

# STATE OF WISCONSIN

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## JOINT COMMITTEE ON FINANCE

### MEMORANDUM

To: Members  
Joint Committee on Finance

From: Senator Howard Marklein  
Representative Mark Born

Date: January 23, 2024

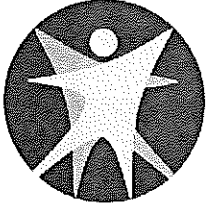
Re: DHS Report to JFC

Attached is the assisted living fees report from the Department of Health Services, pursuant to 2023 Wisconsin Act 19.

This report is being provided for your information only. No action by the Committee is required. Please feel free to contact us if you have any questions.

Attachments

HM:MB:jm



State of Wisconsin  
Department of Health Services

Tony Evers, Governor  
Kirsten L. Johnson, Secretary

January 23, 2024

The Honorable Howard L. Marklein  
Joint Committee on Finance Co-chair  
Room 316 East State Capitol  
Madison, WI 53707

The Honorable Mark Born  
Joint Committee on Finance Co-chair  
Room 308 East State Capitol  
Madison, WI 53708

Dear Senator Marklein and Representative Born:

As directed by Section 9119(2) of 2023 Wisconsin Act 19, the 2023-25 biennial budget, I am submitting a plan for increasing licensing fees for assisted living facilities, outpatient mental health clinics, and alcohol and other drug abuse programs to cover the cost of staffing within the Bureau of Assisted Living (BAL) necessary to ensure adequate protection of the health and well-being of vulnerable individuals.

The Department of Health Services is tasked under Wisconsin Statutes with licensing, certifying, and regulating assisted living facilities in Wisconsin through its Division of Quality Assurance (DQA). These facilities include community based residential facilities (CBRFs), three- to four-bed adult family homes (AFHs), adult day cares (ADCs), and residential care apartment complexes (RCACs). DQA also certifies outpatient mental health clinics and alcohol and other drug abuse (AODA) programs. Each provider in these regulated settings pays license fees that are deposited into the appropriation under s. 20.435(6)(jm).

These providers serve the state's most vulnerable individuals, including frail elders and people with physical and intellectual disabilities who need assistance with daily living tasks, as well individuals who need treatment for mental health and substance use conditions. An adequately staffed and funded regulatory system is essential for ensuring the health and well-being of individuals in the care of these providers.

*Revenues needed to support existing staff*

The Department is allocated 75.0 FTE to perform licensing and health and safety oversight for over 4,000 assisted living facilities, 570 mental outpatient mental health clinics, and 280 AODA clinics. Licensing fees fund roughly 40% of position costs with the remainder supported with GPR and federal Medicaid administration revenues.

The Department collected \$2,247,227 in assisted living and mental health/substance use license fees in FY 23. At the same time, the 2023-25 biennial budget assigns \$3,405,100 in budgeted cost to the fee revenues in FY 24. In addition, the program began FY 24 with a fee revenue deficit of \$683,617. The Department estimates that current fees would need to increase by 85% on average to cover annual program costs, address the carryover deficit, and keep pace with future cost growth for current positions. The Department estimates that an 85% increase to fees would increase revenues by approximately \$1.9 million annually.

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The statutes set fee levels for CBRFs, AFHs, and ADCs and allow the Department to increase the fees through the administrative rule process. In other words, increasing fees for these providers, which represent the majority of revenue collected, requires some form of legislative approval. The statutes allow the Department to set fee levels on its own for certified RCACs (under s. 50.034(1)) and mental health and substance use programs (under s. 51.04).

Program costs have outpaced revenues primarily due to fees having remained at current levels since 2009, while staffing costs have increased over that period. In addition, the Department has received a total of 12.0 FTE since 2015 to help keep up with assisted living regulatory workload. These positions include 6.0 FTE approved by the Committee through a s. 16.505 request and 6.0 FTE provided by the 2019-21 biennial budget.

Assisted living providers continue to experience significant cost pressures due to the challenging labor market for long-term care staff, growth in our state's aging population, and the rising care needs of residents. These providers serve significant numbers of Medicaid members under contract with Family Care managed care organizations. Recent biennial budgets have provided \$264.1 million All Funds to increase support for the Family Care Direct Care program for assisted living and other community living providers and to continue a 5% Medicaid rate increase for these providers.

Given the cost pressures on providers, Governor Evers' 2023-25 Biennial Budget recommended \$750,000 GPR annually, in lieu of fee increases, to address the current shortfall in assisted living regulatory activities.

*Resources needed to address ongoing quality assurance workload*

As the aging population in Wisconsin increases, the Department must continue its work to license assisted living facilities and survey these settings to ensure complaints and safety concerns are addressed. As noted above, the Department enforces these quality standards not only for state licensure, but also as a key component of the quality assurance system for Family Care members and other Medicaid or long-term care members receiving care in these settings.

In addition to the shortfall in fee revenues to support existing staff, the Department also lacks sufficient staff to provide quality assurance for our elderly population and other vulnerable individuals as the number of assisted living facilities and similar settings increases. Although the number of CBRFs and ADCs have remained stable in the last five years, AFHs and RCACs have grown by 4% and 2% respectively. The Governor's 2023-25 Biennial Budget recommended adding 32.0 FTE at a cost of \$2.3 million All Funds (\$1.4 million GPR) annually to support the growing workload of quality assurance surveys. These additional staff are needed to complete initial licensure and certification surveys, as well as investigate complaints on behalf of our populations in these settings. To meet workload demands, the Department in recent years has contracted with third-party surveyors to conduct additional surveys beyond its FTE capacity. If the Legislature does not provide new GPR, fees would need to be nearly three times higher than current levels to fund these additional positions and address existing revenue shortfalls. The Department estimates that such a fee increase would generate approximately \$4.3 million in additional revenue per year compared to current fee levels.

