



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #202

Subsidized Guardianship (DCF -- Children and Families)

[LFB 2011-13 Budget Summary: Page 90, #2 and Page 93, #6]

CURRENT LAW

Title IV-B

Federal funding available under Title IV-B, Subpart I of the federal Social Security Act is allocated to states as a sum-certain allocation to promote flexibility in the development and expansion of a coordinated child and family services program that uses community-based agencies and attempts to ensure that all children are raised in safe, loving families. In federal fiscal year (FFY) 2009-10, Wisconsin received approximately \$4.9 million under Title IV-B, Subpart I.

Funding available under Title IV-B, Subpart II is intended to promote safe and stable families through family preservation, family support services, family reunification, and adoption promotion and support services. The federal Department of Health and Human Services (DHHS) allocates funding to states based on each state's relative share of children whose families receive supplemental nutrition assistance. In FFY 2009-10, Wisconsin received \$5.1 million in Title IV-B, Subpart II funding.

Title IV-E

Title IV-E of the federal Social Security Act provides entitlement matching funds to states for a portion of the cost of services for Title IV-E eligible children who are placed in out-of-home care and the associated administrative, child placement, and training costs. Title IV-E reimbursement is provided to fund 50% of the costs of administration and placement services and up to 75% of certain training costs. Maintenance payments intended to cover the costs of food, shelter, clothing, daily supervision, school supplies, personal incidentals, liability insurance for the child, and reasonable travel to the child's home for visits are reimbursed at the same rate as most services provided under the state's medical assistance (MA) program, called the federal

medical assistance percentage (fmap), estimated at approximately 60% in each year of the 2011-13 biennium.

Except for special needs adoptions, Title IV-E eligibility requirements include meeting certain financial eligibility criteria that were in effect in July of 1996 under the former aid to families with dependent children (AFDC) program. Other eligibility requirements include: (a) the removal and foster care placement be based on a voluntary placement agreement signed by the child's parents or legal guardians and the child welfare agency or on a judicial determination that remaining in the home would be contrary to the child's welfare, within certain time frames as specified under federal law; (b) reasonable or active efforts were made to prevent the removal of the child from the home or to return the child to his or her home; and (c) the care and placement of the child are the responsibility of specified public agencies.

Federal Subsidized Guardianship Waiver

In 2004, the state of Wisconsin applied for a waiver under Title IV-E in order to implement a subsidized guardianship demonstration project, called the Guardianship Permanency Initiative. At the time of the application, children who met Title IV-E eligibility requirements and were placed in the home of a licensed relative foster care home were eligible for foster care maintenance payments under Title IV-E. However, if these same relatives assumed guardianship for these same children, they would no longer be eligible for foster care maintenance payments.

Due to the dynamics of family situations, permanence for children who were placed with relatives could be more difficult to achieve. For the children who could not safely return home, adoption was not always feasible. Many relative foster parents did not want their relatives' parental rights terminated so they could adopt. Also, given the expenses of the children, some of the relative foster parents chose not to become guardians because they would no longer receive foster care maintenance payments.

The waiver application described an initiative the state would implement in Milwaukee County that would provide foster care maintenance payments to eligible relative licensed foster parents once they assumed guardianship of the child in order to evaluate whether subsidized guardianship would encourage permanence for children placed with relative licensed foster care parents. A control group of eligible relative licensed foster care parents did not receive the guardianship payment.

The target population of this initiative consisted of children in licensed relative foster care in Milwaukee County for a minimum of 12 months. The initiative included the following components: (a) guardianship subsidy payments were based on the foster care payment amount in effect for a child at the time that guardianship was awarded and would continue until a child turned 18 years of age, or 19 if needed to complete a high school or equivalent degree; (b) support services before and during the transition to guardianship were the same as those offered to adoptive families; and (c) educational resources for foster parents, such as printed materials, information sessions, and education home visits, were provided.

The waiver application was approved on September 10, 2004, for the period October 14, 2005, through September 30, 2010.

Fostering Connections to Success and Increasing Adoptions Act

The federal Fostering Connections to Success and Increasing Adoptions Act (Fostering Connections Act) of 2008 authorizes federal reimbursement under Title IV-E for licensed relative guardianship assistance payments made on behalf of eligible children who leave foster care for placement in a "legal guardianship" with a grandparent or other relative. States are not required to have a subsidized guardianship program.

For states that implement a subsidized guardianship plan: (a) assistance payments are reimbursed at the state's fmap rate; (b) administrative costs are reimbursed at 50%; and (c) certain training costs are reimbursed at 75%.

Program Improvement Plan

In April, 2010, DHHS conducted a second comprehensive review of Wisconsin's child welfare program, the federal child and family services review (CFSR), which is discussed in further detail below. Overall, DHHS determined that Wisconsin was not in substantial conformance with all seven outcome factors and with three of the seven systemic factors. The results of this second review compared with the first CFSR are detailed in the Attachment. The state received its CFSR findings of the second review from DHHS in June of 2010, and was given 90 days to produce a statewide program improvement plan (PIP). DCF submitted its draft plan on September 14, 2010. On December 21, 2010, the PIP was approved by DHHS.

