Chairs notified the DOA Secretary that it would meet to consider the administration's plan.

BACKGROUND

Currently, the state claims federal income augmentation funds from two sources. First, DHS claims MA funds for "targeted case management services," which counties provide to children

who are in out-of-home care and whose care is not eligible for reimbursement under Title IV-E of the Social Security Act. Second, the state claims MA funds for certain services that residential care centers (RCCs) provide to children that are reimbursable under the MA program's HealthCheck benefit. The 2012 income augmentation plan includes the following: (a) \$15,536,600 from targeted case management funds; (b) \$9,729,600 from HealthCheck services provided by RCCs; and (c) federal income augmentation revenues the state received prior to 2011-12 that DCF had previously intended to lapse at the end of the 2010-11, but instead carried forward to 2011-12 (\$789,900). In total, \$26,056,100 in income augmentation revenue is included in the current plan.

Under the administration's proposal, approximately \$22.9 million of federal income augmentation funds would be allocated as follows:

- \$8.4 million to DCF to fund items approved as part of 2011 Act 32;
- \$3.4 million to satisfy DCF general fund lapse requirements in 2011-12 that were previously approved by the Committee as part of the 2011 income augmentation plan;
- \$7.8 million to transfer to the MA trust fund to support MA benefits costs;
- \$1.1 million to fund DHS and DCF income augmentation administrative expenses;
- \$1.7 million to counties to support administrative costs of claiming MA-eligible HealthCheck services provided by RCCs;
- \$0.2 million to the contracted firm that assisted the state in generating these income augmentation funds; and
- \$0.3 million to support the DHS Office of the Blind and Visually Impaired, as budgeted in Act 32.

Under the administration's plan, the remaining revenue (\$3,167,700) would lapse to the general fund to partially meet agency lapse requirements enacted as part of 2011 Act 32. It is this amount -- the amount remaining after Act 32 and the 2011 income augmentation plan commitments are satisfied -- that is available for allocation by the Committee. Any income augmentation revenue that is not budgeted for specified purposes by the Legislature, or by the Committee under the process specified under ss. 46.46 and 48.567 of the statutes, is deposited to the general fund.

ANALYSIS

The Committee could approve the administration's request to lapse \$3,167,700 -- the amount of unallocated income augmentation funds identified in the DOA request -- to the general fund in 2012-13 as means of meeting Act 32 lapse requirements, as proposed by the administration. Alternatively, the Committee could lapse these funds to the general fund, but specify that this lapse not be counted in meeting the Act 32 lapse requirements. Finally, the Committee could allocate

this funding to address projected shortfalls in state programs, increase funding for current programs, or address unsupported cash deficits in PR appropriations. Each of these options is discussed below.

Lapse to General Fund to Meet Act 32 Lapse Requirements (Alternative 1). Act 32 requires DOA to lapse \$174.3 million to the general fund from executive branch agency appropriations (excluding sum sufficient and federal appropriations) over the course of the 2011-13 biennium. In 2011-12, the DOA lapse plan approved by the Committee lapsed \$123.29 million from these appropriations to the general fund. Consequently, the administration must lapse \$51.01 million in 2012-13 to fully satisfy the Act 32 lapse requirement. Act 32 authorizes DOA to determine the lapse amounts from each agency, as long as the biennial total equals \$174.3 million. Consequently, if the Committee approves the administration's plan, \$3,167,700 of income augmentation funds would be used to partially meet the remaining Act 32 lapse requirement for 2012-13. This alternative would not affect the current estimated general fund balance, as identified in the January 24, 2013, memorandum from this office, since it would not affect total estimated lapses that are expected to occur in the current fiscal year.

Lapse to General Fund, but Exclude Lapse from Act 32 Lapse Requirement (Alternative 2). The Committee could lapse the unallocated income augmentation revenue to the general fund, but prohibit the administration from counting these funds as a means of meeting the Act 32 lapse requirement. Under this alternative, the administration would be required to identify other appropriations for executive branch agencies from which moneys could lapse in 2012-13. This process could result in funding reductions that are not currently anticipated by these agencies. In contrast to Alternative 1, this alternative would increase estimated lapses to the general fund by \$3,167,700 in 2012-13, compared to the current estimate, resulting in additional one-time funding available for use in the 2013-15 biennium.

Partially Address Projected Shortfalls. Rather than lapse the uncommitted income augmentation funds to the general fund, the Committee could allocate these funds to programs with projected funding shortfalls. Several of these options are presented for the Committee's consideration. The Committee members could also provide one-time funding in 2012-13 for more than one of these items, as long as the total allocations do not exceed \$3,167,700.

Each of the alternatives to supplement current appropriations would require that income augmentation revenues be transferred to a PR appropriation that currently supports MA benefits costs [(s. 20.435(4)(ky))], and that a corresponding amount of GPR that is currently budgeted to support MA benefit costs be transferred to other appropriations for which additional funding would be provided. In this way, these one-time transfers would not affect the total amount of funding that would be available to support MA benefits costs in the 2011-13 biennium.

