

State of Wisconsin



1995 Assembly Bill 21

Date of enactment: **May 15, 1995**
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1995 WISCONSIN ACT 12

AN ACT to repeal 49.193 (2) (e); **to amend** 49.19 (11) (a) 1. a. (intro.), 49.193 (2) (a) and 49.193 (8) (a); and **to create** 46.251, 49.19 (11s), 49.193 (3m) and 49.193 (9m) of the statutes; **relating to:** requesting federal waivers under the aid to families with dependent children and job opportunities and basic skills programs; limiting increases in aid to families with dependent children for families that have certain additional children; job orientation and job search requirements, participation requirements and sanctions under the job opportunities and basic skills program; establishing a program for publication of delinquent child support obligors; providing exemptions from emergency rule-making procedures; granting rule-making authority; and making appropriations.

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

SECTION 3. 46.251 of the statutes is created to read:

46.251 Program for publication of delinquent child support obligors. The department shall establish a program to increase public awareness about the importance of the payment of child support. The program shall include publication of information, such as names and photographs, that identifies child support obligors who are significantly delinquent in the payment of child support. The department may use posters, media presentations or other means that the department determines are appropriate for publication of the information. The publications shall include information about the child support owed by each obligor identified and, if appropriate, shall solicit information from the public to assist the department in locating a delinquent obligor.

SECTION 4. 49.19 (11) (a) 1. a. (intro.) of the statutes is amended to read:

49.19 (11) (a) 1. a. (intro.) Except as provided in sub. subs. (11m) and (11s), monthly payments made under s. 20.435 (4) (d) and (p) to persons or to families with de-

pendent children shall be based on family size and shall be at 80% of the total of the allowances under subs. 2. and 4. plus the following standards of assistance beginning on September 1, 1987:

SECTION 5. 49.19 (11s) of the statutes is created to read:

49.19 (11s) (a) The department shall conduct a demonstration project under this subsection pursuant to a waiver from the secretary of the federal department of health and human services beginning on January 1, 1996. To the extent permitted in the waiver, the department may apply pars. (b) to (d) to all recipients of aid under this section or to a test group of recipients of aid under this section determined by the department. Paragraphs (b) to (d) do not apply to persons who are subject to s. 49.25 and shall apply only while a waiver under this paragraph is in effect and only with respect to recipients covered by the waiver.

(b) In determining the payment amount under sub. (11) (a), a child born into a family more than 10 months after the date that the family was first determined to be eligible for assistance under this section shall not be con-

* Section 991.11, WISCONSIN STATUTES 1993-94: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

sidered in determining family size unless at least one of the following conditions is met:

1. The family did not receive benefits under this section for a period of at least 6 months, other than as a result of sanctions, and the child was born during that period or not more than 10 months after the family resumed receiving benefits under this section after that period.

2. The child was conceived as a result of a sexual assault in violation of s. 940.225 (1), (2) or (3) in which the mother did not indicate a freely given agreement to have sexual intercourse or of incest in violation of s. 944.06 or 948.06 and that incest or sexual assault has been reported to a physician and to law enforcement authorities.

3. The child's mother is a dependent child at the time of the child's birth and the child is born as a result of the mother's first pregnancy that resulted in a live birth.

4. The child does not reside with his or her biological mother or father.

5. The family or child meets the criteria for an exemption from the application of this paragraph under a rule promulgated by the department.

(c) The department shall inform all applicants for aid under this section of the limitation under par. (b) at the time of application.

(d) From the appropriation under s. 20.435 (4) (a), the department may award grants to county departments under ss. 46.215, 46.22 and 46.23 for providing family planning education services to persons who are subject to par. (b).

SECTION 6. 49.193 (2) (a) of the statutes is amended to read:

49.193 (2) (a) The department shall ensure that all persons required under 42 USC 602 (a) (19) and 42 USC 681 to 687 to participate in a job opportunities and basic skills training program participate in the program under this section. In addition, the department shall require a parent or other caretaker relative of a child who is at least one year of age to participate in the program under this section on a full-time basis, unless the parent or other caretaker relative is exempt from participation in the program for a reason other than being a parent or other caretaker of a child under 3 years of age.

SECTION 7. 49.193 (2) (e) of the statutes is repealed.

SECTION 8. 49.193 (3m) of the statutes is created to read:

49.193 (3m) **ORIENTATION AND JOB SEARCH REQUIREMENT.** (a) The department shall request a waiver from the secretary of the federal department of health and human services to permit the application of pars. (b) to (e) beginning on the date specified in the waiver. The waiver may not request the application of pars. (b) to (e) before January 1, 1996. The waiver may request permission to apply pars. (b) to (e) to all applicants for aid under s. 49.19 or to a test group of these applicants determined by the department. Paragraphs (b) to (e) apply only while a waiver

under this paragraph is in effect and only with respect to applicants covered by the waiver.

