

To: DCF/DMCPS Administrator
DCF Area Administrators
Child Placing Agency Directors
Child Welfare Agency Directors
County Departments of Community Programs Directors
County Departments of Human Services Directors
County Departments of Social Services Directors
Group Home Providers
Tribal Social Service/Indian Child Welfare Directors
Private Child Placing Agencies
Residential Care Center Providers
Shelter Care Providers
Tribal Chairpersons

From: Fredi-Ellen Bove 
Administrator

Re: High Cost Pool Fund for Tribal Court Placements & Tribal Subsidized Guardianship

PURPOSE

This memo explains the process for accessing High Cost Pool funds for Tribal Court placements in out-of-home care, as well as Subsidized Guardianships entered into by county agencies for Indian children. The High Cost Pool does not supplant the overall responsibility of county human/social service agencies to pay for placements ordered by tribal courts under 161 Agreements or Subsidized Guardianship agreements.

High Cost Pool funds can be requested as supplemental funding to meet the specific needs of Indian children placed by a tribal court where the costs significantly impact the county or tribal out-of-home care budget, or for a Subsidized Guardianship entered into for an Indian child. Requests can be made for specific children in situations where the county or tribe meets the High Cost Pool requirements.

This memo supersedes DSP Memo Series 2014-02.

BACKGROUND

The High Cost Pool was created by 2007 Wisconsin Act 20 to provide funds to counties and tribes for unexpected or unusually high-costs for out-of-home care placements of Indian children by tribal courts. "High-cost" for out-of-home care placements is defined by statute to mean the amount by which the cost to a tribe or county of out-of-home care placements of Indian children by tribal courts exceeds \$50,000 in a fiscal year.

The 2013-15 biennial state budget (2013 Wisconsin Act 20) was signed into law on June 30, 2013 with a provision allowing High Cost Pool Funds to be used for Subsidized Guardianships entered into by county agencies for Indian children.

The high cost fund is currently funded at \$395,000 per year.

POLICY AND PROCEDURE REQUIREMENTS

Tribal Out-of-Home Care Placements

A. Accessing Funds:

1. A tribe and a county with a functionally active 161 Agreement must submit a joint application for the county to receive funds. This applies to situations where the county is paying for placements made by the tribal court.

“Functionally active” means a county and a tribe operate under an agreement, whether in writing or not, whereby the county pays for out-of-home care placements made by a tribal court. Counties and tribes vary in how 161 Agreements are renewed. The Division of Safety and Permanence considers a functionally active 161 Agreement as an agreement that has been signed by the county and tribe at some point in the past and the county continues to pay for placements by the tribal court.

2. A tribe may submit an individual application if the tribe is paying for placements made by the tribal court.

B. Expenditure Threshold:

1. The tribe and county, for a joint application, or a tribe for an individual application must expend a minimum of \$50,000 for out-of-home care costs to access the High Cost Pool fund.

For both requesting High Cost Pool reimbursement and meeting the \$50,000 threshold, out-of-home care placement costs may include the equivalent under tribal codes of CHIPS placements and the four types of JIPS placements subject to ICWA {uncontrollable [s. 938.13(4)], habitually truant [s. 938.13(6)], school dropouts [s. 938.13(6m)], and habitual runaways [938.13(7)]}. Costs for Juvenile Delinquent placements and the types of JIPS placements not subject to ICWA cannot be reimbursed under the High Cost Pool nor can such costs be counted towards meeting the \$50,000 Threshold. For both requesting High Cost Pool reimbursement and meeting the \$50,000 threshold, counties and tribes may include expenses incurred for tribal court-ordered placements of Indian children, including foster care, group homes, shelters, and residential care centers.

Note: Costs for secure detention, corrections, and hospital placements cannot be reimbursed by the High Cost Pool and cannot be counted towards meeting the \$50,000 threshold.

For purposes of meeting the \$50,000 threshold only, TANF Kinship Care program costs incurred by county and tribal Kinship Care programs for court ordered Kinship Care placements of Indian children can be included. High Cost Pool funds cannot be requested for Kinship Care or level 1 foster care placements since TANF funds are provided in county community aids allocations to cover these costs, and available to counties and tribes.

For purposes of meeting the \$50,000 threshold only, tribal per capita payments that have been redirected by the tribal court to support placements of children may be included. High Cost Pool funds cannot be requested for placements that are supported by tribal per capita payments.

