



## WISCONSIN LEGISLATIVE COUNCIL

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### PUBLIC ASSISTANCE PROGRAM INTEGRITY

Legislative Council Conference Room  
Madison, Wisconsin

December 14, 2010  
11:00 a.m. – 3:00 p.m.

[The following is a summary of the December 14, 2010 meeting of the Special Committee on Public Assistance Program Integrity. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

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#### Call to Order and Roll Call

Chair Jauch called the committee to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT:	Sen. Robert Jauch, Chair; Sen. Alberta Darling; Rep. Mark Gottlieb; and Public Members Richard Basiliere, Steven Cook, David Feiss, Lilly Irvin-Vitela, LaTonya Johnson, Harold Menendez, and Linda Struck.
COMMITTEE MEMBER EXCUSED:	Rep. Gordon Hintz, Vice-Chair; Rep. Kelda Roys; and Public Member Jonathan Delagrave.
COUNCIL STAFF PRESENT:	Anne Sappenfield and Pam Shannon, Senior Staff Attorneys; and Anna Henning, Staff Attorney.

#### Approval of the Minutes of the November 16, 2010 Meeting

*David Feiss moved, seconded by Chair Jauch, to approve the minutes of the November 16, 2010 meeting. The motion carried on a unanimous voice vote.*

## **Discussion of Committee Assignment**

Legislative Council staff described materials distributed, and discussion then followed each description. Chair Jauch explained that final votes on these matters would likely be taken at the committee's next meeting.

### **WLC: 0028/1**

Ms. Sappenfield provided an overview of WLC: 0028/1, which reorganizes ch. 49, Stats.; moves several provisions of the chapter to the criminal code; removes duplicative definitions throughout the chapter; creates a definition for the term "intentional program violation"; and includes various technical amendments discussed by the drafting subcommittee. She explained that the drafting subcommittee had reviewed and generally approved of the draft at its December 14, 2010 meeting.

Ms. Sappenfield explained that two outstanding issues remained with regard to the draft. First, the Department of Children and Families (DCF) expressed concerns regarding SECTION 93 of the draft, relating to the review of decisions made with regard to the Wisconsin Shares program. Second, it has been suggested that updates to outdated language in s. 49.84, Stats., might be added to the draft. The committee directed Legislative Council staff to consult with DCF regarding those issues.

### **WLC: 0029/1**

Ms. Sappenfield described WLC: 0029/1, relating to child care attendance records. She explained that the draft requires child care providers to maintain accurate written records, on the provider's premises, of the daily hours of attendance for each child for whom a provider provides care under the Wisconsin Shares program.

The committee directed Legislative Council staff to consult with DCF to clarify where child care records might be maintained in the event that a child care provider is no longer in business.

### **WLC: 0032/1**

Ms. Sappenfield explained WLC: 0032/1, which would require DCF to recover overpayments made under the emergency assistance for families with needy children program.

The committee raised no objections to the draft.

### **WLC: 0035/1**

Ms. Henning described WLC: 0035/1, relating to procedures for suspension of payments to child care providers in the Wisconsin Shares program. She explained that the draft would place a time limitation on DCF's authority to temporarily suspend payments to child care providers based on the department's reasonable suspicion that a provider has violated a statutory provision or administrative rule.

The consensus of the committee was that the draft language should be modified to require the department, within a 30-day period, to either rescind the suspension of payments to child care providers or initiate a permanent suspension of such payments.

**WLC: 0036/1**

Ms. Henning described WLC: 0036/1, which requires the Department of Health Services (DHS) to take specified measures related to training county and Wisconsin Works (W-2) agency employees in fraud prevention and investigation, error reduction, and related activities.

The committee determined that the draft language should be modified to make explicit that the department, rather than counties or W-2 agencies, would be responsible for providing training, and to require the department to promulgate rules regarding the frequency and content of such training.

**WLC: 0047/1**

Ms. Sappenfield described WLC: 0047/1, which amends and clarifies the process for the denial of benefits based on a determination that an individual intentionally violated a statutory provision or rule related to W-2 or the emergency assistance program on three separate occasions.

The consensus of the committee was that the draft should be modified to create consequences for first and second intentional program violations. The committee agreed to model the consequences on those that apply in the FoodShare program.

The committee also discussed whether a permanent denial of benefits was the appropriate result after a third intentional program violation. Ms. Irvin-Vitela noted that in some cases, denial of benefits may harm children of adults who violate program requirements. The committee agreed to leave the consequence for a third violation as it is written in the current draft.

**WLC: 0048/1**

Ms. Sappenfield described WLC: 0048/1, which specifies that information provided by an applicant for any aid or benefit under ch. 49, Stats., must be sworn to as being true and correct to the best of the applicant's knowledge.

Mr. Cook mentioned that in practice, the requirement might be interpreted to place a burden on administering agencies.

The committee agreed that the draft should be modified to require the administering departments to promulgate rules governing affirmation of statements made in applications.