(b) The department may not provide aid under s. 49.19 to any applicant who is subject to the requirements under par. (c) or (d) and who is not exempt under par. (e), until the applicant has provided verification, in a form to be specified by the department by rule, that he or she has complied with these requirements.

(c) The department may require any adult applicant for aid under s. 49.19 to attend one or more orientation sessions offered during the 30-day period beginning on the date that the caretaker relative applies for aid under s. 49.19. Orientation sessions offered under this paragraph shall emphasize self-sufficiency and shall encourage applicants to consider alternatives to aid under s. 49.19. The department may not require an applicant for aid who would be subject to the school attendance requirement under s. 49.50 (7) (g) to attend an orientation session under this paragraph at a time that would conflict with school attendance.

(d) The department may require any adult applicant for aid under s. 49.19 who is required to participate in the program under this section to participate in job search activities under this paragraph. The department may require participation in not more than 30 days of job search activities under this paragraph. The department may not require an applicant for aid who would be subject to the school attendance requirement under s. 49.50 (7) (g) to participate in any job search activity under this paragraph at a time that would conflict with school attendance.

(e) The agency administering the program under this section may exempt an applicant for aid under s. 49.19 from any requirement under pars. (c) and (d) if the agency determines that the applicant would not benefit from complying with the requirement. The department shall promulgate rules establishing standards to be used by agencies administering the program under this section in making determinations under this paragraph.

SECTION 9. 49.193 (8) (a) of the statutes is amended to read:

49.193 (8) (a) The department shall pay child care costs of persons with approved employability plans who are participating in the program under this section and of persons who are participating in orientation and job search activities required under sub. (3m). Payment or reimbursement shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of care or the rate established under s. 46.98 (4) (d), or, if a higher rate is established under s. 46.98 (4) (e) and if the child care meets the quality standards established under s. 46.98 (4) (e), payment or reimbursement for child care that meets those standards shall be in an amount based on need, with the maximum amount per child equal to the lesser of the actual cost of the care or the rate established under s. 46.98 (4) (e).

SECTION 11. 49.193 (9m) of the statutes is created to read:

49.193 (9m) SANCTIONS. (a) The department shall request a waiver from the federal department of health and human services to permit the application of pars. (b) and (c) beginning on the date specified in the waiver. The waiver may not request the application of pars. (b) and (c) before January 1, 1996. The waiver may request permission to apply pars. (b) and (c) to all recipients of aid under s. 49.19, or to a test group of these recipients, to be determined by the department. Paragraphs (b) and (c) apply only while a waiver under this paragraph is in effect and only with respect to recipients covered by the waiver.

(b) Notwithstanding s. 49.19 (11) (a), if all of the following conditions apply in a month to a recipient of aid under s. 49.19, the department shall determine the amount of aid under s. 49.19 to be paid to the recipient's family in a subsequent month as provided in par. (c):

1. The recipient of aid is required to participate in an activity under this section for a regularly scheduled number of hours in the month.

2. The recipient of aid participates in the activity in the month for less than the required number of hours without good cause, as defined by the department by rule.

3. The agency administering the program under this section determines, in accordance with standards established by the department by rule, that the activity that the recipient is engaged in during the month has continued, or is expected to continue, for more than one month.

(c) 1. Except as provided in subd. 2., if par. (b) applies, the amount of aid under s. 49.19 paid to the recipient's family in a subsequent month shall be determined as follows:

a. The department shall add the recipient's total number of hours of actual participation in the month to the total number of hours in a month for which the recipient had good cause, as defined by the department by rule, for not participating in required activities.

b. The department shall subtract the total number of hours determined under subd. 1. a. from the recipient's total number of hours of required participation in that month.

c. The department shall multiply the number of hours determined under subd. 1. b. by the federal minimum hourly wage under 29 USC 206 (a) (1).

d. The department shall subtract the dollar amount determined under subd. 1. c. from the amount of aid under s. 49.19 that the recipient's family would have received if he or she had participated for the total number of assigned hours.

2. a. If there is only one individual included in a grant of aid under s. 49.19 who is required to participate in an activity under this section for a regularly scheduled number of hours in a month and if the total number of hours determined under subd. 1. a. for that individual is less than 25% of the total number of hours of required partici-

pation in that month for that individual, no grant of aid under s. 49.19 shall be made to the individual's family in a subsequent month.

b. If there is more than one individual included in a grant of aid under s. 49.19 who is required to participate in an activity under this section for a regularly scheduled number of hours in a month and if the total number of hours determined under subd. 1. a. for all of those individuals is less than 25% of the total number of hours of required participation in that month for all of those individuals, no grant of aid under s. 49.19 shall be made to the individuals' family in a subsequent month.

