



## Legislative Fiscal Bureau

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May 26, 2009

Joint Committee on Finance

Paper #434

### **Nursing Home Certified Public Expenditure Program (DHS --Medical Assistance -- Long-Term Care)**

[LFB 2009-11 Budget Summary: Page 367, #8]

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#### **CURRENT LAW**

Under current law, the Department of Health Services (DHS) may distribute up to \$37,100,000 (all funds) annually to municipally-owned nursing homes (primarily county-owned nursing homes) and managed care organizations that serve MA-funded nursing home recipients to reduce these facilities' operating deficits. DHS makes these payments with a combination of GPR and FED matching funds budgeted for MA benefits. The supplemental payments DHS makes under this provision are in addition to rates that are established for these nursing homes as part of the rate setting process.

In addition, DHS claims federal MA matching funds based on certified losses incurred by municipally-owned nursing homes. All revenue the state collects under this certified public expenditure (CPE) program is deposited to the MA trust fund, which supports a portion of the state costs of the MA program. Pursuant to 2005 Wisconsin Act 107, DHS is required to disburse, to municipally-owned nursing homes, any federal MA matching funds the state receives for operating deficits incurred at these nursing homes that exceed the amounts anticipated as revenue in the biennial budget act for the fiscal year in which the funds are received.

#### **GOVERNOR**

Modify the provision relating to unanticipated CPE revenues (revenues that exceed the biennial budget estimates) so that DHS would be required to disburse any federal MA funds the state receives for operating deficits incurred by municipally-owned nursing homes that exceed the amounts anticipated as revenue in the biennial budget act, or any act that increases or

decreases the amount appropriated for such operating deficits, and that is effective after the biennial budget.

## **DISCUSSION POINTS**

1. The intent of the Governor's recommended statutory change is to allow DHS to revise the 2007 Wisconsin Act 20 CPE revenue projections for fiscal year 2008-09, which would enable the state to retain additional federal matching funds DHS expects to receive for operating deficits incurred by municipally-owned nursing homes, rather than distribute these unanticipated CPE revenues to municipally-owned nursing homes. Under Act 20, the estimate of CPE revenues the state would collect in 2008-09 was \$37,000,000. It is currently estimated that DHS will collect \$47,193,500 in CPE revenues in 2008-09, an increase of \$10,193,500 from the Act 20 estimate. In addition, DHS estimates that it will collect \$60,179,600 in 2009-10 and \$58,079,800 in 2010-11 under the nursing home CPE program.

Under AB 75, any amount of CPE revenue the state receives that exceeds \$47,193,500 in 2008-09, \$60,179,600 in 2009-10, and \$58,079,800 in 2010-11 would be distributed to municipally-owned nursing homes. These threshold amounts do not appear in Assembly Bill 75.

2. If this provision were deleted from the bill, municipally-owned nursing homes would receive an additional \$10,193,500 in supplemental payments (in addition to the \$37,100,000 budgeted), based on current estimates of 2008-09 CPE claims. As part of AB 75, the administration has budgeted the \$10,193,500 to support general MA costs in 2008-09. For this reason, if the Committee deletes this provision to enable counties to receive the additional \$10,193,500 in supplemental payments, it would need to increase MA benefits funding by this amount in 2008-09 to hold the MA program harmless.

3. If AB 75 is enacted prior to July 1, 2009, any change made to the estimated CPE revenue expected to be collected in fiscal year 2008-09 would be affected by the AB 75 provision. Consequently, if AB 75 is enacted prior to July 1, 2009, the Governor's intent of retaining the \$10,193,500 in unanticipated CPE revenue to support general MA benefits costs would be accomplished. However, if the bill is enacted on or after July 1, 2009, DHS would be required to distribute the \$10,193,500 to municipally-operated nursing homes, and the MA budget would have a shortfall of \$10,193,500 in 2008-09 to support general MA benefits in the 2007-09 biennium.

4. A municipally-owned nursing home may receive several types of MA payments to support its costs of caring for MA recipients. First, all nursing homes, including municipally-owned nursing homes, receive MA payment rates that are established annually, based on a prospective payment system. These rates are based on a number of factors, including (but not limited to) cost information contained in audited cost reports nursing homes submit annually to DHS, a "case mix adjustment" that measures the acuity of MA recipients served by each facility, differences in the cost of labor in different areas of the state, and the amount of funding the Legislature budgets for MA payments to nursing homes.