DHS -- Funeral and Cemetery Aids. The Committee could allocate funds to DHS to address a projected shortfall in funding for the funeral and cemetery aid appropriation, which funds costs of funeral and cemetery services to certain indigent individuals who were enrolled in MA or participating in Wisconsin Works at the time of their death (*Alternative 3a*).

Under the program, the state pays the lesser of either: (a) the amount not covered by the

individual's estate or other persons; or (b) \$1,000 for cemetery reimbursement and \$1,500 for funeral and burial expenses. However, the program does not pay any funeral, burial, or cemetery expenses if the total expenses for funeral services exceed \$4,500 or if the total expenses for cemetery services exceed \$3,500.

Act 32 provided \$8,447,200 GPR in 2011-12 and \$8,594,000 GPR in 2012-13 to fund the program. This funding is budgeted in a biennial appropriation, which permits DHS to expend moneys budgeted in 2012-13 to fund program costs in 2011-12 if 2011-12 costs exceed the amount appropriated in that year. In 2011-12, program expenditures totaled \$9,357,500 GPR. Based on a review of 2012-13 spending through January, it is estimated that total program spending in the biennium will be approximately \$18.7 million, or approximately \$1.7 million more than the amount budgeted for the 2011-13 biennium (\$17,041,200 GPR).

SPD--Legal Representation. The Committee could allocate these funds to the Office of State Public Defender (SPD) to partially address a projected shortfall in funding for representation in indigent defense cases (Alternative 3b).

Indigent legal defense cases are assigned by the SPD to private bar attorneys either: (a) for overflow cases in excess of what can be assigned to available staff attorneys; or (b) when a staff attorney has a conflict of interest that precludes the attorney from providing representation. Private bar attorneys are paid in two ways for accepting these cases: (a) an hourly rate of \$40 for in-court and out-of-court time; and (b) for some misdemeanor cases, a flat, per case contracted amount. During 2011-13 biennial budget deliberations, it was estimated that budgeted funding for private bar costs could fall short of required funding to address the SPD's projected caseload by \$5.8 million. This was due, in part, to an estimated \$3.5 million private bar shortfall carried over from the 2009-11 biennium into the current biennium.

The state primarily funds these private bar costs through appropriations of GPR funding to the SPD's private bar GPR biennial appropriation. Under Act 32 this appropriation was provided \$21,194,700 GPR in 2011-12, and \$23,155,400 GPR in 2012-13.

The SPD's private bar GPR biennial appropriation permits the Office to expend moneys budgeted in 2012-13 to fund private bar costs incurred in 2011-12, if 2011-12 costs exceed the amounts appropriated in that year. While the SPD's private bar GPR biennial appropriation was appropriated \$21,194,700 in 2011-12, the Office actually expended \$30,194,700 from this appropriation in 2011-12.

It is estimated that the SPD will exhaust the remaining 2012-13 balance of \$14,155,400 in its private bar GPR biennial appropriation in March, 2013. In its quarterly update to the Committee dated January 8, 2013, the SPD notified the Committee that the cumulative private bar shortfall is estimated at \$6.4 million through June 30, 2013.

Without additional funding, private bar attorneys will not be paid until funding is appropriated under the 2013-15 budget for this purpose. In order to reduce the amount of time during which private bar attorneys will not be paid and to fund costs that have been incurred in the current biennium, the Committee could consider supplementing on a one-time basis, the SPD GPR

appropriation for this purpose.

DVA -- Military Funeral Honors Program. The Committee could allocate funds to the Department of Veterans Affairs (DVA) to address a projected shortfall in funding for the military funeral honors program (*Alternative 3c*).

DVA is required to coordinate the provision of military funeral honors to deceased veterans and to deceased persons who served under honorable conditions in any national guard or in a reserve component of the U.S. armed forces, if requested to do so by a family member or funeral director. The Department provides these services either by performing the honors with DVA's military funeral honors teams or by coordinating the performance of such honors by members of veterans groups and the military services. No stipend is paid for honors performed by DVA's honors teams. By rule, DVA is required to reimburse veterans organizations \$25 for the cost of basic military honors and \$50 for full military honors for each funeral where honors are performed. Basic honors consist of at least two uniformed service representatives, the sounding of "Taps," and the folding and presentation of a flag to the next of kin. Full military honors funerals also include a three-person firing detail.

Act 32 provided \$221,900 GPR in each year of the 2011-13 biennium for the military funeral honors program. This funding is budgeted in a biennial appropriation, which permits DVA to transfer budget authority between the two years of the biennium if expenditures in one year are greater or lower than budgeted. An additional \$18,900 was also carried forward into 2011-12 as an encumbrance from 2010-11. DVA expended \$280,100 GPR in 2011-12, leaving \$182,600 GPR in budget authority for 2012-13. As of January 18, 2013, DVA spent \$158,425 on military funeral honors in fiscal year 2012-13. Based on average expenditures through January 2013, it is estimated that an additional \$109,900 GPR will be needed to fully fund the program. DVA indicates expenditures in this appropriation have exceeded Act 32 budgeted amounts as a result of the Department's decision to reduce costs to the veterans trust fund by eliminating two of the Department's three Military Funeral Honors Teams. As a result, a larger percentage of military funeral honors are being performed by veterans organizations eligible for stipends.

