



2015 ASSEMBLY BILL 607

December 22, 2015 - Introduced by Representatives JOHNSON, C. TAYLOR, ZAMARRIPA, BARCA, OHNSTAD, SUBECK, GOYKE, WACHS, BOWEN, JORGENSEN, SINICKI, BILLINGS, SHANKLAND, KOLSTE, CONSIDINE, SARGENT, HEBL, BERCEAU, SPREITZER and BROSTOFF, cosponsored by Senators HARRIS DODD, LASSA, RINGHAND, C. LARSON, CARPENTER and WIRCH. Referred to Committee on Children and Families.

1 **AN ACT to repeal** 49.155 (6d) (a) 3.; **to amend** 20.001 (2) (e), 20.437 (2) (me),
2 49.155 (6) (e) 3. (intro.), b., c., d. and e., 49.175 (1) (intro.), 49.197 (1m) and
3 49.197 (2) (b) 1.; and **to create** 13.94 (1) (fm), 13.94 (1s) (c) 9., 20.437 (2) (mf),
4 49.155 (6f) and 49.155 (7d) of the statutes; **relating to:** payments to child care
5 providers, preventing fraud in the child care subsidy program, providing an
6 exemption from rule-making procedures, and making an appropriation.

Analysis by the Legislative Reference Bureau

The Wisconsin Works (W-2) program under current law provides work experience and benefits for low-income custodial parents who are at least 18 years old. Also, an individual who is the parent of a child under the age of 13 or, if the child is disabled, under the age of 19, who needs child care services to participate in various education or work activities, and who satisfies other eligibility criteria may receive a child care subsidy for child care services under W-2. This child care subsidy program is called Wisconsin Shares.

Under current law, the Department of Children and Families (DCF) sets the maximum payment rates for child care providers who provide services under Wisconsin Shares and may modify an individual child care provider's payment rate in the following manner on the basis of the child care provider's quality rating under the quality rating system known as Young Star: a provider who receives a one-star rating may be denied payment; a provider who receives a two-star rating may have

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the maximum payment rate reduced by up to 5 percent; a provider who receives a three-star rating may receive up to the maximum payment rate; a provider who receives a four-star rating may have the maximum payment rate increased by up to 10 percent; and a provider who receives a five-star rating may have the maximum payment rate increased by up to 25 percent. Under the bill, DCF is required to pay an individual child care provider on the basis of the child care provider's quality rating under Young Star, as follows: a provider who receives a one-star rating is denied payment; a provider who receives a two-star rating is paid the maximum payment rate; a provider who receives a three-star rating is paid the maximum payment rate plus 5 percent; a provider who receives a four-star rating is paid the maximum payment rate plus 10 percent; and a provider who receives a five-star rating is paid the maximum payment rate plus 25 percent.

For purposes of reducing the cost of Wisconsin Shares, current law allows DCF to adjust the amount paid to child care providers under the program. Currently, DCF pays or reimburses licensed family child care providers based on a child's actual attendance, while DCF pays licensed group child care providers based on a child's enrollment with the provider. Under the bill, DCF must base the payment for a child receiving care from a licensed family child care provider on the child's enrollment and not on the child's actual attendance. Additionally, the bill eliminates DCF's authority to adjust the amount paid to child care providers for purposes of reducing costs in Wisconsin Shares.

Under current law, DCF must establish a program to investigate fraudulent activity by participants in W-2, which includes Wisconsin Shares, and establish an incentive program to provide rewards to local agencies administering Wisconsin Shares for identifying fraud in the program. The bill requires DCF additionally to establish policies and procedures to prevent fraud in Wisconsin Shares and requires the Legislative Audit Bureau to annually audit such policies and procedures. Finally, the bill requires that any money recovered from overpayments in Wisconsin Shares be used to pay for direct child care services under Wisconsin Shares and to reduce fraud in Wisconsin Shares.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 13.94 (1) (fm) of the statutes is created to read:

2 13.94 (1) (fm) Annually, conduct a financial and performance evaluation audit
3 of the policies and procedures established by the department of children and families
4 under s. 49.155 (7d). The legislative audit bureau shall file a copy of the report of the
5 audit under this paragraph with the distributees specified in par. (b).