5. As previously indicated, municipally-owned nursing homes may qualify for supplemental payments that are not available to other (non-government-owned) nursing homes. DHS may provide up to \$37.1 million annually as supplemental payments to nursing homes that are owned or operated by counties, cities, village, or towns to reduce these facilities' operating deficits. The amount of funding that is budgeted annually for these supplemental payments is determined as part of the state budget and is specified in statute. As with most MA payments to providers, the supplement is funded with a combination of state funds and federal MA matching funds, based on the state's federal medical assistance percentage (FMAP).

The Governor's budget bill makes no change to the statutory provision that permits DHS to allocate up to \$37.1 million annually. In addition, AB 75 continues to provide this amount to support these supplemental payments in each year of the 2009-11 biennium.

6. Although the statutes provide DHS guidance in distributing supplemental funds to municipally-owned nursing homes, the state's MA plan describes the specific methodology DHS uses to distribute these supplemental funds. Under the 2008-09 state plan, DHS must determine, for the period July 1, 2008 through June 30, 2009, each municipally-owned facility's: (a) projected direct care operating deficit (DCOD); (b) projected overall operating deficit (OAOD); (c) eligible direct care deficit, or EDCD, which equals the lesser of the DCOD or the OAOD; and (d) the projected non-direct care deficit, which is equal to the OAOD less the EDCD.

If the funding budgeted for supplemental payments is not sufficient to support each qualifying facility's EDCD, then DHS calculates an EDCD per MA fee-for-service day by dividing the amount of supplemental funds available by the total number of MA fee-for-service days for all facilities, factoring in the limits of each facility's EDCD. This per day amount would then be paid for each MA fee-for-service day, up to the amount of each qualifying facility's EDCD. A similar process is used to determine payment amounts to Family Care managed care organizations for managed care residents served by these facilities.

7. The following table shows the amount of CPE revenues budgeted by DHS in fiscal years 2005-06 through 2008-09, as well as the actual and projected excess revenues over the same period. In addition, it also shows the actual amount that has been paid to counties during this period.

**TABLE 1**

**CPE Revenue and Supplemental Payments  
2005-06 through 2008-09**

	(Actual) <u>2005-06</u>	(Preliminary Actual) <u>2006-07</u>	<u>2007-08</u>	(Projected) <u>2008-09</u>
Projected CPE Revenues	\$51,299,100	\$51,186,700	\$54,480,300	\$47,193,500
Original (Budgeted) Revenue	<u>47,000,000</u>	<u>43,000,000</u>	<u>40,000,000</u>	<u>37,000,000</u>
Supplement to Municipally-Owned Nursing Homes	\$4,299,100	\$8,186,700	\$14,480,300	\$10,193,500
Supplemental Payments Made to Date	\$0	\$0	\$17,603,200	\$0

8. In 2007-08, there were 52 municipally-owned nursing homes in Wisconsin. According to DHS, approximately 20 percent of all MA nursing home residents currently reside in a nursing home owned by a county or municipality. Although the state's MA payment methodology includes several features that are intended to benefit municipally-owned nursing homes, most of these nursing homes are not fully reimbursed for their costs of caring for MA recipients. Consequently, the difference between their total MA reimbursement and their total costs of care for MA recipients is funded by the municipality from local property tax revenue or other local sources.

The attachment to this paper provides a summary, by county, of the operating deficits at, and the total supplemental payments made to, municipally-owned nursing homes for fiscal years 2005-06 through 2007-08. The table shows that, in 2007-08, municipally-owned nursing homes reported operating deficits of approximately \$139.3 million, which were partially offset by supplemental payments totaling approximately \$54.7 million, resulting in approximately \$84.6 million in unreimbursed costs.

9. Several options are offered for the Committee's consideration. First, the Committee could adopt the Governor's provision. Based on current budget constraints, the Governor's recommendation provides a means of supporting general MA benefits costs with unanticipated CPE revenue, rather than GPR. Further, the additional CPE revenues far exceed the statutory allocation of supplemental funding for municipally-owned nursing homes (\$37.1 million). Finally, deleting this provision would require that the Committee increase MA benefits funding by \$10,193,500 GPR in 2008-09.

10. Second, if the Committee determines that increasing funding to support operating deficits of municipally owned nursing homes is a priority use of GPR, it could delete the AB 75 provision and increase MA benefits funding by \$10,193,500 GPR in 2008-09 to replace the CPE revenue funding the administration has budgeted for general MA benefits with GPR. The primary

argument for this alternative is that the source of this revenue, losses incurred by municipally-owned nursing homes, has increased, compared to the Act 20 estimates. Consequently, a greater share of the costs of operating these facilities has been borne by municipalities, rather than the state MA program, compared to the Act 20 estimates.

