



## 2013 SENATE BILL 238

July 31, 2013 - Introduced by Senators COWLES, LASEE, OLSEN, SCHULTZ and HANSEN, cosponsored by Representatives WEININGER, JACQUE, GENRICH, NYGREN, TITTL, BIES, KOLSTE, KAUFERT, BERCEAU, BROOKS, SCHRAA, LEMAHIEU, MURPHY, A. OTT, PRIDEMORE, RIPP, KAHL, VRUWINK and ENDSLEY. Referred to Committee on Health and Human Services.

1     **AN ACT to amend** 20.435 (4) (bm), 20.435 (4) (L), 20.435 (4) (nn), 20.435 (4) (pa),  
2             20.437 (2) (dz), 20.437 (2) (L) and 49.793 (2) (a); and **to create** 49.846 of the  
3             statutes; **relating to:** an optional incentive program for counties and tribes  
4             that identify fraudulent activity in certain public assistance programs,  
5             granting rule-making authority, and making appropriations.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a county or elected governing body of a federally recognized American Indian tribe or band (county or tribe) may retain a portion of incorrect overpayments in public assistance programs administered by the Department of Health Services (DHS), including Medical Assistance and the supplemental nutrition assistance program (known as FoodShare in Wisconsin), that are recovered as a result of the efforts of an employee or officer of the county or tribe. Currently, DHS establishes by rule the portion of FoodShare overpayment recoveries that a county or tribe may retain. Under the bill, a county or tribe may retain the full amount of FoodShare overpayment recoveries that the state is permitted to retain under federal law. Current law also allows a county or tribe to retain a portion of incorrect overpayments that are recovered in Wisconsin Works as a result of the efforts of an employee or officer of the county or tribe. Under current law, Milwaukee County may not retain a portion of incorrect payments that are recovered as a result of the efforts of an employee or officer of the county.

Under the bill, DHS is required to establish an optional incentive program, by rule, under which a county with a population of less than 750,000 or tribe receives

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a reward payment if an employee or officer of the county or tribe identifies fraudulent activity in Medical Assistance or FoodShare. Under the bill, the amount of the reward payment under the program is 20 percent of the amount that DHS determines will be saved in the program over a 12-month period as the result of eliminating the identified fraudulent activity. The bill also provides that, if a county or tribe receives a reward payment under the optional incentive program, the county or tribe may not retain overpayments that are recovered as the result of identifying the fraudulent activity. Under the bill, the Department of Children and Families is required to establish a similar incentive program, by rule, that applies to fraudulent activity in Wisconsin Works that is identified by an employee or officer of a county or tribe.

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

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

1           **SECTION 1.** 20.435 (4) (bm) of the statutes is amended to read:  
2           20.435 (4) (bm) *Medical Assistance, food stamps, and Badger Care*  
3 *administration; contract costs, insurer reports, and resource centers.* Biennially, the  
4 amounts in the schedule to provide a portion of the state share of administrative  
5 contract costs for the Medical Assistance program under subch. IV of ch. 49 and the  
6 Badger Care health care program under s. 49.665 and to provide the state share of  
7 administrative costs for the food stamp program under s. 49.79, other than payments  
8 under s. 49.78 (8), for reward payments under s. 49.846 (2), to develop and implement  
9 a registry of recipient immunizations, to reimburse 3rd parties for their costs under  
10 s. 49.475, for costs associated with outreach activities, for state administration of  
11 state supplemental grants to supplemental security income recipients under s.  
12 49.77, to administer the pharmacy benefits purchasing pool under s. 146.45, and for  
13 services of resource centers under s. 46.283. No state positions may be funded in the  
14 department of health services from this appropriation, except positions for the  
15 performance of duties under a contract in effect before January 1, 1987, related to

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1 the administration of the Medical Assistance program between the subunit of the  
2 department primarily responsible for administering the Medical Assistance  
3 program and another subunit of the department. Total administrative funding  
4 authorized for the program under s. 49.665 may not exceed 10% of the amounts  
5 budgeted under pars. (p) and (x).

6 **SECTION 2.** 20.435 (4) (L) of the statutes is amended to read:

7 20.435 (4) (L) *Fraud and error reduction.* All moneys received as the state's  
8 share of the recovery of overpayments and incorrect payments under ss. 49.497 (1)  
9 and (1m), 49.793 (2) (a), and 49.847, all moneys received from counties and tribal  
10 governing bodies as a result of any error reduction activities under ss. 49.197 and  
11 49.845, and all moneys credited to this appropriation account under ss. 49.497 (2) (b),  
12 49.793 (2) (b), and 49.847 (3) (b), for any contracts under s. 49.197 (5), for any  
13 activities to reduce error and fraud under s. 49.845, to pay federal sanctions under  
14 the food stamp program, for reward payments under 49.846 (2), and for food stamp  
15 reinvestment activities under reinvestment agreements with the federal  
16 department of agriculture that are designed to improve the food stamp program.