One component of the approved PIP is to implement a statewide subsidized guardianship program.

Extension of Federal Subsidized Guardianship Waiver

In August, 2010, the state, through the Department of Children and Families (DCF) requested an extension of the subsidized guardianship waiver, which was set to expire on September 30, 2010. The request indicated that the state is in the process of implementing a statewide subsidized guardianship program as indicated in the PIP, but needed additional time. The waiver would allow DCF to continue to make payments to eligible relative guardians in Milwaukee County until a statewide program was implemented. The waiver, along with the experimental and control groups, was extended. The waiver is now expected to expire on July 31, 2011.

GOVERNOR

Eliminate Federal Funding Due to Expiration of Waiver. Provide \$216,500 GPR in 2011-12 and \$122,300 GPR in 2012-13 and eliminate federal funding of \$321,200 FED annually to reflect reestimates of the costs of the subsidized guardianship program in Milwaukee County after the federal subsidized guardianship waiver expires. This provision assumes there would be

no statewide program.

Transfer Subsidized Guardianship Funding Between Appropriations. Transfer \$1,538,100 GPR and \$555,300 FED annually from the Bureau of Milwaukee Child Welfare (BMCW) to DCF's foster care, adoption assistance, and subsidized guardianship program to reflect the costs of providing subsidized guardianship payments in Milwaukee County under a new statewide program that would be implemented once the federal waiver expires. This provision assumes there would be a statewide program.

Program Improvement Plan. Provide \$25,000 PR annually in income augmentation targeted case management (TCM) revenue for a new training curriculum and training for a statewide subsidized guardianship program. TCM funds are federal MA matching funds the state claims for services counties provide to children in out-of-home care whose costs are not reimbursable under Title IV-E.

DISCUSSION POINTS

Child and Family Services Review

1. The CFSR examines each state's conformance with federal requirements under Titles IV-B and IV-E of the federal Social Security Act. The review examines 14 aspects of the state's program, including seven outcome measures relating to safety, permanency, and well-being, and seven systemic factors relating to the overall capacity of the state program to serve children and families. Table 1 describes each of these measures and factors.

TABLE 1

CFSR Measures and Factors

Outcome Measures

Safety Outcome 1	Protecting children from abuse and neglect
Safety Outcome 2	Maintaining children safely in their homes whenever appropriate
Permanency Outcome 1	Providing permanency and stability of living situations
Permanency Outcome 2	Preserving continuity of family relationships
Well-Being Outcome 1	Enhancing capacity of families to provide for children
Well-Being Outcome 2	Supporting educational services for children
Well-Being Outcome 3	Supporting physical and mental health services

Systemic Factors

Information System Capacity	Ability to meet federal reporting requirements and use of data
Case Review System	Written case plans and regular permanency reviews, notification, and hearings
Quality Assurance	State program standards and quality assurance activities
Staff and Provider Training	Training for county agency staff and foster parents
Service Array	Needs assessment and services for children and families statewide
Responsiveness to Community	Sharing information and involving stakeholders
Foster and Adoptive Parent Licensing Recruitment, and Retention	Standards for licensing (including criminal background checks) and recruitment and retention activities

2. In August of 2003, DHHS conducted its first review of Wisconsin's child welfare program. Overall, DHHS determined that Wisconsin was not in substantial conformance with six of the seven outcome factors and with four of the seven systemic factors. The state received its CFSR findings from DHHS in January of 2004, and was given 90 days to produce a statewide program enhancement plan. The state was required to implement the plan's action steps over a two-year period. Wisconsin completed its plan and was found to be successful.

3. In April of 2010, DHHS conducted its second review of Wisconsin's child welfare program. Overall, DHHS determined that Wisconsin was not in substantial conformance with all seven outcome measures and with three of the seven systemic factors. The state received its CFSR findings from DHHS in June of 2010, and was given 90 days to produce a statewide PIP. On December 21, 2010, the PIP was approved by DHHS. The Attachment shows the results of the 2003 and 2010 CFSRs. In the second CFSR, generally a percentage of 90% was needed to obtain a rating of "strength."

4. If a state is found to be in nonconformance, DHHS can assess financial penalties against the funds received by the state under Titles IV-B and IV-E. Under the CFSR process, penalties are withheld pending successful completion of the PIP, including achievement of federally-approved performance improvement targets. Following the end of the PIP period, DCF will then go through a close-out process with DHHS at which time it will be determined if DCF has met its obligations. The closeout period can take up to one year after the PIP period.

5. Penalties may be assessed against a pool of federal funds that includes a state's Title IV-B award and 10% of a state's Title IV-E claims for administrative costs in the years subject to penalties. For each item for which a state is found to be in noncompliance, a 1% penalty (approximately \$130,000) could be assessed against the pool of federal funds and continue until the state comes into conformance. The penalty increases to 2% and then 3% per item if nonconformance continues following subsequent federal reviews.