11. Finally, the Committee could split the difference, by authorizing DHS to distribute \$5,096,700 in unanticipated 2008-09 CPE revenue to municipally-owned nursing homes, and increasing the MA benefits appropriation by \$5,096,700 GPR in 2008-09.

12. The amount of CPE revenue anticipated by DHS is not identified in statute. However, in the past, DHS has included these estimates in documents relating to the Governor's biennial budget recommendations. These revenue estimates, together with all other sources of revenue deposited to the MA trust fund, have been included in summaries of the Governor's budget prepared by this office. The table on page 345 of the LFB summary of AB 75 includes estimates of CPE revenue that was provided by the Department at the time the document was written. However, these figures do not take into account the enhanced federal medical assistance percentage (FMAP) Wisconsin and other states will receive under the American Recovery and Reinvestment Act of 2009, nor does it reflect the current estimates.

13. Due to the current statutory provisions that require DHS to allocate unanticipated CPE revenue to municipally-owned nursing homes, the accuracy of the administration's revenue estimate prepared as part of the biennial budget affect the amount of MA reimbursement these nursing homes receive. Moreover, it could be argued that sum certain funding for supplemental payments for municipally-owned nursing homes should be established as part of the biennial budget process.

To address this issue, the Committee could establish, in statute, the CPE revenue threshold. Any CPE revenues above these amounts would be provided to municipally-owned nursing homes. For example, consistent with the administration's AB 75 proposal and current estimates, the bill could be amended to indicate that any CPE revenues that DHS collects that exceed \$47,193,500 in 2008-09, \$60,179,600 in 2009-10, and \$58,079,800 in 2010-11 would be distributed as supplemental payments to municipally-owned nursing homes. This alternative would be consistent with the intent of 2005 Wisconsin Act 107, but would establish, in statute (rather than in an LFB summary) what the threshold is for each year.

However, the amount of CPE revenue collected each year would still depend on the level of operating deficits incurred at county and municipally-owned nursing homes. As a result, actual revenue can fluctuate from year to year based on the level of these operating deficits.

14. A second approach is to repeal all statutory provisions relating to the distribution of unanticipated CPE revenues to municipally owned nursing homes, and establish a total budget for these supplemental payments as part of each biennial budget. The current statute permits DHS to distribute up to \$37,100,000 each year to these facilities. This provision permits DHS to provide any amount from \$0 to \$37,100,000 annually as supplemental payments to municipally-owned

nursing homes. Consequently, even if DHS continues to allocate all unanticipated CPE revenues for supplemental payments, DHS could reduce the base amount for these payments (\$37,100,000), which would be counter to the intent of the Act 107 requirement.

The Committee could modify current statute to require DHS to distribute a specified dollar amount in each year to support supplemental payments to municipally operated nursing homes. In addition to being more consistent with standard budgeting practices, an advantage of this option is that all supplemental payments would be eligible for additional federal MA matching funds.

15. The primary argument against this approach is that Act 107 was intended to ensure that if losses to municipally-owned nursing homes increased, compared to budget estimates, the resulting benefit of additional CPE revenues would be provided to municipalities to fund these costs, rather than to the state to support general MA benefits costs.

**ALTERNATIVES**

**A. Funding for Supplemental Payments to Municipally-Owned Nursing Home**

1. Adopt the Governor's recommendations relating to reestimates of CPE revenues. This alternative would reduce funding that would otherwise be provided to municipally-owned nursing homes by an estimated \$10,193,500.

2. Delete the Governor's provision. Increase MA benefits funding by \$10,193,500 GPR in 2008-09 to reflect that DHS would increase supplemental payments to counties by \$10,193,500 in 2008-09, rather than use these revenue to support MA benefits costs in that year.

<b>ALT A2</b>	<b>Change to Bill</b>
	Funding 2008-09
GPR	\$10,193,500

3. Delete provision. Increase MA benefits funding by \$5,096,700 GPR in 2008-09 and require DHS to increase supplemental payments to counties by \$5,096,700 in 2008-09, rather than use these revenues to support MA benefits costs.