ALTERNATIVES

1. Approve the Governor's request to transfer \$3,167,700 PR of unallocated income augmentation revenues identified in the administration's plan to the general fund in 2012-13 to meet Act 32 lapse requirements.

2. Transfer \$3,167,700 PR of unallocated income augmentation revenue identified in the administration's plan to the general fund in 2012-13 and specify that the lapse not be counted in meeting the administration's Act 32 lapse requirement.

3a. Transfer \$1,700,000 PR of unallotted income augmentation revenue identified in the administration's plan to a DHS PR appropriation that supports MA benefits costs [20.435(4)(ky)], reduce GPR funding in DHS currently budgeted for MA benefits costs by \$1,700,000 [s. 20.435(4)(b)], and increase funding on a one-time basis for the DHS GPR appropriation that funds funeral and burial aids for indigent individuals [s. 20.435(4)(br)] by \$1,700,000 GPR in 2012-13 to

offset a projected shortfall in that appropriation in 2012-13. Direct DOA to lapse the balance (\$1,467,700) to the state's general fund to satisfy Act 32 lapse requirements.

3b. Transfer \$3,167,700 PR of unallocated income augmentation revenue identified in the administration's plan to a DHS PR appropriation that supports MA benefits costs [20.435(4)(ky)], reduce GPR funding in DHS currently budgeted for MA benefits costs by \$3,167,700 [s. 20.435(4)(b)], and increase funding on a one-time basis for the SPD GPR appropriation that funds reimbursement for private bar attorneys and investigations [s. 20.550(1)(d)] to partially offset a projected private bar funding shortfall in 2012-13.

3c. Transfer \$109,900 PR of unallotted income augmentation revenue identified in the administration's plan to a DHS PR appropriation that supports MA benefits costs [20.435(4)(ky)], reduce GPR funding in DHS currently budgeted for MA benefits costs by \$109,900 [s. 20.435(4)(b)], and increase funding on a one-time basis for DVA's GPR appropriation that funds the state's military honors funeral appropriation [s. 20.485(2)(dm)] to offset a projected shortfall in that appropriation in 2012-13. Direct DOA to lapse the balance (\$3,057,800) to the state's general fund to satisfy Act 32 lapse requirements.

Prepared by: Charles Morgan, Grant Cummings, and Paul Onsager
Attachment



WISCONSIN DEPARTMENT OF
ADMINISTRATION

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September 26, 2012

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The Honorable Lena Taylor, Co-Chair
Joint Committee on Finance
316 East, State Capitol
Madison, WI 53702

BY: *SL Finance*

The Honorable Robin Vos, Co-Chair
Joint Committee on Finance
309 East, State Capitol
Madison, WI 53702

Dear Senator Taylor and Representative Vos:

Pursuant to ss. 46.46(2) and 48.567(2), the Department of Health Services and the Department of Children and Families have submitted to the Department of Administration a plan for expenditure of \$26.1 million in federal income augmentation funds. I have approved the attached expenditure plan which will fulfill statutorily required reductions, make contractual payments, meet prior commitments and support biennial budget lapse requirements.

To meet prior commitments, \$22.9 million will be used to support items approved under 2011 Wisconsin Act 32, meet routine administrative expenses associated with collecting the revenue and other contractual commitments to counties. These include:

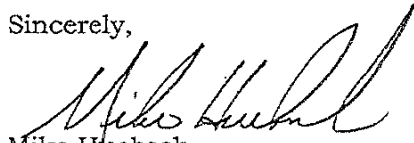
- \$7,870,924 to the Medical Assistance Trust Fund,
- \$263,400 to the Office of Blind and Visually Impaired under Act 32,
- \$191,743 for administrative services related to the claiming of revenue,
- \$1,666,888 to counties for participation expenses related to HealthCheck,
- \$217,200 for the Department of Health Service's administration expense,
- \$8,375,600 for prior commitments in Act 32,
- \$3,399,932 lapse in state fiscal year 2011-12 to the general fund previously approved in the fiscal year 2010-11 income augmentation plan, and
- \$902,700 for the Department of Children and Families' costs related to the administration of the income augmentation program.

The remaining \$3,167,746 will lapse to the general fund and be applied against the Department of Children and Families' ongoing lapse requirements.

The Honorable Lena Taylor
The Honorable Robin Vos
September 26, 2012
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Committing these funds to comply with expenditures approved in Act 32, meet the state's contractual and administration obligations, and help offset the state lapse requirement expends the available income augmentation funds claimed and approved in fiscal year 2011-12.

Sincerely,



Mike Huesch
Secretary of Administration

cc: Members, Joint Committee on Finance
Bob Lang, Legislative Fiscal Bureau
Brian Hayes, State Budget Office
Kimberly Liedl, Governor's Office
Dennis Smith, Department of Health Services
Eloise Anderson, Department of Children and Families