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1 **SECTION 2.** 13.94 (1s) (c) 9. of the statutes is created to read:

2 13.94 (1s) (c) 9. The department of children and families for the cost of an audit
3 performed under sub. (1) (fm).

4 **SECTION 3.** 20.001 (2) (e) of the statutes is amended to read:

5 20.001 (2) (e) *Federal revenues*. “Federal revenues” consist of moneys received
6 from the federal government, except that under s. 20.437 (2) (md) “federal revenues”
7 also include moneys treated as refunds of expenditures, and under s. 20.437 (2) (me)
8 and (mf) “federal revenues” consist only of moneys treated as received from the
9 federal government. Federal revenues may be deposited as program revenues in the
10 general fund or as segregated revenues in a segregated fund. In either case they are
11 indicated in s. 20.005 by the addition of “-F” after the abbreviation assigned under
12 pars. (b) and (d).

13 **SECTION 4.** 20.437 (2) (me) of the statutes is amended to read:

14 20.437 (2) (me) *Child care and temporary assistance overpayment recovery*. ~~All~~
15 Except as provided in par. (mf), all moneys received from the recovery of
16 overpayments, and incorrect or disallowed payments, and voluntary repayments of
17 federal Child Care and Development Fund block grant funds, of federal Temporary
18 Assistance for Needy Families block grant funds, and of state moneys paid from other
19 appropriations to meet maintenance-of-effort requirements under the federal
20 Temporary Assistance for Needy Families block grant program under 42 USC 601
21 to 619 and the federal Child Care and Development Fund block grant program under
22 42 USC 9858 that the department elects to treat as federal revenue, for costs related
23 to recovering the overpayments and incorrect or disallowed payments, for activities
24 to reduce errors under the Wisconsin Works program under ss. 49.141 to 49.161, and
25 for any of the purposes specified under s. 49.175 (1).

ASSEMBLY BILL 607**SECTION 5**

1 **SECTION 5.** 20.437 (2) (mf) of the statutes is created to read:

2 20.437 (2) (mf) *Wisconsin Shares overpayment recovery.* All moneys received
3 from the recovery of overpayments made under s. 49.155 that the department elects
4 to treat as federal revenue, for activities to investigate and reduce fraud in the
5 program under s. 49.155 and for direct child care services under s. 49.155.

6 **SECTION 6.** 49.155 (6) (e) 3. (intro.), b., c., d. and e. of the statutes are amended
7 to read:

8 49.155 (6) (e) 3. (intro.) The department ~~may~~ shall modify a child care
9 provider's payment rate under subd. 2. on the basis of the provider's quality rating,
10 as described in the quality rating plan, in the following manner:

11 b. For a child care provider who receives a 2-star rating, the department ~~may~~
12 ~~reduce~~ shall pay the maximum payment rate ~~by up to 5 percent.~~

13 c. For a child care provider who receives a 3-star rating, the department ~~may~~
14 ~~pay up to~~ shall increase the maximum payment rate by 5 percent.

15 d. For a child care provider who receives a 4-star rating, the department ~~may~~
16 shall increase the maximum payment rate ~~by up to~~ 10 percent.

17 e. For a child care provider who receives a 5-star rating, the department ~~may~~
18 shall increase the maximum payment rate for such a child care provider ~~by up to~~ 25
19 percent.

20 **SECTION 7.** 49.155 (6d) (a) 3. of the statutes is repealed.