<b>ALT A3</b>	<b>Change to Bill</b>
	Funding 2008-09
GPR	\$5,096,700

**B. Statutory Changes to the Program**

1. Modify AB 75 to establish, in statute, the CPE revenue estimates that would serve

as the thresholds for determining unanticipated CPE revenues available to municipal nursing homes.

2. Repeal all provisions that require DHS to distribute unanticipated CPE revenues to municipally-owned nursing homes.

3. In addition to Alternatives (1) or (2), modify the current statutory provision relating to the \$37,100,000 in supplemental payments to delete the provision that permits DHS to pay up to \$37,100,000 annually for supplemental payments.

3a. Instead, require DHS to pay \$37,100,000 annually.

3b. Instead, require DHS to pay \$42,100,000 annually.

<b>ALT B3b</b>	<b>Change to Bill</b>
	Funding
GPR	\$3,207,000
FED	<u>6,793,000</u>
Total	\$10,000,000

3c. Instead, require DHS to pay \$50,000,000 annually.

<b>ALT B3c</b>	<b>Change to Bill</b>
	Funding
GPR	\$8,274,000
FED	<u>17,526,000</u>
Total	\$25,800,000

4. Take no action.

Prepared by: Cory Kaufman  
Attachment





## ATTACHMENT

### Operating Deficits and Supplemental Payments for Municipally-owned Nursing Facilities Fiscal Years 2005-06 through 2007-08

County	Facility	2005-06		2006-07		2007-08	
		Operating Deficit	Total Supplement	Operating Deficit	Total Supplement	Operating Deficit	Total Supplement
Barron	Knapp Haven N.H.	\$216,623	\$216,623	\$286,848	\$248,236	\$326,351	\$290,539
Barron	Pioneer N.H.	90,019	8,634	98,119	12,043	161,506	58,372
Brown	Brown Co. H.C.C.	3,992,429	962,382	5,084,881	804,579	4,317,132	768,031
Calumet	Calumet Homestead	1,006,547	456,671	977,083	447,481	429,974	293,607
Clark	Clark Co. H.C.C.	3,289,910	1,120,334	3,553,278	1,125,853	3,406,003	1,974,967
Columbia	Columbia H.C.C.	1,275,745	566,934	1,157,436	603,726	1,382,040	989,590
Dane	Badger Prairie H.C.C.	7,683,286	700,298	8,029,042	697,231	8,206,771	1,327,808
Dodge	Clearview North And South	7,810,341	1,563,848	5,813,096	1,488,884	5,670,977	2,653,836
Dunn	Dunn Co. H.C.C.	2,727,360	895,958	2,876,387	882,931	2,459,098	1,425,166
Eau Claire	Augusta Area N.H.	4,355	0	34,861	17,049	3,222	1,015
Fond Du Lac	Fond Du Lac Co. H.C.C.	1,822,677	689,386	2,209,123	666,569	1,846,213	989,300
Fond Du Lac	Rolling Meadows N.H.	1,542,357	353,096	1,623,843	351,894	3,082,912	405,409
Grant	Orchard Manor	1,453,256	827,053	1,350,689	790,945	1,342,954	929,956
Green	Pleasant View N.H.	2,019,058	699,604	2,808,199	717,589	2,047,945	1,235,086
Iowa	Bloomfield Manor	686,862	290,820	702,655	340,945	732,806	515,197
Jackson	Pine View C.C.	2,160,324	543,457	1,172,397	455,537	0	0
Jefferson	Countryside Home	4,982,997	723,478	4,360,412	741,174	4,262,460	1,235,569
Kenosha	Brookside C.C.	2,238,559	651,378	2,459,494	725,604	2,778,366	1,259,973
Kewaunee	Algoma Medical Ctr. & Ltcu	457,856	261,032	414,932	295,982	510,004	421,495
La Crosse	Hillview H.C.C.	1,681,805	714,021	1,929,798	708,347	2,314,629	1,210,999
La Crosse	Lakeview H.C.	2,369,636	1,073,916	3,122,487	1,042,756	3,302,018	1,627,575
Lafayette	Lafayette Manor	1,105,568	416,067	1,438,445	395,067	1,217,047	735,281
Lincoln	Pine Crest N.H.	1,422,657	1,032,199	1,456,813	1,083,243	1,570,157	1,337,913
Manitowoc	Manitowoc H.C.C.	4,020,040	890,083	3,936,915	871,045	2,551,778	969,755
Marathon	North Central H.C.	4,830,554	1,824,701	5,968,423	1,950,520	6,322,399	3,433,067
Milwaukee	Milwaukee Co. Rehab.	14,522,654	1,144,149	14,353,720	1,140,820	15,745,130	1,764,600
Monroe	Rolling Hills Rehab. Ctr.	1,947,499	538,753	1,976,159	547,835	2,133,882	1,007,140
Outagamie	Brewster Village	4,156,648	1,259,592	4,053,279	1,193,131	4,110,895	2,048,698
Ozaukee	Lasata C.C.	2,645,887	998,739	2,768,974	1,111,116	2,953,806	2,026,891
Pierce	Heritage Of Elmwood	132,525	81,792	168,184	106,938	235,209	164,577
Pierce	Spring Valley H.C.C.	213,695	72,589	53,157	0	56,133	0
Polk	Golden Age Manor	1,241,480	549,689	1,351,836	560,325	1,260,779	1,039,842
Portage	Portage Co. H.C.C.	1,994,075	381,986	2,547,522	346,628	2,475,232	621,955
Racine	Ridgewood C.C.	4,568,749	1,210,116	4,774,548	1,238,156	4,455,540	2,067,131
Richland	Pine Valley H.C. & Rehab.	1,510,205	377,686	1,544,004	334,617	1,496,540	600,619
Rock	Rock Haven	9,555,622	1,145,300	7,687,767	1,170,524	6,699,187	1,697,025
Rusk	Rusk Co. Mem. Hosp. & N.H.	1,951,100	537,860	1,636,895	451,291	1,097,454	621,790
Sauk	Sauk Co. H.C.C.	2,274,794	677,396	2,336,800	618,526	2,440,596	961,781
Shawano	Maple Lane H.C.C.	703,060	618,474	1,009,671	617,319	1,299,208	869,504
Sheboygan	Rocky Knoll H.C.F.	5,170,820	1,111,642	4,819,858	1,140,653	4,611,374	1,511,507