Surrounding states, namely Iowa, Illinois, and Minnesota, impose licensing fees on assisted living providers, but comparisons are difficult to make because fee structures vary among the states, and provider types are defined differently in each state. Illinois and Minnesota assess a unit fee as well as a facility fee. Iowa only assigns a facility fee. The assisted living application fee in Illinois is \$2,000, with an additional charge of \$20 per licensed unit on an annual basis. Minnesota charges an initial application fee of \$2,000 plus \$75 per resident or \$3,000 plus \$100 per resident if providing dementia care. Minnesota charges a renewal fee based on the proportion of residents receiving home and community-

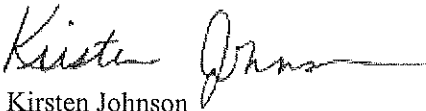
based waiver services. Iowa charges an initial application fee of \$750 and facilities must pay a biennial renewal of \$1,000. By comparison, an eight-bed CBRF in Wisconsin currently pays a biennial license fee of \$791 with no initial application fee.

The new fee schedule provided in Attachment A would resolve the current fee revenue deficit. The fee schedule in Attachment B would both resolve current shortfalls and provide funding sufficient to support 32.0 additional FTE to assist with maintaining the Department's quality assurance efforts given sustained increases to our aging population and the significant care needs of individuals in these settings. The Department projects that the fee schedule in Attachment A would generate approximately \$1.9 million in revenue over the existing fee schedule. The fee schedule in Attachment B is projected to generate an additional \$4.3 million in revenue over the existing fee schedule.

Because the fee increases would be substantial, and given cost pressures currently facing assisted living providers, the Department continues to support new GPR to fully fund assisted living licensing and quality assurance operations, consistent with the Governor's 2023-25 biennial budget.

Please contact me with any questions.

Sincerely,

A handwritten signature in black ink that reads "Kirsten Johnson". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Kirsten Johnson  
Secretary-designee

Attachment A: Comparison of Current Assisted Living Facility and Outpatient Mental Health/AODA Facility and Program Fees to Fee Levels Needed to Cover Program Costs

	Current			Fee Levels to Cover Program Costs		
Assisted Living Facility Fees	Facility Fee	Unit Fee		Facility Fee	New Unit Fee	
CBRFs (Biennial)	\$389	\$50.25 per licensed bed		\$720	\$93 per licensed bed	
AFHs (Biennial)	\$171	None		\$316	None	
ADCs (Biennial)	\$127	None		\$235	None	
RCACs	\$445	\$7.60 per apartment		\$823	\$14 per apartment	

Mental Health/AODA fees	Current			Fee Levels to Cover Program Costs		
Services/Programs	Fee	Branch Office	Amount	Fee	Branch Office	New Amount
1	\$550	Tier 1	\$200	\$1,018	Tier 1	\$370
2	\$800	Tier 2	\$500	\$1,480	Tier 2	\$925
3	\$1,000			\$1,850		
4	\$1,175			\$2,174		
5	\$1,350			\$2,498		
Each additional	\$100			\$185		

DHS 40 and DHS 50 fees	Current			Fee Levels to Cover Program Costs		
Services/Programs	Amount			Amount		
1	\$1,100			\$2,035		
2	\$1,600			\$2,960		
3	\$2,000			\$3,700		
4	\$2,350			\$4,348		
5	\$2,700			\$4,995		
Each additional	\$200			\$370		

Attachment B: Comparison of Current Assisted Living Facility and Outpatient Mental Health/AODA Facility and Program Fees to Fee Levels Needed to Cover Program Costs and Fund 32.0 Additional FTE

	Current			Fee Levels to Cover Program Costs and Fund 32.0 FTE		
Assisted Living Facility Fees	Facility Fee	Unit Fee		Facility Fee	New Unit Fee	
CBRFs (Biennial)	\$389	\$50.25 per licensed bed		\$1,128	\$146 per licensed bed	
AFHs (Biennial)	\$171	None		\$496	None	
ADCs (Biennial)	\$127	None		\$368	None	
RCACs	\$445	\$7.60 per apartment		\$1,291	\$22 per apartment	
Mental Health/AODA fees	Current			Fee Levels to Cover Program Costs and Fund 32.0 FTE		
Services/Programs	Fee	Branch Office	Amount	Fee	Branch Office	New Amount
1	\$550	Tier 1	\$200	\$1,595	Tier 1	\$580
2	\$800	Tier 2	\$500	\$2,320	Tier 2	\$1,450
3	\$1,000			\$2,900		
4	\$1,175			\$3,408		
5	\$1,350			\$3,915		
Each additional	\$100			\$290		
DHS 40 and DHS 50 fees	Current			Fee Levels to Cover Program Costs and Fund 32.0 FTE		
Services/Programs	Amount			Amount		
1	\$1,100			\$3,190		
2	\$1,600			\$4,640		
3	\$2,000			\$5,800		
4	\$2,350			\$6,815		
5	\$2,700			\$7,830		
Each additional	\$200			\$580		