17 **SECTION 3.** 20.435 (4) (nn) of the statutes is amended to read:

18 20.435 (4) (nn) *Federal aid; income maintenance.* All moneys received from the  
19 federal government for the costs of contracting for the administration of the Medical  
20 Assistance program under subch. IV of ch. 49 and the Badger Care health care  
21 program under s. 49.665 and the food stamp program, other than moneys received  
22 under par. (pa), for costs to administer income maintenance programs, as defined in  
23 s. 49.78 (1) (b), and for reward payments under 49.846 (2).

24 **SECTION 4.** 20.435 (4) (pa) of the statutes is amended to read:

**SENATE BILL 238****SECTION 4**

1           20.435 (4) (pa) *Federal aid; Medical Assistance and food stamp contracts*  
2 *administration.* All federal moneys received for the federal share of the cost of  
3 contracting for payment and services administration and reporting, other than  
4 moneys received under par. (nn), to reimburse 3rd parties for their costs under s.  
5 49.475, for administrative contract costs for the food stamp program under s. 49.79,  
6 for reward payments under s. 49.846 (2), and for services of resource centers under  
7 s. 46.283.

8           **SECTION 5.** 20.437 (2) (dz) of the statutes is amended to read:

9           20.437 (2) (dz) *Temporary Assistance for Needy Families programs;*  
10 *maintenance of effort.* The amounts in the schedule, less the amounts withheld  
11 under s. 49.143 (3), for administration and benefit payments under Wisconsin Works  
12 under ss. 49.141 to 49.161, the learnfare program under s. 49.26, and the work  
13 experience program for noncustodial parents under s. 49.36; for payments to local  
14 governments, organizations, tribal governing bodies, and Wisconsin Works agencies;  
15 for reward payments under s. 49.846 (3); and for emergency assistance for families  
16 with needy children under s. 49.138. Payments may be made from this appropriation  
17 account for any contracts under s. 49.845 (4) and for any fraud investigation and  
18 error reduction activities under s. 49.197 (1m). Moneys appropriated under this  
19 paragraph may be used to match federal funds received under par. (md).  
20 Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may transfer funds  
21 between fiscal years under this paragraph. Notwithstanding ss. 20.001 (3) and  
22 20.002 (1), the department of health services shall credit to this appropriation  
23 account funds for the purposes of this appropriation that the department transfers  
24 from the appropriation account under s. 20.435 (5) (bc). All funds allocated by the  
25 department but not encumbered by December 31 of each year lapse to the general

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1 fund on the next January 1 unless transferred to the next calendar year by the joint  
2 committee on finance.

3 **SECTION 6.** 20.437 (2) (L) of the statutes is amended to read:

4 20.437 (2) (L) *Public assistance overpayment recovery, fraud investigation, and*  
5 *error reduction.* All moneys received as the state's share of the recovery of  
6 overpayments and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s.  
7 49.195, 1997 stats., for any contracts under s. 49.845 (4), for any activities under s.  
8 49.197 (1m) to investigate fraud relating to the Aid to Families with Dependent  
9 Children program and the Wisconsin Works program, for any activities under s.  
10 49.197 (3) to reduce payment errors in the Wisconsin Works program, for reward  
11 payments under s. 49.849 (3), and for costs associated with collection of public  
12 assistance overpayments.

13 **SECTION 7.** 49.793 (2) (a) of the statutes is amended to read:

14 49.793 (2) (a) Except as provided in par. (b), a county, multicounty consortium,  
15 as defined in s. 49.78 (1) (br), or governing body of a federally recognized American  
16 Indian tribe may retain ~~a portion of the~~ full amount of an overpayment the state is  
17 authorized to retain under 7 USC 2025 that is recovered under sub. (1) due to the  
18 efforts of an employee or officer of the county, multicounty consortium, or tribe. ~~The~~  
19 ~~department shall promulgate a rule establishing the portion of the amount of the~~  
20 ~~overpayment that the county, multicounty consortium, or governing body may~~  
21 ~~retain.~~ This paragraph does not apply to recovery of an overpayment that was made  
22 as a result of state, county, multicounty consortium, or tribal governing body error.

23 **SECTION 8.** 49.846 of the statutes is created to read:

**SENATE BILL 238****SECTION 8**

1           **49.846 Optional incentive program for counties and tribes that**  
2 **identify fraud in certain public assistance programs. (1) DEFINITIONS.** In this  
3 section:

4           (a) “County or tribe” means a county having a population of less than 750,000  
5 or a federally recognized American Indian tribe or band in this state.