6. Because Wisconsin was found in noncompliance for 10 items (seven outcome and three systemic), the state faces a penalty of \$1.3 million annually. Penalties are being withheld pending successful completion of the PIP. If the state does not implement a specified item in the PIP, the federal DHHS would determine the amount of the penalty when the state's performance on outcome and systemic items is reviewed.

Program Improvement Plan

7. As noted, the PIP was approved on December 21, 2010. The PIP contains five primary strategies to address the areas for which the state was found in nonconformance: (a) improving pathways to permanence; (b) improving family engagement and well-being; (c) improving safety, timeliness, and response; (d) building service capacity; and (e) professional development enhancements. Each of these strategies identifies goals to accomplish the strategy, each of the goals lists steps to be taken to reach these goals, and each of the steps provides benchmarks to achieve.

8. The PIP stated three goals in the improving pathways to permanence strategy: (a)

improving case planning and review; (b) enhancing utilization of permanency goals; and (c) implementing the second phase of the new levels of care foster care licensing system. The second goal (enhancing utilization of permanency goals) provided three steps to achieve the goal: (a) continue implementation of permanency consultations to expedite permanency for children and youth in out-of-home care in BMCW; (b) implement permanency roundtables; and (c) expand the subsidized guardianship program statewide.

9. The benchmarks to expand the subsidized guardianship statewide include: (a) obtain statutory authority to fund expansion of the program statewide; (b) develop training and policy for the expansion; (c) develop and implement necessary information technology changes; (d) implement the new policy in Milwaukee County through training and continued technical assistance; and (e) implement the new policy statewide through training and continued technical assistance.

10. The statewide subsidized guardianship component is intended to address deficiencies in the permanence outcomes listed in Table 1. Results from an interim evaluation report done in 2008 regarding Wisconsin's subsidized guardianship initiative federal waiver showed improved permanency for children in out-of-home care and found that subsidized guardianship had: (a) a statistically significant effect on net permanency rates (58.6% in the experimental group versus 38.6% in the control group); (b) a significant positive effect on placement duration (377 days in out-of-home care in the experimental group versus 453 days for the control group); (c) similar adoption rates (31.2% in the experimental group versus 28.8% in the control group), which shows guardianship does not supplant adoption; and (d) no statistically significant difference in placement disruptions (18.5% in the experimental group versus 20.9% in the control group).

Current Subsidized Guardianship Program

11. As described above, the subsidized guardianship program currently operates only in Milwaukee County under a federal waiver. Payments that would have been made to licensed relative foster care parents are, instead, made to licensed relative guardians. Because the program operates under a federal waiver that is intended to show an increase in permanence for children in out-of-home care, there is currently a control group that is not eligible for these payments.

12. Subsequent to receipt of the federal waiver, the federal Fostering Connections Act authorized, but did not require, states to implement subsidized guardianship programs for relative licensed foster parents, which would allow them to continue to receive payments after assuming guardianship and still be eligible for matching funds under Title IV-E. The PIP would take advantage of the authorization under the Fostering Connections Act and expand this program statewide in an effort to improve performance on permanence outcomes.

13. However, a statewide subsidized guardianship program was not implemented before the federal waiver was due to expire. Therefore, a request for an extension of the waiver was requested and granted, so that the relative licensed caregivers in Milwaukee County who were receiving subsidized guardianship payments would continue to receive these payments until the statewide program was implemented. The waiver expires July 31, 2011, and is not expected to be extended again because the federal Fostering Connections Act makes the waiver moot.

14. If a statewide subsidized guardianship program were not implemented, the state could be assessed penalties for not complying with the PIP as described above. In addition, the relative caregivers in Milwaukee County currently receiving subsidized guardianship payments would either no longer receive payments or would have to be funded solely with GPR and lose federal matching funds.

SB 27/AB 40

Funding Level

15. The bill would transfer funding in Milwaukee County from BMCW to DCF's foster care, adoption assistance, and subsidized guardianship program to reflect the expansion of the subsidized guardianship program statewide. It is anticipated that there would be no overall increase in funding in DCF for Milwaukee County or in children and family aids for counties outside of Milwaukee County because subsidized guardianship payments would be paid from the amounts that would have been paid to these licensed relatives through foster care maintenance payments. It should be noted that implementation of a statewide subsidized guardianship program would require significant statutory changes, described in further detail below.

16. However, if the Governor's proposal is approved, a modification is necessary because there is an increase in GPR funding and a decrease in federal funding in DCF's foster care, adoption assistance, and subsidized guardianship program that assumed the program would not be expanded statewide.

17. DCF issued its agency budget request in September, 2010 (prior to finalization of the PIP). In that request, it was assumed that the federal subsidized guardianship waiver would expire and that there would be no implementation of a statewide subsidized guardianship under the federal Fostering Connections Act. DCF requested \$216,500 GPR in 2011-12 and \$122,300 GPR in 2012-13 to maintain the subsidized guardianship program in Milwaukee County and requested elimination of the federal matching funds to reflect expiration of the federal waiver (-\$321,200 FED annually).

