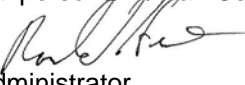


STATE OF WISCONSIN
Department of Children and Families
Division of Safety and Permanence

DSP Memo Series 2011 - 04
February 28, 2011
Re: Act 335 Changes to Child
Welfare Provider Reserve Limits

To: Area Administrators/ Human Services Area Coordinators
Bureau Directors
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Developmental Disabilities Services Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Indian Child Welfare Directors
Licensing Chiefs/Section Chiefs
Tribal Chairpersons/Human Services Facilitators

From: Ron Hunt 
Deputy Administrator

Background

Child welfare residential care providers are subject to statutory limitations on the amount of excess revenue for out-of-home care services that can be added to provider reserves. The provider reserve limits apply to child placing agencies authorized under s. 48.61 (7) to license treatment foster homes as defined in s. 48.92 (1) (c); group homes as defined in s. 48.02 (7) (c); and residential care centers for children and youth as defined in s. 48.02 (15) (d). Prior law allowed private child welfare providers to add up to five percent (5%) of current year revenue to reserves with a cumulative limit of ten percent (10%). In situations where providers have excess revenue after allowable additions to reserves, the excess revenue must be returned to the agencies that purchased out-of-home care services. County departments and other agencies purchasing out-of-home care services have the discretion to negotiate stricter provisions regarding excess revenue in their contracts with providers.

For the purpose of this memo, revenue generated from out-of-home care services to children as authorized by s. 48.19, i.e. taking a child into custody, and 48.20, holding a child in custody, or by 48.63 (1), i.e. voluntary placement agreement for treatment foster home or group home placement, is subject to the reserve limit requirements prescribed by this memo..

Act 335

2009 Wisconsin Act 335 revises the statutory reserve limits to eliminate the 5% annual limit on addition to provider reserves while retaining the 10% cumulative limit on provider reserves. The changes in Act 335 came from Legislative Council study committee on provider rate regulation, including the recommendation to eliminate the 5% annual limit and retain the 10% cumulative limit. Act 335 was effective upon publication in 2010, and with this memo, the Department specifies the revised reserve limits apply to out-of-home care services beginning with calendar year (CY) 2010. The revised reserve limits apply to revenue from out-of-home care purchased from January 1 – December 31, 2010.

The 5% annual limit continues to apply to out-of-home care purchased in CY 2009 and prior years. For 2010 audits, the existing Provider Agency Audit Guide continues to be in effect except for this change. Revised reserve schedules will be included in a new DCF audit guide to be issued at a later date.

Document Summary

Child welfare residential care providers are allowed to retain a portion of excess revenue from out-of-home care services for provider reserves. 2009 Wisconsin Act 335 modified the provider reserve limits to eliminate the 5% annual limit on additions to reserves and authorize the Department to grant exemptions to the 10% cumulative limit on reserves. This memo explains the effective date of the Act 335 changes.

Act 335 allows the Department to grant exceptions to the 10% cumulative limit for residential care providers in situations where provider reimbursement is under a performance based contract rather than a rate based service. Act 335 directs the Department to establish performance measures and develop a performance-based reimbursement process for child welfare residential care by CY 2013. The Department will continue to apply the 10% cumulative provider reserve limit to all rate based, cost reimbursement contracts and will not consider requests for exceptions to this limit until performance based contracts are implemented.

Currently, counties and other purchasing agencies may have negotiated reserve standards with providers that are stricter than the statutory limits. Act 335 does not require purchasing agencies with stricter reserve standards in their contracts to change those standards or contracts. Act 335 does not prohibit purchasing agencies from negotiating reserve standards that are stricter than the revised statutory limits.

The revised statutory language regarding to 5% limit is reflected below:

49.34 (5m) (b) 1. Subject to subds. 2. and 3. and par. (em), if revenue under a contract for the provision of a rate based service exceeds allowable costs incurred in the contract period, the provider may retain from the surplus generated by that rate based service up to 5% of the contract amount. A provider that retains a surplus under this subdivision shall use that retained surplus to cover a deficit between revenue and allowable costs incurred in any preceding or future contract period for the same rate based service that generated the surplus or to address the programmatic needs of clients served by the same rate based service that generated the surplus. This subdivision does not apply to a child welfare agency that is authorized under s. 48.61 (7) to license foster homes, a group home, as defined in s. 48.02 (7), or a residential care center for children and youth, as defined in s. 48.02 (15d).

Other Revenue

The changes to reserve limits apply only to revenue for out-of-home care services as Act 335 applies only to out-of-home care services. Providers with revenue from other services remain subject to the reserve limits for those other services. Other services remain subject to the 5% annual limit on additions to provider reserves.

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