1999 ASSEMBLY BILL 307

April 22, 1999 – Introduced by Representatives JESKEWITZ, MILLER, SPILLNER, RILEY, PLOUFF, BLACK, POCAN, SERATTI, BOCK, YOUNG, RYBA, LA FAVE, PLALE, TURNER, SCHOOFF, MORRIS-TATUM, COGGS, J. LEHMAN, OWENS, HASENOHRL, OLSEN, GUNDERSON and RICHARDS, cosponsored by Senators MOORE, ROSENZWEIG, DARLING, RISSER, ROBSON, PLACHE and GEORGE. Referred to Committee on Children and Families.

1   AN ACT *to repeal* 49.152 (2); *to renumber* 49.152 (title); *to renumber and*

2   *amend* 49.152 (1); and *to create* 49.16 (2), (3) and (4) of the statutes; **relating**

3   **to:** the fair hearing process under Wisconsin works.

Analysis by the Legislative Reference Bureau

Under current law, an individual whose application for Wisconsin works (W–2) is not acted upon by the W–2 agency with reasonable promptness or is denied in whole or in part, whose benefit is modified or canceled, or who believes that the benefit was calculated incorrectly or that the employment position in which the individual was placed is inappropriate, may petition the W–2 agency for a review of that action or decision. With certain exceptions, the W–2 agency must grant the petition for review and the department of workforce development (DWD) may review the decision of the W–2 agency if the applicant or participant or the W–2 agency petitions DWD for a review of the W–2 agency's decision.

This bill permits an individual whose application for W–2 is denied in whole or in part, whose benefit is modified or canceled, or who believes that the benefit was calculated incorrectly or that the employment position in which the individual was placed is inappropriate, or that the employment position in which the individual was placed is inappropriate, to petition DWD for a review of the action or decision of the W–2 agency. With certain exceptions, DWD must give the individual an opportunity for a hearing. Under the bill, if a participant in the W–2 program requests a hearing before the effective date of the W–2 agency's action, or within 10 days after the mailing of the notice of the action, whichever is later, the participant's benefits may

not be suspended, reduced or discontinued, except under limited circumstances, until DWD renders a decision after the hearing.

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1   SECTION 1. 49.152 (title) of the statutes is renumbered 49.16 (title).

2   SECTION 2. 49.152 (1) of the statutes is renumbered 49.16 (1) and amended to

3   read:

4   49.16 **(1)** PETITION FOR REVIEW. Any individual whose application for any

5   component of Wisconsin works is not acted upon by the Wisconsin works agency with

6   reasonable promptness after the filing of the application, as defined by the

7   department by rule, or is denied in whole or in part, whose benefit is modified or

8   canceled, or who believes that the benefit was calculated incorrectly or that the

9   employment position in which the individual was placed is inappropriate, may

10   petition the ~~Wisconsin works agency~~ department for a review of such action. Review

11   is unavailable if the action by the Wisconsin works agency occurred more than 45

12   days prior to submission of the petition for review.

13   SECTION 3. 49.152 (2) of the statutes is repealed.

14   SECTION 4. 49.16 (2), (3) and (4) of the statutes are created to read:

15   49.16 **(2)** REVIEW. Upon receipt of a timely petition under sub. (1), the

16   department shall give the applicant or participant reasonable notice and

17   opportunity for a fair hearing. The department may make any additional

18   investigation that it considers necessary. Notice of the hearing shall be given to the

19   applicant or participant and, if appropriate, to the county clerk. The Wisconsin

20   works agency may be represented at the hearing. The department shall render its

1   decision as soon as possible after the hearing and shall send a certified copy of its

2   decision to the applicant or participant, the county clerk, if appropriate, and the

3   Wisconsin works agency. The decision of the department shall be final, but may be

4   revoked or modified as altered conditions may require. The department shall deny

5   a petition for a hearing or shall refuse to grant relief if any of the following applies:

6   (a) The applicant or participant withdraws the petition in writing.

7   (b) The sole issue in the petition concerns an automatic grant adjustment or

8   change for a class of participants as required by state or federal law.

9   (c) The applicant or participant abandons the petition. Abandonment occurs

10   if the applicant or participant fails to appear in person or by a representative at a

11   scheduled hearing without providing the department with good cause.

12   **(3)** SUSPENSION OF BENEFITS. If a participant requests a hearing prior to the

13   effective date of the action by the Wisconsin works agency or within 10 days after the

14   mailing of the notice of the action, whichever is later, benefits may not be suspended,

15   reduced or discontinued until a decision is rendered after the hearing but may be

16   recovered by the department if the contested decision or failure to act is upheld.

17   Until a decision is rendered after the hearing, the manner or form of benefit payment

18   to the participant may not change to a protective, vendor or 2−party payment.

19   Benefits shall be suspended, reduced or discontinued if any of the following applies:

20   (a) The participant is contesting a state or federal law or a change in state or

21   federal law and not the participant's benefit computation.

22   (b) The participant is notified of a change in his or her benefit while the hearing

23   decision is pending but the participant fails to request a hearing on the change.

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1   **(4)** NOTICE TO PARTICIPANT. The participant shall be promptly informed in

2   writing if benefits are to be suspended, reduced or terminated pending the hearing

3   decision.

4   **(END)**