18. Subsequent to the agency budget request, it was determined that a statewide subsidized guardianship program would be implemented under the federal Fostering Connections Act pursuant to the PIP. As a result, the bill transfers funding from BMCW (\$1,538,100 GPR and \$555,300 FED annually) to DCF's foster care, adoption assistance, and subsidized guardianship program to reflect that the costs that would have been paid to licensed relative foster care parents as foster care maintenance payments would, instead, be paid as subsidized guardianship payments.

19. However, the bill did not eliminate the provision from DCF's budget request for an additional \$216,500 GPR in 2011-12 and \$122,300 GPR in 2012-13, as well as the elimination of \$321,200 FED annually. Therefore, the bill overstates the amount of GPR funding and understates the amount of FED matching funds in DCF's foster care, adoption assistance, and subsidized guardianship program. In addition, the bill overstates the amount that should be transferred from BMCW to DCF's foster care, adoption assistance, and subsidized guardianship program.

20. With a reestimate of the amount of funding needed for the subsidized guardianship

program in Milwaukee County due to more recent expenditures and an update of the estimated fmap in 2011-12 and 2011-13 for the level of federal funding available, the bill should be modified to increase overall funding by \$209,800 (-\$96,900 GPR and \$306,700 FED) in 2011-12 and \$304,000 (-\$2,100 GPR and \$306,100 FED) in 2012-13 (Alternative A1).

21. This modification reflects the following: (a) a reduction in funding of \$789,900 GPR in 2011-12 and \$694,500 GPR in 2012-13 in DCF's foster care, adoption assistance, and subsidized guardianship program; (b) an increase in funding of \$58,100 FED in 2011-12 and \$56,900 FED in DCF's foster care, adoption assistance, and subsidized guardianship program; and (c) an increase in funding of \$693,000 GPR and \$248,600 FED in 2011-12 and \$692,400 GPR and \$249,200 FED in 2012-13 in BMCW.

22. Alternatively, the Committee could provide funding in Milwaukee County during the first year of the biennium to continue to fund the experimental group of relative guardians who are currently receiving guardianship payments until a statewide program is enacted. Under this option, legislation would be required to create a statewide subsidized guardianship program.

23. Under this alternative, the Committee could transfer funding of \$1,538,100 GPR and \$555,300 FED annually from DCF's foster care, adoption assistance, and subsidized guardianship program back to BMCW. In addition, the Committee could provide \$209,800 GPR in 2011-12 and reduce funding by \$847,800 GPR in 2012-13 to reflect a reestimate of the cost of providing subsidized guardianship payments to the experimental group in Milwaukee County during the first year of the biennium (Alternative A2).

Statewide Subsidized Guardianship Program Training Funds

24. The bill would provide \$25,000 PR annually in income augmentation TCM revenue for a new training curriculum and training for a statewide subsidized guardianship program.

25. Income augmentation revenues are statutorily defined as federal moneys the Department of Health Services (DHS) and DCF receive under Title XIX (MA), Title XVIII (Medicare), and Title IV-E (child welfare) of the federal Social Security Act as a result of income augmentation activities (maximizing federal reimbursement) for which the state has contracted. TCM funds are federal MA matching funds the state claims for services counties provide to children in out-of-home care whose costs are not reimbursable under Title IV-E. The state may use these funds for any purpose.

26. From the amount of income augmentation revenue received, DHS and DCF must pay the administrative costs of the income augmentation activities and pay any other amount that the Legislature has provided for by law or in budget determinations. DHS and DCF must submit a plan for the proposed use of any income augmentation revenue that exceeds the administrative and already appropriated amounts by September 1 of the fiscal year after the fiscal year in which those moneys were received to the Secretary of the Department of Administration (DOA). If the DOA Secretary approves the plan, the plan is submitted to the Joint Committee on Finance by October 1 of that same year under a 14-day passive review process.

27. DCF indicates that the training curriculum is under development and has not yet

been finalized. Training would be targeted to judges, district attorneys, corporation counsels, county directors, and county staff. Training would include information on the proposed statutory language, as well as policies and procedures necessary to implement the statewide subsidized guardianship program. Statutory language for a statewide subsidized guardianship program has not yet been enacted. The Committee could approve the Governor's proposal to provide \$25,000 PR annually in TCM funds for training for a statewide subsidized guardianship program to ensure that local child welfare programs throughout the state are prepared to make the transition from only providing foster care maintenance payments to licensed relative foster parents to providing subsidized guardianship payments once the foster parents become guardians (Alternative B1).

28. The administration has requested that the bill be modified to include statutory language for a statewide subsidized guardianship program, which is discussed in further detail below. Because the statutory language, training curriculum, and training implementation have not been finalized, the Committee could delete this funding. Instead, the Committee could require DCF to include a proposal for the training curriculum and training, along with a reestimate of the costs of statewide trainings, in its September 1, 2011, income augmentation plan submitted to the DOA Secretary (Alternative B2). The Committee would then have the opportunity to approve the training plan through a 14-day passive review process.

