

**INTEROFFICE COMMUNICATION  
COUNTY OF MILWAUKEE**

DATE: August 21, 2012

TO: Marina Dimitrijevic, Chairwoman, County Board of Supervisors

FROM: Dewey Martin, Principal Assistant Corporation Counsel *DM*

SUBJECT: Milwaukee County Dept. of Family Care v. Wis. Dept. of Health Services  
Milwaukee County Circuit Court Case No. 2010-CV-12667

I request that this matter be referred to the Committee on Judiciary, Safety and General Services for approval of a settlement. I request authority to settle this case for the sum of \$9,409.40. This payment will be made from Family Care administrative funds and will not be paid from tax levy funds.

B.L. was a recipient of services. B.L. transferred from the Community Integration Program (CIP) Medicaid Waiver to the Milwaukee County Department of Family Care (MCDFC) on 1/1/2010. Shortly thereafter, B.L.'s family expressed dissatisfaction with the rate of reimbursement that was determined for the supportive home care services provided to B.L. by his mother.

In the spring of 2010, B.L. requested a Fair Hearing regarding the reimbursement rate, resulting in the Administrative Law Judge's (ALJ) decision to remand the issue. MCDFC wanted to challenge the ALJ's jurisdiction in rate setting matters, so an administrative agency appeal was filed in circuit court to review the ALJ's jurisdiction and decision. The circuit court ordered the Division of Hearings and Appeals to accept additional evidence explaining and justifying MCDFC's rate calculations.

In April, 2012, MCDFC negotiated a compromise with respect to the requested reimbursement rate and B.L. withdrew his fair hearing request. On June 1, 2012, the attorney representing B.L. filed a motion for costs and attorney fees in circuit court. A copy is attached.

The hearing on the motion was scheduled for August 3, 2012. Our office reviewed the motion and determined that the attorney is entitled to recover fees and costs for representing B.L. in this matter. We have reviewed the invoice submitted to the circuit court and believe that the hourly rate and services provided are appropriate and are the responsibility of MCDFC under the applicable state

statutes. We have informed the circuit court that approval to pay the requested fees is being sought; the motion has been removed from the court's calendar pending review by the Committee on Judiciary, Safety and General Services.

We request approval to pay the sum of \$9409.40 to the law firm of Nelson, Irvings & Waeffler S.C. to resolve all remaining issues in the above litigation. The payment will be made from MCDFC administrative funds and not from tax levy funds.

cc: Amber Moreen  
Janelle Jensen