

Fiscal Estimate Narratives

DHS 1/13/2016

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|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|---------------------|---------|---------------|----------|
| LRB Number | 15-0645/1 | Introduction Number | AB-0535 | Estimate Type | Original |
| Description Optional incentive program for counties and tribes that identify fraudulent activity in certain public assistance programs, granting rule-making authority, and making appropriations | | | | | |

Assumptions Used in Arriving at Fiscal Estimate

Under current law, the Department provides \$1,000,000 AF (\$500,000 GPR) to county and tribal fraud consortia to operate fraud programs. Also, Federal law provides state FoodShare (FS) programs incentive payments for collecting revenue from benefit overpayments that were the result of fraud and client error. States retain 20% of FoodShare collections revenue from client error overpayments and 35% of collections revenue from fraud overpayments. Federal Medicaid (MA) law does not provide incentive payments for collections; the State retains a share of MA collections revenue equal to the State's proportion of Medicaid payments (approximately 40%) and returns the full Federal share of collections revenue to the Federal government.

The State currently pays collections incentives to counties and tribes, excluding Milwaukee County, equal to 15% of recovered FS and MA benefit revenue received on overpayments claims that were established for cases of identified fraud or client error when a county or tribal worker establishes the claim. No payments are made to counties or tribes for benefit recoveries that were the result of agency error. Since Milwaukee County's benefit recovery activities are administered by the State, Milwaukee County is excluded from these incentive payments. The federal, state, and local shares of overpayment collections revenues are shown in the attached document.

In SFY 2015, the Department retained \$564,000 in program revenue from FS and MA overpayment collections, after Federal reimbursement and payment of incentives to counties and tribes. The Department uses these funds to pay for State collections efforts performed by the Department of Children and Families (DCF) and a portion of State staff time. DCF administers overpayment collections efforts for FS and MA claims established by the State as well as those established by county and tribal agencies. In SFY 2015, the State's contract with DCF for these collections activities cost approximately \$1.2 million AF (\$0.6 million PR).

This bill would modify the proportion of FS collections revenue paid to counties and tribes, allowing local agencies to retain the full amount of recovered benefits that the State is permitted to retain under federal law. For the FoodShare program, county and tribal agencies would receive 35% of fraud and 20% of client error collections revenue. The State would no longer retain any revenue from FS benefit recoveries. No changes are proposed to the incentive payment structure for MA collections. The estimated annual fiscal impact of this change would be an annual increase of \$250,000 PR (\$136,000 FS Client Error and \$114,000 FS Fraud) for counties and tribes and an equal decrease in State revenues. Since the Department would have to replace the lost PR with GPR, this proposed change would decrease State resources available to pay for fraud staff and collections efforts. This estimate represents the minimum fiscal effect of this bill. The proposed changes to federal, state, and local shares of overpayment collections revenues are shown in the attached document.

This bill would also establish an optional fraud reward payment program for counties and tribes. This program would allow local agencies to receive reward payments for MA and FS fraud identification activities in lieu of a proportion of collections revenue. Reward payments would be based on a 12-month estimate of future savings to program benefits rather than a proportion of actual collections revenue. Specifically, local agencies electing this option would receive incentive payments equal to 20% of the estimated future savings over a period of 12 months that the Department expects to result from eliminating the identified fraudulent activity. For each case of fraud, local agencies would qualify for the optional reward payment upon meeting all of the following requirements: (1) investigate the suspected fraudulent activity and determine that fraud occurred; (2) establish a claim for overpaid benefits resulting from the fraudulent activity; and (3) pursue criminal prosecution for the identified fraudulent activity. If a county chooses payment under the optional reward program, the county would then forego any incentive payments from collections on the established overpayment, which would offset in part the costs of the

reward program. However, the timeframe to fully recover benefit overpayments is lengthy (10 years on average) so this cost offset would take 10 years to be fully realized.

The dollar amounts in most identified cases of FS and MA fraud are relatively small, which creates a disincentive for local agencies to pursue criminal prosecution for these cases. The Department estimates that counties and tribes would elect to continue receiving a proportion of collections revenue for the majority of fraud cases, taking up the fraud reward payment option in no more than 10% of cases. Based on this assumption, the Department estimates that the optional fraud reward payment program for fraud cases identified during a 12 month period would result in a \$420,000 annual increase to GPR costs in the first year, but would slowly decline to \$220,000 in the tenth year of the program. In addition to implementing the optional reward payment program, one-time enhancements to the CARES program eligibility system would be needed, to allow local agencies to choose a payment option (collections incentive or optional reward payment) for an established fraud claim. The Department estimates a one-time cost of \$260,000 GPR for this system enhancement.