29. Finally, the Committee could delete this funding, with the expectation that any funding for training and a training curriculum would be provided in separate legislation (Alternative B3).

Requested Statutory Changes

30. The administration has requested that the bill be modified to require DCF to submit a state plan amendment to the federal DHHS that would authorize the state to receive reimbursement under Title IV-E for a statewide subsidized guardianship program. The request also would modify the bill to authorize DCF to make subsidized guardianship payments in Milwaukee County from DCF's foster care, adoption assistance, and subsidized guardianship program and to authorize counties, other than Milwaukee County, to make subsidized guardianship payments from their children and family aids allocations. The request provides suggested statutory changes for a statewide subsidized guardianship program, described in further detail below. Finally, the request would authorize DCF to promulgate administrative rules regarding a statewide subsidized guardianship program.

31. It should be noted that these requested changes are not in the bill and would require significant statutory and policy changes. It may be beneficial for separate legislation to be introduced and have the appropriate Legislative standing committees consider the separate bill to fully analyze the proposed program. However, if the Committee chooses to amend the bill to incorporate suggested statutory changes for a statewide subsidized guardianship program, the following discusses the necessary or optional changes that the Committee could adopt.

32. Under the federal Fostering Connections Act, in order for states to receive federal reimbursement under Title IV-E for a subsidized guardianship program, the state must have an approved Title IV-E plan that elects to take the guardianship assistance option. The Committee

could require DCF to submit a Title IV-E plan amendment that indicates that the state elects to implement a statewide subsidized guardianship program (Alternative C1).

33. The federal Fostering Connections Act specifies certain requirements for a statewide subsidized guardianship program (called a kinship guardian assistance program under the federal Fostering Connections Act) regarding: (a) a child's eligibility; (b) a guardian's eligibility; (c) guardianship assistance agreements; and (d) case plan requirements.

Child's Eligibility

34. Under the federal Fostering Connections Act, a child is eligible to receive guardianship assistance if a child welfare agency determines that all of the following apply: (a) the child has been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that allowing the child to remain in the home would be contrary to the child's welfare; (b) the child must have been eligible to receive federal foster care maintenance payments under Title IV-E while living for not less than six consecutive months in the home of his or her prospective relative guardian; (c) a determination has been made that being returned home for reunification or adoption are not appropriate permanency options for the child; (d) the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and (e) if the child is age 14 or older, he or she has been consulted regarding the guardianship arrangement. In addition, eligibility may not be limited due to the age of a child who is under 18 years of age or to a child's special needs. Finally, siblings who are not otherwise eligible for the guardianship program may be placed in the same relative guardian arrangement if the placement is appropriate for the sibling, and guardianship payments may be paid for each sibling (Alternative C2a).

35. In addition to these eligibility requirements under the federal Fostering Connections Act, the administration has suggested that rather than limiting the program to those children who are Title IV-E eligible, the statewide subsidized guardianship program would be available to all children who otherwise meet eligibility requirements. There would be no additional cost because these children would receive foster care maintenance payments whether or not they are eligible for reimbursement under Title IV-E (Alternative C2b).

Guardian's Eligibility

36. Under the federal Fostering Connections Act, a guardian who meets all of the following criteria may receive guardianship assistance on behalf of an eligible child: (a) the guardian is the child's relative; (b) the guardian is a licensed foster parent and approved for guardianship assistance after the guardian has undergone fingerprint-based criminal record checks and child abuse and neglect registry checks and all adults in the guardian's home have undergone child abuse and neglect registry checks; (c) the eligible child has resided with the prospective relative guardian in the prospective guardian's residence for at least six months; (d) the guardian has a strong commitment to caring permanently for the child; and (e) the guardian has obtained legal guardianship of the child after a guardianship assistance agreement has been negotiated and finalized (Alternative C3a).

37. The federal Fostering Connections act does not define "relative." DCF recommends defining "relative" as it is defined under Chapter 48 of the Wisconsin statutes. Under this definition, a relative includes a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, second cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person listed above, even if the marriage is terminated by divorce. DCF also recommends including "like-kin" as a person who is eligible to be a relative guardian. "Like-kin" would be defined as an individual who has had an existing family-like relationship with the child prior to the child's entry into out-of-home care, who has a significant emotional connection to the child, and who does not meet the definition of "relative" (Alternative C3b).

Guardianship Agreements

38. The federal Fostering Connections Act requires a child welfare agency to negotiate and enter into a written, binding guardianship assistance agreement with the prospective relative guardian and to provide a copy of the agreement to the prospective relative guardian prior to guardianship being awarded. The agreement must specify: (a) the amount of guardianship assistance to be provided under the agreement for each eligible child and the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the needs of the child (the payment cannot exceed the foster care maintenance payment that would have been paid on that child's behalf if he or she had remained in a foster family home); (b) the additional services and assistance that the child and relative guardian will be eligible for under the agreement; (c) the procedure by which the relative guardian may apply for additional services as needed; (d) the state will pay the total cost of nonrecurring expenses associated with obtaining legal guardianship of the child, not to exceed \$2,000; (e) the agreement must remain in effect without regard to state residency of the relative guardian; and (f) the child retains eligibility for federal adoption assistance if the guardian later decides to adopt the child (Alternative C4a).