<u>County</u>	<u>Facility</u>	<u>2005-06</u>		<u>2006-07</u>		<u>2007-08</u>	
		<u>Operating Deficit</u>	<u>Total Supplement</u>	<u>Operating Deficit</u>	<u>Total Supplement</u>	<u>Operating Deficit</u>	<u>Total Supplement</u>
Sheboygan	Sunny Ridge	\$4,317,542	\$1,349,732	\$3,857,440	\$,337,614	\$0	\$0
St. Croix	St. Croix H.C.	1,784,594	377,070	1,821,968	395,962	1,488,792	603,839
St. Croix	Baldwin C.C.	241,164	175,483	183,436	115,948	254,405	173,694
Trempealeau	Pigeon Falls H.C.C.	184,681	175,819	235,192	208,368	302,142	296,555
Trempealeau	Trempealeau Co. H.C.C.	1,398,172	425,372	1,156,660	460,845	951,050	506,641
Trempealeau	Marinuka Manor	307,519	247,105	316,877	249,763	323,055	246,003
Vernon	Vernon Manor	1,582,272	446,217	671,739	457,931	645,834	583,282
Vernon	Norseland N.H.	349,195	147,528	474,049	267,973	321,585	219,337
Walworth	Lakeland H.C.C.	6,502,201	1,102,493	7,261,931	839,634	7,301,423	1,398,982
Washington	Samaritan Health Center	3,015,560	1,077,785	3,270,472	1,098,709	2,984,904	1,831,620
Waupaca	Lakeview Manor	1,810,166	427,599	1,828,554	428,018	2,432,100	534,545
Winnebago	Park View Health Center	2,369,286	659,833	2,625,601	676,207	0	0
Winnebago	Park View - Rehab Pavilion	3,321,883	751,500	3,549,044	759,013	6,764,229	2,260,252
Wood	Edgewater Haven N.H.	1,480,433	538,615	1,791,136	590,008	1,554,452	1,053,359
Wood	Norwood H.C.	<u>2,764,240</u>	<u>319,696</u>	<u>2,700,153</u>	<u>331,765</u>	<u>2,624,309</u>	<u>376,115</u>
	Subtotal	\$144,908,542	\$36,409,583	\$145,692,268	\$36,260,867	\$139,263,998	\$53,176,790
	Family Care MCOs	<u>0</u>	<u>690,417</u>	<u>0</u>	<u>839,133</u>	<u>0</u>	<u>1,526,456</u>
	Total	\$152,475,098	\$37,100,000	\$153,732,600	\$37,100,000	\$139,263,998	\$54,703,246