SECTION 12. Nonstatutory provisions.

(1) BENEFIT CAP EMERGENCY RULE-MAKING AUTHORITY. Using the procedure under section 227.24 of the statutes, the department of health and social services may promulgate the rules under section 49.19 (11s) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under section 49.19 (11s) of the statutes, as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency.

(2) SELF-SUFFICIENCY FIRST EMERGENCY RULE-MAKING AUTHORITY. Using the procedure under section 227.24 of the statutes, the department of health and social services may promulgate the rules under section 49.193 (3m) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under section 49.193 (3m) of the statutes, as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency.

(3) PAY FOR PERFORMANCE EMERGENCY RULE-MAKING AUTHORITY. Using the procedure under section 227.24 of the statutes, the department of health and social services may promulgate the rules under section 49.193 (9m) of the statutes, as created by this act, for the period before the effective date of the permanent rules promulgated under section 49.193 (9m), as created by this act, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) and (3) of the statutes, the department is not required to make a finding of emergency.

(4) BENEFIT CAP FEDERAL POSITION AUTHORIZATIONS. The authorized FTE positions for the department of health and social services are increased by 1.5 FED positions on October 1, 1995, to be funded from the appropriation under section 20.435 (4) (n) of the statutes for the purpose of implementing and administering the waiver under section 49.19 (11s) of the statutes.

(7) JOINT COMMITTEE ON FINANCE PROGRAM SUPPLEMENTATION. Notwithstanding sections 13.101 (3) (a) and

20.865 (4) (a) of the statutes, the joint committee on finance may expend any increase in the appropriation under section 20.865 (4) (a) of the statutes made under SECTION 13 (14) of this act, without making any of the findings required under sections 13.101 (3) (a) and 20.865 (4) (a) of the statutes, to supplement any appropriations under section 20.435 (1) (b) and (4) (a), (br), (de) and (df) of the statutes for the purposes for which those appropriations are made.

SECTION 13. Appropriation changes.

(9) **BENEFIT CAP GENERAL PROGRAM OPERATIONS.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (4) (a) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$257,000 for fiscal year 1995–96 and the dollar amount is increased by \$225,100 for fiscal year 1996–97 to increase the authorized FTE positions for the department of health and social services on October 1, 1995, by 1.5 GPR positions and for general program operations relating to the limitations on aid to families with dependent children benefits under section 49.19 (11s) of the statutes, as created by this act.

(10) **BENEFIT CAP WELFARE REFORM STUDIES.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (4) (br) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$31,300 for fiscal year 1995–96 and the dollar amount is increased by \$62,500 for fiscal year 1996–97 for welfare reform studies relating to the limitations on aid to families with dependent children benefits under section 49.19 (11s) of the statutes, as created by this act.

(11) **BENEFIT CAP COUNTY ADMINISTRATION.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (4) (de) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$281,900 for fiscal year 1995–96 and the dollar amount is increased by \$563,900 for fiscal year 1996–97 for county administration of the limitations on aid to fam-

ilies with dependent children benefits under section 49.19 (11s) of the statutes, as created by this act.

(12) **PUBLICATION OF DELINQUENT CHILD SUPPORT OBLIGORS.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (4) (a) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$15,000 for fiscal year 1995–96 and the dollar amount is increased by \$15,000 for fiscal year 1996–97 to increase funding for developing and implementing the program under section 46.251 of the statutes, as created by this act.

(13) **MEDICAL ASSISTANCE WAIVER SAVINGS.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the department of health and social services under section 20.435 (1) (b) of the statutes, as affected by the acts of 1995, the dollar amount is decreased by \$1,464,700 for fiscal year 1996–97 to reflect savings in medical assistance benefit costs because of the waivers under sections 49.19 (11s) and 49.193 (3m) and (9m) of the statutes.

(14) **JOINT COMMITTEE ON FINANCE PROGRAM SUPPLEMENTATION.** In the schedule under section 20.005 (3) of the statutes for the appropriation to the joint committee on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1995, the dollar amount is increased by \$2,337,000 for fiscal year 1995–96 and the dollar amount is increased by \$2,986,600 for fiscal year 1996–97 to supplement any appropriations under section 20.435 (1) (b) and (4) (a), (br), (de) and (df) of the statutes to reflect the approval or denial of the waivers under section 49.193 (3m) and (9m) of the statutes.

SECTION 14. Initial applicability.

(1) The treatment of section 49.19 (11) (a) 1. a. (intro.) and (11s) (b) of the statutes first applies to a child born on November 1, 1996.

SECTION 15. Effective date.

(1) This act takes effect on July 1, 1995, or the 2nd day after the publication of the 1995–97 biennial budget act, whichever is later.