39. In addition, DCF recommends providing child welfare agencies with the authority to increase or decrease payments due to a child's changing needs. DCF also recommends that the agreement include a description of additional services needed in addition to the procedure by which the relative guardian may apply for additional services as needed (Alternative C4b).

Case Plan Requirements

40. The federal Fostering Connections Act requires inclusion of a description of the following in the child's case plan if the permanency plan is placement with a relative and receipt of a guardianship assistance payment: (a) the steps the child welfare agency has taken to determine that it is not appropriate for the child to be returned home or adopted; (b) the reasons for any separation of siblings during placement; (c) the reasons why a permanent placement with a fit and willing relative through a guardianship assistance arrangement is in the child's best interests; (d) the ways in which the child meets the eligibility requirements for a guardianship assistance payment; (e) the efforts the child welfare agency has made to discuss adoption by the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who

has chosen not to pursue adoption, documentation of the reasons; and (f) the efforts made by the child welfare agency to discuss with the child's parent or parents the guardianship assistance arrangement or the reasons why efforts were not made (Alternative C5a).

41. DCF also recommends that documentation of the reasons why efforts were not made by the child welfare agency to discuss with the child's parent or parents the guardianship assistance arrangement be included in the child's case plan (Alternative C5b).

Optional Considerations

42. Other issues not mandated by the federal Fostering Connections Act, but requested by DCF, include: (a) reviewing the subsidized guardianship arrangement; (b) rights to appeal; and (c) what happens if the guardian dies. In addition, DCF could be authorized to recover any overpayments made under the statewide subsidized guardianship program. Finally, the administration requests that DCF be authorized to promulgate rules, if needed, for implementation of a statewide subsidized guardianship program and that counties be authorized to make subsidized guardianship payments.

43. Under the current subsidized guardianship program, once guardianship is established, permanence is considered achieved and the case is no longer supervised by child protective services. DCF recommends that child welfare agencies conduct annual reviews to verify that the guardian and child remain eligible for subsidized guardianship payments. The Committee could require DCF to review a placement of a child, for which a county or DCF makes subsidized guardianship payments, at least every 12 months after payments have begun to determine whether the conditions for making those payments continue to exist. In addition, the Committee could require discontinuation of these payments if these conditions no longer exist (Alternative C6a).

44. DCF recommends the establishment of an appeals process for individuals who are determined ineligible for the subsidized guardianship program, who are denied an adjustment to their subsidized guardianship payment, or whose guardianship agreements have been terminated. The Committee could require an appeals process that mirrors the process under the kinship care program (Alternative C6b). Under this process, any person whose application for subsidized guardianship payments is denied due to a determination of ineligibility, whose payments are not adjusted, or whose guardianship agreements are terminated may petition DCF for a review. Such review must be petitioned within 45 days of the action or failure to act. DCF must then provide the person with reasonable notice and an opportunity for a fair hearing, similar to the process under the kinship care program. DCF's decision would be final, but may be revoked or modified as altered conditions require.

45. DCF recommends that a procedure be established that describes what happens upon the death of the guardian. The Committee could require DCF or a county department to provide monthly subsidized guardianship payments for up to 12 months to an interim caretaker in the event of death, incapacitation, resignation, or removal of the guardian. To be appointed interim caretaker, the Committee could require the following conditions to be met: (a) DCF or a county department must inspect the home, interview the interim caretaker, and determine that placement with the interim caretaker is in the child's best interests; (b) DCF or a county department must conduct the

required background checks; and (c) the interim caretaker must cooperate in finding a permanent placement for the child. (Alternative C6c).

46. The Committee could also choose to explicitly authorize DCF and county departments to recover overpayments made under the statewide subsidized guardianship program. If still receiving payments, payments made would be reduced until the overpayment is recovered. County departments may retain a portion of the amount recovered as specified in rules promulgated by DCF (Alternative C6d).

47. The administration recommends that DCF be authorized to promulgate rules regarding the subsidized guardianship program (Alternative C6e). For any aspect of the statewide subsidized guardianship program not specified in statutes, DCF would be allowed to promulgate rules that would provide more specificity.

48. Finally, if the Committee adopts the Governor's proposal for a statewide subsidized guardianship program, the bill would have to be modified to authorize DCF to make subsidized guardianship payments in Milwaukee County from DCF's foster care, adoption assistance, and subsidized guardianship program and to authorize counties other than Milwaukee County to make subsidized guardianship payments from their children and family aids allocations (Alternative C6f).

49. If the Committee chooses to modify the bill as recommended by the administration to implement a statewide subsidized guardianship program, the Committee can choose which statutory components to include from Alternatives C1 through C6. Should the Committee choose to not to modify the bill, but instead require a separate bill to be introduced for a statewide subsidized guardianship program, none of the options under "C" would be adopted.