C. Eligibility of Placements:

1. The Indian child must be placed by the tribal court of a federally-recognized tribe located in the State of Wisconsin;
2. Placements must be made to a state or tribal licensed out-of-home care provider located in the State of Wisconsin. Placements with an out-of-state licensed provider may be granted if the Indian child is also a resident of Wisconsin;

And

3. The child placed must be under the jurisdiction of the tribal court as i) a child in need of protection or services as defined under § 48.13 or under like provisions of the tribe's children's code, or ii) a juvenile in need of protection or services as defined under § 938.13 (4) to (7) or under like provisions of the tribe's juvenile code.

D. Duration of High Cost Pool Placements:

1. Each request for funds must be for a specific child or group of children placed in foster care, group foster care, shelter care, or residential care. The placement costs for the child/children must result in the county or tribe exceeding \$50,000 for the current county or tribal fiscal year.
2. Each request may be granted until the end of the current fiscal year, but not beyond without the submission of a new request the following year.
3. Once High Cost Pool funds have been approved for the placement of a child, agencies may apply in the next fiscal year to request extensions of funding for that child. In such an instance, agencies must meet the \$50,000 threshold for that fiscal year to be eligible for funds. The number of extensions is not limited, but extensions are not guaranteed. Consideration will be based on available funding and the number of new applicants.
4. In order to receive funding for an additional fiscal year, the tribe or county responsible for the child's permanency plan must contact a State Permanency Consultant and rate the child's legal permanency status to determine if it is necessary to conduct a Permanency Roundtable (PRT) for that child.

Subsidized Guardianship

Note: An Indian child's Subsidized Guardianship eligibility continues to be based on Ch. DCF 55 Subsidized Guardianship admin code, and is not contingent upon availability of High Cost Pool funds.

A. Accessing Funds:

1. A tribe and a county with a functionally active 161 Agreement, or memorandum of understanding or other written agreement, must submit a joint application for the county to receive funds.

B. Expenditure Threshold:

1. There is no expenditure threshold for Subsidized Guardianship payments.

C. Eligibility of Placements:

1. The child is a member of a federally recognized tribe located in the State of Wisconsin.
2. The Subsidized Guardianship is entered into under Ch. DCF 55 Subsidized Guardianship admin code.
3. Each request must be for a specific child.

D. Duration of Subsidized Guardianship payment:

1. Each approved request will fund the supplemental and exceptional portion of the payment for the life of the case (until the child turns 18 or is otherwise ineligible for subsidized guardianship). The State will reimburse counties the cost of the supplemental and exceptional portion of the payment.
2. The amount of all approved requests in a given fiscal year is not to exceed 50% of High Cost Pool funds. If funding remains in the High Cost Pool at the end of a fiscal year and no out-of-home care requests remain, additional Subsidized Guardianship cases may be approved for the current fiscal year. In these instances, the payment is a one-time payment only. A new request must be submitted in the following year in order to pursue future funding for that child.

Requests for Funding:

1. Requests must be made on a form prescribed by the Department. Placement requests must identify the actual duration of the placement, the placement provider, the maintenance cost of the placement (if applicable), and daily administrative cost for the child. Requests will be funded based on the actual cost for that particular child.

For Subsidized Guardianship the request must include the date the child turns 18, the guardian, and the monthly supplemental and exceptional payment amount.

2. High Cost Pool funds are available during each State fiscal year, which begins July 1, and ends June 30 of the following calendar year. Requests for a placement in a given fiscal year can only be submitted between July 1 (the first day of the fiscal year) and June 1 (of the following calendar year), of the same fiscal year in which the placement occurred. The Department will review High Cost Pool fund requests at the end of the fiscal year and will prorate the funds based on each county or tribe's percentage of the total expenditures. For example, if the total expenditures submitted by all counties and tribes equals \$500,000 for a given fiscal year, and a particular county's expenditures equals \$100,000, then that county would receive 20% of the available \$395,000 (or \$79,000)..

The portion of the request not funded remains the fiscal responsibility of the county or tribe.

Subsidized Guardianship funding will be calculated prior to prorating requests for placement funding.

eWiSACWIS DOCUMENTATION

No eWiSACWIS documentation changes exist as a result of this memo.

ACTION SUMMARY

Those seeking to access High Cost Pool funds must complete the attached application. Applications will be reviewed as they are received. No applications for a given fiscal year will be accepted after June 1.

REGIONAL OFFICE CONTACT: DCF Area Administrator

CENTRAL OFFICE CONTACT: Tribal Affairs Specialist
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MEMO WEB SITE: <https://dcf.wisconsin.gov/cwportal/policy>

Attachments High Cost Pool Fund Application, DCF-F-CFS2428-E
<https://dcf.wisconsin.gov/forms>