21 **SECTION 8.** 49.155 (6f) of the statutes is created to read:

22 49.155 (6f) **BASIS FOR PAYMENTS TO LICENSED FAMILY CHILD CARE CENTERS.** The
23 department may not calculate the payment under this section for a child receiving
24 care from a family child care center, as defined in s. 49.136 (1) (j), that is licensed
25 under s. 48.65 based on the actual attendance of the child. The department shall

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1 calculate payment for a child who receives care from such a licensed family child care
2 center based on the enrollment of the child at the licensed family child care center.

3 **SECTION 9.** 49.155 (7d) of the statutes is created to read:

4 49.155 (7d) FRAUD PREVENTION PROGRAM. The department shall establish
5 policies and procedures to prevent fraud in the program under this section.
6 Notwithstanding s. 227.10 (1), the department need not promulgate policies and
7 procedures under this section as rules under ch. 227.

8 **SECTION 10.** 49.175 (1) (intro.) of the statutes is amended to read:

9 49.175 (1) ALLOCATION OF FUNDS. (intro.) Except as provided in sub. (2), within
10 the limits of the appropriations under s. 20.437 (2) (a), (cm), (dz), (k), (kx), (L), (mc),
11 (md), (me), (mf), and (s), the department shall allocate the following amounts for the
12 following purposes:

13 **SECTION 11.** 49.197 (1m) of the statutes is amended to read:

14 49.197 (1m) FRAUD INVESTIGATION. From the appropriations under s. 20.437 (2)
15 (dz), (kx), (L), (mc), (md), (me), (mf), and (nL), the department shall establish a
16 program to investigate suspected fraudulent activity on the part of recipients of aid
17 to families with dependent children under s. 49.19, on the part of participants in the
18 Wisconsin Works program under ss. 49.141 to 49.161, and, if the department of
19 health services contracts with the department under sub. (5), on the part of
20 recipients of medical assistance under subch. IV, food stamp benefits under the food
21 stamp program under 7 USC 2011 to 2036, supplemental security income payments
22 under s. 49.77, payments for the support of children of supplemental security income
23 recipients under s. 49.775, and health care benefits under the Badger Care health
24 care program under s. 49.665. The department's activities under this subsection may
25 include, but are not limited to, comparisons of information provided to the

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1 department by an applicant and information provided by the applicant to other
2 federal, state, and local agencies, development of an advisory welfare investigation
3 prosecution standard, and provision of funds to county departments under ss.
4 46.215, 46.22, and 46.23 or multicounty consortia, as defined in s. 49.78 (1) (br), and
5 to Wisconsin Works agencies to encourage activities to detect fraud. The department
6 shall cooperate with district attorneys regarding fraud prosecutions.

7 **SECTION 12.** 49.197 (2) (b) 1. of the statutes is amended to read:

8 49.197 (2) (b) 1. Subject to subd. 2., the department shall by rule establish an
9 incentive program that, using moneys from the appropriation under s. 20.437 (2) (mf)
10 and from the allocation under s. 49.175 (1) (p), rewards county departments,
11 Wisconsin Works agencies, and tribal governing bodies that administer the subsidy
12 program for identifying fraud in the subsidy program. The rules shall specify that
13 a county department, Wisconsin Works agency, or tribal governing body shall
14 receive, for identifying fraudulent activity under the subsidy program on the part of
15 a child care provider, an amount equal to the average monthly subsidy payment per
16 child during the prior fiscal year, multiplied by the number of children participating
17 in the subsidy program for whom the provider provides care, multiplied by 1.5
18 months. A county department, Wisconsin Works agency, or tribal governing body
19 may use payments received under this subsection for any purpose for which moneys
20 under the Temporary Assistance for Needy Families block grant program may be
21 used under federal law.

22 **SECTION 13. Initial applicability.**

23 (1) CHILD CARE PROVIDER PAYMENTS. The treatment of section 49.155 (6) (e) 3.
24 (intro.), b., c., d., and e. and (6f) of the statutes first applies to payment for child care
25 provided on the effective date of this subsection.