ALTERNATIVES

A. Funding Level

1. Modify the Governor's proposal to provide \$209,800 (-\$96,900 GPR and \$306,700 FED) in 2011-12 and \$304,000 (-\$2,100 GPR and \$306,100 FED) in 2012-13 reflect a reestimate of funding for a statewide subsidized guardianship program and to reflect elimination of funding related to assumptions that there would be no statewide subsidized guardianship program.

ALT A1	Change to Bill Funding
GPR	- \$99,000
FED	<u>612,800</u>
Total	\$513,800

2. Delete the Governor's proposal. Instead, provide \$209,800 GPR in 2011-12 and reduce funding by \$847,800 GPR in 2012-13 to reflect a reestimate of the cost of providing subsidized guardianship payments to the experimental group in Milwaukee County in 2011-12. In addition, transfer funding of \$1,538,100 GPR and \$555,300 FED annually from DCF's foster care,

adoption assistance, and subsidized guardianship program back to BMCW. Under this option, it is assumed that separate legislation would be required to create a statewide subsidized guardianship program.

ALT A2	Change to Bill Funding
GPR	- \$638,000

B. Training Funds

1. Approve the Governor's proposal to provide \$25,000 PR annually in TCM funds for training for a statewide subsidized guardianship program.

2. Modify the Governor's proposal to delete \$25,000 PR annually and require DCF to submit a proposal for the training curriculum and the training, along with a reestimate of the cost of statewide trainings, as part of the Department's September 1, 2011, income augmentation plan submitted to the DOA Secretary.

ALT B2	Change to Bill Funding
PR	- \$50,000

3. Delete the Governor's proposal. Under this option, a training curriculum and training plan for a statewide subsidized guardianship program could be included in separate legislation.

ALT B3	Change to Bill Funding
PR	- \$50,000

C. Statutory Changes

1. Require DCF to amend its Title IV-E plan to indicate the state's election to take the statewide guardianship option under the federal Fostering Connections Act.

2. Child's Eligibility.

a. Require a child's eligibility to participate in the statewide subsidized guardianship program to be based on the minimum requirements under the federal Fostering Connections Act.

b. Require a child's eligibility to participate in the statewide subsidized guardianship program to be based on the minimum requirements under the federal Fostering Connections Act except that instead of limiting the program to those children who are Title IV-E eligible, the

program would be available to all children who meet the other eligibility requirements.

3. Guardian's Eligibility.

a. Require a prospective guardian's eligibility to participate in the statewide subsidized guardianship program to be based on the minimum requirements under the federal Fostering Connections Act.

b. In addition to the minimum requirements for a guardian's eligibility under the federal Fostering Connections Act, authorize a guardian to be a relative or "like-kin." Define "relative" as a parent, stepparent, brother, sister, stepbrother, stepsister, half brother, half sister, brother-in-law, sister-in-law, first cousin, second cousin, nephew, niece, uncle, aunt, stepuncle, stepaunt, or any person of a preceding generation as denoted by the prefix of grand, great, or great-great, whether by blood, marriage, or legal adoption, or the spouse of any person listed above, even if the marriage is terminated by divorce. Define "like-kin" as an individual who has had an existing family-like relationship with the child prior to the child's entry into out-of-home care, who has a significant emotional connection to the child, and who does not meet the definition of "relative."

4. Guardianship Agreements.

a. Require that guardianship agreements for a statewide subsidized guardianship program be based on the minimum requirements under the federal Fostering Connections Act.

b. In addition to the minimum requirements under the federal Fostering Connections Act: (a) authorize child welfare agencies to increase or decrease subsidized guardianship payments due to a child's changing needs; and (b) require the agreement to include a description of additional services needed in addition to the procedure by which the relative guardian may apply for additional services as needed.

5. Case Plan Requirements.

a. Require a child's case plan for a child who participates in a statewide subsidized guardianship program to include the minimum requirements under the federal Fostering Connections Act.

b. In addition to the minimum requirements under the federal Fostering Connections Act, require the child's case plan to include documentation of the reasons why efforts were not made by a child welfare agency to discuss with the child's parent or parents the guardianship assistance arrangement.

6. In addition to the required statutory elements listed above under C1 through C5, the following are changes not required under the federal Fostering Connections Act that may be

made for a statewide subsidized guardianship program.

a. As described in Discussion Point 43, require child welfare agencies to conduct annual reviews to verify that the guardian and child remain eligible for subsidized guardianship payments.

b. As described in Discussion Point 44, require DCF to establish an appeals process for individuals who are determined ineligible for the subsidized guardianship program, who are denied an adjustment to their subsidized guardianship payment, or whose guardianship agreements have been terminated.

c. As described in Discussion Point 45, require DCF to establish a procedure that determines what happens to a child upon death of the guardian.

d. Authorize DCF to recover overpayments made under the statewide subsidized guardianship program.

e. Authorize DCF to promulgate rules for administering the statewide subsidized guardianship program.

f. Authorize DCF to make subsidized guardianship payments in Milwaukee County from DCF's foster care, adoption assistance, and subsidized guardianship program and authorize counties, other than Milwaukee County, to make subsidized guardianship payments from their children and family aids allocation.