**WLC: 0049/1**

Ms. Henning described WLC: 0049/1, which adds payments made to custodial parents receiving supplemental security income to the list of payments and benefits exempt from levy, attachment, garnishment, and specified other methods of execution. She noted that the relating clause and prefatory note would be modified to clarify that custodial parents, rather than their dependent children, are the recipients of supplemental security income.

Mr. Menendez clarified that the rationale for the amendment is to treat such payments like similar payments and benefits.

The committee raised no objections to the draft.

**WLC: 0051/1**

Ms. Sappenfield described WLC: 0051/1, which provides statutory standards governing DCF's waiver of the recovery of overpayments made under the W-2 and Aid to Families with Dependent Children programs. She noted that the drafting subcommittee recommended adding the phrase "to the extent authorized by federal law" to the provisions created in SECTIONS 1 and 3 of the draft.

Committee members asked DCF staff for any reactions to the draft. Fay Simonini of DCF mentioned a concern that codifying standards governing waivers might cause the department to waive more overpayments than it would otherwise waive.

The committee determined that Legislative Council staff should work with the department to ensure that the draft would not jeopardize overpayment recovery efforts.

**Memo No. 9**

Ms. Henning gave an overview of Memo. No. 9. She explained that the Memo presents an option to establish a new entity within the Department of Administration (DOA) that would oversee program integrity activities throughout the state.

Senator Darling and Representative Gottlieb said that the goal of the new entity, which could be termed an office of inspector general, would be to provide oversight and reporting regarding program integrity. They added that fraud prevention and investigation work would be primarily handled at the local level, but the state-level entity would facilitate such efforts and provide accountability.

Ms. Irvin-Vitela asked whether the new office would oversee front-end verification and fraud prevention in addition to fraud investigation. Senator Darling and Representative Gottlieb said that their vision for the new entity included setting standards and expectations for front-end verification and other fraud prevention procedures.

Chair Jauch suggested that the entity might handle program integrity functions for counties that do not join a consortium.

Mr. Feiss said that he views the model as having the potential to bring together state agencies, local agencies, law enforcement, and prosecutors.

Mr. Basiliere noted that federal law requires a separate Medicaid Fraud Control Unit, but said that he strongly supports the idea of a new office in DOA for other functions.

Ms. Irvin-Vitela asked how recovered resources would be allocated and suggested that the office should have a data collection function. Chair Jauch suggested that the new unit might be responsible for allocating funds to local agencies. He also noted that the unit could create savings for programs by improving the accuracy of eligibility determinations.

Ms. Struck asked what effect the option might have on current efforts to investigate fraud by providers in the Wisconsin Shares program. Chair Jauch said that the unit would likely not have any immediate affect on such efforts, but that they could eventually be folded into the new entity's responsibilities.

The committee directed Legislative Council staff, in conjunction with a subcommittee, to develop a more detailed proposal regarding this option for discussion at the next committee meeting.

**WLC: 0033/1**

Ms. Henning described WLC: 0033/1, which directs DHS to establish a four-year pilot program for the formation of consortia comprised of multiple counties or tribal governing bodies. She explained that the draft requires the department to promulgate rules governing consortia and makes appropriations for both base-level grant funding and a competitive grant program.

The committee discussed how the draft might be modified to fit with the proposal for a new office housed in DOA. It was the consensus of the committee that the draft should be changed to give the new office the authority to allocate grants to local agencies.

Mr. Menendez noted that the draft should incorporate W-2 agencies as well as counties in the consortia.

**Draft Letter to the Co-Chairs Elect of the Joint Legislative Audit Committee**

Ms. Shannon described a draft letter addressed to the co-chairs elect of the Joint Legislative Audit Committee, which would request, on behalf of the committee, that the Joint Legislative Audit Committee direct the Legislative Audit Bureau to conduct a series of reviews of recipient fraud in Wisconsin's public assistance programs. She explained that the letter had been prepared at the request of Chair Jauch and in consultation with the Legislative Audit Bureau.

The consensus of the committee was to approve the letter but to add a brief discussion of the previous audit of the Wisconsin Shares program in order to provide an example and context for the request.

**Draft Letters to the Secretaries of DHS and DCF**

Ms. Henning described draft letters, addressed to the secretaries of DHS and DCF, which make various recommendations on behalf of the committee. She specified that each letter recommends that the respective department collaborate with other agencies to facilitate information sharing; conduct a review of formats prone to error; focus on front-end verification in addition to fraud investigation; and increase the amount of training provided to local agency staff.

The committee agreed that the letters should be sent.

**WLC: 0034/1**

Ms. Henning described WLC: 0034/1, which authorizes the Department of Justice (DOJ) to prosecute crimes related to programs under ch. 49, Stats., and increases an appropriation to provide DOJ with one additional full-time equivalent position.

The committee directed, Legislative Council staff to confirm that the draft retains concurrent jurisdiction for district attorneys offices.

### **Other Business**

The committee determined that its next meeting would be held on *January 18, 2011, at 10:00 a.m.*

### **Adjournment**

The meeting was adjourned at 3:00 p.m.

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