

1 **AN ACT** *to create* 49.343 (1d) (cg), 49.343 (1) (cr), 49.343 (2) (d), 49.343 (5) and
2 49.343 (6) of the statutes; **relating to:** establishing a performance–based contracting
3 system for providers of out–of–home residential care for children.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This draft was prepared for the Joint Legislative Council’s Special Committee on Child Welfare Provider Rate Implementation.

2009 Wisconsin Act 28 (the 2009–2011 Biennial Budget Act) created a new process for reimbursing providers of out–of–home care for children. For services provided beginning on January 1, 2011, the Department of Children and Families (DCF) must establish the per client rate that a residential care center (RCC) or a group home may charge for its services, and the per client administrative rate that a child welfare agency may charge for the administrative portion of its foster care services. [s. 49.343 (1g), stats., as affected by 2009 Wisconsin Act 28.]

Under Act 28, by October 1, 2010, and annually by every October 1 after that, an RCC or a group home must submit to DCF the per client rate that it proposes to charge for services provided in the next year and a child welfare agency must submit to DCF the proposed per client administrative rate that it proposes to charge for foster care services provided in the next year. [s. 48.343 (2) (a), stats., as affected by 2009 Wisconsin Act 28.]

DCF must review a proposed rate and audit the RCC, group home, or child welfare agency submitting the proposed rate to determine whether the proposed rate is appropriate to the level of services being provided; the qualifications of the RCC, group home, or child welfare agency to provide those services; and the reasonable and necessary costs of providing those services. In reviewing a proposed rate, DCF must consider several specific statutory factors.

If DCF determines that a proposed rate is appropriate, DCF must approve the proposed rate. If DCF does not approve the proposed rate, DCF must negotiate with the RCC, group home, or child welfare agency to determine an agreed–to rate. If after negotiations a rate is not agreed to, DCF and the RCC, group home, or child welfare agency must engage

in mediation to arrive at an agreed-to rate. If after mediation a rate is not agreed to, the RCC, group home, or child welfare agency may not provide the service for which the rate was proposed. [s. 49.343 (2) (c), stats., as affected by 2009 Wisconsin Act 28.]

Act 28 requires DCF to promulgate rules to implement the system to determine rates for RCC, group homes, and child welfare agencies.

This draft creates a performance-based contracting system that will be implemented over a 3-year period beginning January 1, 2011. The department, in consultation with an advisory committee consisting of providers, purchasers of services, counties, and consumers, will identify performance-based contracting measurements by which to evaluate the performance of providers in meeting the goals for children placed in their care, and goals for the out-of-home care system. In the year beginning January 1, 2011, the department will select a representative sample of providers whose performance will be evaluated on the attainment of the measurements identified by the advisory committee. At the end of 2011, the department, in consultation with the advisory committee, will adjust the measurements as needed. In the year beginning January 1, 2012, all providers in the state will have their performance evaluated on the attainment of the identified measurements. However, in 2012, no rewards will be given for attaining the measurements, and the measurements will be adjusted, as needed, at the end of that year.

Beginning January 1, 2013, all providers will have their performance evaluated on the attainment of the identified measurements. At the end of 2013, additional payments will be awarded to providers who attain the specified performance-based measurements. Adjustments in the measurements may be made thereafter on an as-needed basis.

1 **SECTION 1.** 49.343 (1d) (cg) of the statutes is created to read:

2 49.343 (1d) (cg) “Performance-based contracting” means a method of paying a
3 provider for services based on the achievement of specified measurable outcomes.

4 **SECTION 2.** 49.343 (1) (cr) of the statutes is created to read:

5 49.343 (1) (cr) “Provider” means a residential care center for children and youth, a group
6 home, or a child welfare agency.

7 **SECTION 3.** 49.343 (2) (d) of the statutes is created to read:

8 49.343 (2) (d) Beginning January 1, 2010, the department shall do the following:

1 1. In cooperation with the advisory committee established in sub. (5), identify
2 performance-based contracting measurements, by which to evaluate the performance of
3 providers in meeting both the goals for the children placed in their care, and the goals for the
4 out-of-home care system in this state.

5 2. In cooperation with the advisory committee, adjust, as needed, the
6 performance-based contracting measurements. These adjustments shall be made at the end
7 of calendar years 2011, 2012, and 2013, as provided in sub. (6) (a), (b) and (c), in subsequent
8 years, on an as-needed basis.

9 **SECTION 4.** 49.343 (5) of the statutes is created to read:

10 49.343 (5) **ADVISORY COMMITTEE.** The secretary shall create a committee consisting of
11 representatives of providers, purchasers, counties, and consumers to advise the department on
12 the identification of performance-based contracting measurements and the development of
13 payment levels that correspond to the achievement of these measurements based on the
14 assessed level of care of the child.

15 **SECTION 5.** 49.343 (6) of the statutes is created to read:

16 49.343 (6) (a) Beginning January 1, 2011, the department shall select a representative
17 sample of providers whose performance shall be evaluated on the attainment of the
18 performance-based contracting measurements developed under sub. (2) (d) 1. This
19 evaluation shall be done on an experimental basis and no rewards shall be provided for
20 attainment of the measurements, nor shall any penalties imposed for failing to attain the
21 measurements. The department, in consultation with the advisory committee established
22 under sub. (5), shall adjust, as needed, the performance-based measurements developed under
23 sub. (2) (d) 1., by December 31, 2011.

1 (b) Beginning January 1, 2012, all providers in this state shall be evaluated on the
2 attainment of the performance-based contracting measurements developed under sub. (2) (d)
3 1. No rewards shall be provided for attainment of the measurements, nor shall any penalties
4 imposed for failing to attain the measurements. The department, in consultation with the
5 advisory committee, shall adjust, as needed, the performance-based measurements developed
6 under sub. (2) (d) 1., by December 31, 2012.

7 (c) Beginning January 1, 2013, all providers in this state shall be evaluated on the
8 attainment of performance-based contracting measurements developed under sub. (2) (d) 1.
9 Providers shall be paid the per-client rate that is established for the assessed level of clients
10 in the provider's care, and additional payments shall be awarded at the end of the calendar year
11 based on the provider's attainment of performance-based contracting measurements. The
12 department, in consultation with the advisory committee shall adjust, as needed, to
13 performance-based measurements developed under sub. (2) (d) 1., by December 31, 2013,
14 and in subsequent years as determined necessary by the department.

15 (END)