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Attachment

ATTACHMENT

Summary of Outcome Measures, Systemic Factors, and Results Under the Child and Family Services Review

Outcome Measures:

2003		2010			<u>Percent Achieved</u>		<u>Substantial Conformance</u>	
<u>Strength</u>	<u>Needs Improvement</u>	<u>Strength</u>	<u>Needs Improvement</u>		<u>2003</u>	<u>2010*</u>	<u>2003</u>	<u>2010</u>
				Safety Outcome 1				
				<i>Children are first and foremost protected from abuse and neglect</i>	79.1%	65.5%	No	No
	X		X	Timeliness of CPS investigations				
	X	X		Repeat maltreatment				
				Safety Outcome 2				
				<i>Children are safely maintained in their homes when possible</i>	83.3	63.1	No	No
	X		X	Services to prevent removal				
X			X	Risk of harm				
				Permanency Outcome 1				
				<i>Children have permanency and stability in their living situations</i>	48.0	32.5	No	No
	X	X		Out-of-home care re-entry				
	X		X	Stability of out-of-home care placements				
	X		X	Permanency goal for child				
	X		X	Reunification, guardianship, and placement with relatives				
	X		X	Adoption				
	X		X	Other planned living arrangement				
				Permanency Outcome 2				
				<i>Continuity of family relationships and connections is preserved</i>	44.0	55.0	No	No
		X		Proximity of placement				
	X		X	Placement with siblings				
	X		X	Visiting with parents and siblings in out-of-home care				
	X		X	Preserving connections				
	X		X	Relative placement				
	X		X	Relationship of child in care with parents				
				Well-Being Outcome 1				
				<i>Families have enhanced capacity to provide for children's needs</i>	54.0	32.3	No	No
	X		X	Needs/services of child, parents, and foster parents				
	X		X	Child/family involvement in case planning				
X			X	Worker visits with child				
	X		X	Worker visits with parents				
				Well-Being Outcome 2				
				<i>Children receive services to meet their educational needs</i>	90.9	87.8	Yes	No
X			X	Educational needs of child				
				Well-Being Outcome 3				
				<i>Children receive services to meet their physical and mental health needs</i>	68.8	72.2	No	No
	X		X	Physical health of child				
	X		X	Mental health of child				

Systemic Factors:

2003		2010			Rating**		Substantial Conformance	
<u>Strength</u>	<u>Needs Improvement</u>	<u>Strength</u>	<u>Needs Improvement</u>		<u>2003</u>	<u>2010</u>	<u>2003</u>	<u>2010</u>
				Statewide Information System				
				<i>Ability to collect data</i>	3	4	Yes	Yes
				System can identify the status, demographic characteristics, location, and goals of children in out-of-home care				
				Case Review System				
				<i>Court processes</i>	2	2	No	No
				Process for developing a case plan and for joint case planning with parents				
X	X	X	X	Process for 6-month case reviews				
X			X	Process for 12-month permanency hearings				
	X		X	Process for seeking TPR in accordance with ASFA				
	X		X	Process for notifying caregivers of reviews and hearings for opportunity for them to be heard				
				Quality Assurance System				
				<i>Quality assurance program in DCF for counties; PEM in BMCW</i>	2	4	No	Yes
X		X	X	Standards to ensure quality services, children safety, and health				
	X			Identifiable quality assurance system that evaluates the quality of services and improvements				
				Staff and Provider Training				
				<i>Child welfare staff and foster and adoptive parents</i>	2	1	No	No
				Provision of initial staff training				
	X		X	Provision of ongoing staff training that addresses the necessary skills and knowledge				
	X		X	Provision of training for caregivers and adoptive parents that addresses the necessary skills and knowledge				
				Service Array				
				<i>Services available to serve families</i>	2	2	No	No
	X	X		Availability of array of critical services				
	X		X	Accessibility of services across all jurisdictions				
X			X	Ability to individualize services to meet unique needs				
				Agency Responsiveness to Community				
				<i>Community investment in state plans</i>	3	4	Yes	Yes
	X	X		Engages in ongoing consultation with critical stakeholders in developing the Child and Family Services State Plan				
X		X		Develops annual progress reports in consultation with stakeholders				
X		X		Coordinated services with other federal programs				
				Foster and Adoptive Parent Licensing, Recruitment, and Retention				
				<i>Standards and efforts to recruit foster and adoptive parents</i>	3	3	Yes	Yes
X		X		Standards for foster family and child care institutions				
X			X	Standards are applied equally to all foster family and child care institutions				
X		X		Conducts necessary criminal background checks				
X		X		Diligent recruitment of foster and adoptive families that reflect children's racial and ethnic diversity				
	X	X		Uses cross-jurisdictional resources to find placements				

*Does not include percentage that partially achieved measure.

**On a scale of 1 to 4, with 4 being the highest rating. A rating of 1 or 2 means the factor is not in conformance; a rating of 3 or 4 means the factor is in conformance.