

Department of Workforce Development
Response to Legislative Council Comments

Proposed Rules Relating to Child Care Rates
DWD 56.06 (1)
CR 08-009

Comment: Section 49.155 (6), Stats., provides that a county must set the maximum child care reimbursement rate so that at least 75% of the number of places for children within the licensed capacity of all child care providers in that county can be purchased at or below that maximum rate. The implication of the rule's analysis is that the proposed rule complies with funding levels provided in 2007 Wisconsin Act 20. However, Act 20 does not modify the current law relating to setting maximum reimbursement rates for child care subsidies.

Department response: The Department believes that s. 49.155 (6), Stats., only applies if counties and tribes are setting local rates. The statute refers to counties and tribes setting rates at the 75% level, subject to the Department's review and approval. Presumably, the Department's review and approval would consider available funding. Section DWD 56.06 (1) (a) 1. excludes department-set regional and statewide rates from the detail requirements for counties and tribes. Since the Department is setting regional rates, the 75% limit does not apply. Nonetheless, the Department believes that, within available funding, the Department should seek to maintain regional or statewide rates that meet the 75% guideline.

The Department believes that if s. 49.155 (6), Stats., did apply the rates established in 2006 would still be in compliance on a regional and statewide basis, given that the annual survey of the private market is approximate and the adjustment that would have occurred from 2006 to 2008 is relatively small in comparison to the uncertainty of the survey process. Shortcomings of the annual rate survey include the following:

- Response rates. Counties and tribes are actively encouraged to work for a response rate of at least 80 percent. However, there is a great deal of variability from county to county. In Milwaukee County, for 2005, 977 surveys were sent to family providers and 653 were returned for a response rate of 67 percent.
- Number of useable responses. Not all responses are eligible for inclusion in the rate survey. To be included, a response must indicate that at least 25 percent of children served are private pay. This requirement is intended to get at the private pay market, which is the price structure the program seeks to support. In 2005, of the 653 surveys returned from Milwaukee County family providers, only 108 met this threshold.
- Lack of verification that providers actually charge the rates they indicate on the survey. Providers have vested interest in overreporting rates to increase the maximum county rates and the Department has not invested funds in a

validation that could verify whether or not the provider-reported rates actually reflect the amounts charged private pay customers.

- Lack of verification that parents actually pay the rates that providers indicate on the survey. The program is intended to assist low-income working parents in accessing the same regulated care that moderate income parents can purchase. We do not know what moderate income parents are paying for child care.
- Concern that, in some areas of the state, the subsidy is such a large share of the market that the subsidy is actually setting the market rate and middle income parents cannot afford to buy regulated care in those markets.

In 1999, John Pawasarat and Lois Quinn of UW-Milwaukee's Employment and Training Institute indicated that subsidy rates were higher in Milwaukee, even without the co-payment, than providers were charging unsubsidized families. The study is named "*Impact of Welfare Reform on Child Care Subsidies in Milwaukee County: 1996-1999.*" Since then, maximum subsidy rates have increased regularly without reference to economic forces. There are a number of providers who serve only children on the subsidy. This phenomenon poses great challenges for the Department in surveying providers to find the true private market rate in Milwaukee County. It also leaves many concerned that moderate income parents are unable to purchase regulated child care in Milwaukee County. The 2006 average cost per subsidized child served for Milwaukee County was \$4,227.07, which is \$923.46 above the state average.