This estimate assumes that the State would assume responsibility for all new costs associated with this bill. The incentive payments for future savings under this bill are currently ineligible for Federal reimbursement in absence of a Federal waiver from each program. Should these waivers be pursued, the waivers must request federal reimbursement for costs associated with the optional fraud incentive program, and would require a demonstration pilot, evaluation, and for Medicaid, a budget neutrality requirement. The evaluation component would cost an estimated \$150,000 AF (\$75,000 FED). This estimate assumes the Department could complete the evaluation using existing and contracted staff. If such waivers were approved, Federal reimbursement would reduce ongoing GPR costs for the optional fraud reward program by approximately \$200,000 per year; however, the Federal government may decline to approve waiver requests under both programs.

In sum, the Department estimates that this bill would cost the State approximately \$930,000 GPR in the first year under the program, declining to \$670,000 GPR in the second year, mainly due to the end of one-time costs. By the tenth year of the program, with lagging collections reaching a full cycle, ongoing costs would be approximately \$450,000 GPR.

Long-Range Fiscal Implications

**Current and Proposed Incentive Payments to Counties and Tribes
AB 535/SB 472**

Current Incentive Payments to Counties and Tribes

| FoodShare Overpayment Collections | | | |
|------------------------------------------|----------------------|------------------|----------------------------|
| | Federal Share | DHS Share | County/Tribal Share |
| Client Error | 80% | 5% | 15% |
| Fraud | 65% | 20% | 15% |
| Non-Client Error | 100% | 0% | 0% |

| Wisconsin Medicaid and BadgerCare Plus Overpayment Collections | | | |
|-----------------------------------------------------------------------|-----------------------------------------------------|------------------|----------------------------|
| | Federal Share | DHS Share | County/Tribal Share |
| Client Error | 60% | 25% | 15% |
| Fraud | 60% | 25% | 15% |
| Non-Client Error | Cannot recover non-client error overpayments for MA | | |

Incentive Payments to Counties and Tribes under AB 535/SB 472

| FoodShare Overpayment Collections | | | |
|------------------------------------------|----------------------|------------------|----------------------------|
| | Federal Share | DHS Share | County/Tribal Share |
| Client Error | 80% | 0% | 20% |
| Fraud | 65% | 0% | 35% |
| Non-Client Error | 100% | 0% | 0% |

| Wisconsin Medicaid and BadgerCare Plus Overpayment Collections | | | |
|-----------------------------------------------------------------------|----------------------|------------------|----------------------------|
| | Federal Share | DHS Share | County/Tribal Share |
| No change from current law. See above. | | | |

Fiscal Estimate Worksheet - 2015 Session

Detailed Estimate of Annual Fiscal Effect

Original
 Updated
 Corrected
 Supplemental

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| Description Optional incentive program for counties and tribes that identify fraudulent activity in certain public assistance programs, granting rule-making authority, and making appropriations | |
| I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$260,000 - One time CARES eligibility system changes | |
| II. Annualized Costs: | Annualized Fiscal Impact on funds from: |
| | Increased Costs Decreased Costs |
| A. State Costs by Category | |
| State Operations - Salaries and Fringes | \$ |
| (FTE Position Changes) | |
| State Operations - Other Costs | |
| Local Assistance | 670,000 |
| Aids to Individuals or Organizations | |
| TOTAL State Costs by Category | \$670,000 |
| B. State Costs by Source of Funds | |
| GPR | 670,000 |
| FED | |
| PRO/PRS (20.435(4)(L)) | |
| SEG/SEG-S | |
| 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 | |
| PRO/PRS | |
| SEG/SEG-S | |
| TOTAL State Revenues | \$ |
| NET ANNUALIZED FISCAL IMPACT | |
| | State |
| | Local |
| NET CHANGE IN COSTS | \$670,000 |
| NET CHANGE IN REVENUE | \$670,000 |
| Agency/Prepared By | |
| Authorized Signature | |
| Date | |
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| | 1/13/2016 |