6           (b) “Food stamp program” means the federal food stamp program under 7 USC  
7 2011 to 2036a.

8           (c) “Medical Assistance program” means the program under subch. IV.

9           (d) “Wisconsin Works” has the meaning given in s. 49.141 (1) (p).

10          **(2) PUBLIC ASSISTANCE PROGRAMS ADMINISTERED BY THE DEPARTMENT OF HEALTH**  
11 **SERVICES.** (a) *Medical Assistance program.* The department of health services shall  
12 establish an optional incentive program, by rule, under which the department will  
13 provide a reward payment to a county or tribe if an employee or officer of the county  
14 or tribe identifies fraudulent activity in the Medical Assistance program. The  
15 department of health services may make reward payments under the optional  
16 incentive program from the appropriations under s. 20.435 (4) (bm), (L), (nn), and  
17 (pa). The department of health services shall establish the optional incentive  
18 program to include all of the following:

19           1. That a county or tribe shall choose to receive a reward payment in the  
20 amount determined under subd. 2. or to retain funds under s. 49.49 (5) or 49.497 (2)  
21 (a).

22           2. That the amount of a reward payment to a county or tribe under the program  
23 is equal to 20 percent of the amount that the department determines will be saved  
24 in the Medical Assistance program as the result of eliminating the identified  
25 fraudulent activity during the 12-month period after the fraudulent activity is

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1 eliminated. Notwithstanding ss. 49.49 (5) and 49.497 (2) (a), a county or tribe that  
2 receives a reward payment may not retain any funds that are incorrectly paid as the  
3 result of the identified fraudulent activity and recovered due to the efforts of an  
4 employee or officer of the county or tribe.

5 (b) *Food stamp program.* The department of health services shall establish an  
6 optional incentive program, by rule, under which the department will provide a  
7 reward payment to a county or tribe if an employee or officer of the county or tribe  
8 identifies fraudulent activity in the food stamp program. The department of health  
9 services may make reward payments under the optional incentive program from the  
10 appropriations under s. 20.435 (4) (bm), (L), (nn), and (pa). The department shall  
11 establish the optional incentive program to include all of the following:

12 1. That a county or tribe shall choose to receive a reward payment in the  
13 amount determined under subd. 2. or to retain funds under s. 49.793 (2) (a).

14 2. That the amount of a reward payment to a county or tribe is equal to 20  
15 percent of the amount that the department determines will be saved in the food  
16 stamp program as the result of eliminating the identified fraudulent activity during  
17 the 12-month period after the fraudulent activity is eliminated. Notwithstanding  
18 s. 49.793 (2) (a), a county or tribe that receives a reward payment may not retain any  
19 funds that are incorrectly paid as the result of the identified fraudulent activity and  
20 recovered due to the efforts of an employee or officer of the county or tribe.

21 **(3) PUBLIC ASSISTANCE PROGRAM ADMINISTERED BY THE DEPARTMENT OF CHILDREN**  
22 **AND FAMILIES; WISCONSIN WORKS.** The department of children and families shall  
23 establish an optional incentive program, by rule, under which the department will  
24 provide a reward payment to a county or tribe if an employee or officer of the county  
25 or tribe identifies fraudulent activity in Wisconsin Works. The department of

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1 children and families may make reward payments under the optional incentive  
2 program from the appropriation under s. 20.437 (2) (dz), (L), and (mc). The  
3 department of children and families shall establish the optional incentive program  
4 to include all of the following:

5 (a) That a county or tribe shall choose to receive a reward payment in the  
6 amount determined under par. (b), to receive a reward under the incentive program  
7 under s. 49.197 (2), or to retain funds under s. 49.195 (4).

8 (b) That the amount of a reward payment paid to a county or tribe is equal to  
9 20 percent of the amount that the department determines will be saved in Wisconsin  
10 Works as the result of eliminating the identified fraudulent activity during the  
11 12-month period after the identified fraudulent activity is eliminated.  
12 Notwithstanding ss. 49.195 (4) and 49.197 (2), a county or tribe that receives a  
13 reward payment may not retain any funds that are incorrectly paid as the result of  
14 the identified fraudulent activity and recovered due to the efforts of an employee or  
15 officer of the county or tribe and may not receive a reward payment under s. 49.197  
16 (2).

17 (4) USE OF REWARD PAYMENT. A county or tribe may use a reward payment  
18 received under this section for any purpose.

19 (5) WAIVERS. (a) If the department of health services determines that it needs  
20 a waiver to allow reward payments under sub. (2) (a) to qualify as administrative  
21 costs for the Medical Assistance program or to allow a county and tribe to use any  
22 federal funds received under sub. (2) (a) for any purpose, the department shall  
23 request the necessary waiver from the secretary of the federal department of health  
24 and human services and may not implement the incentive program under sub. (2)  
25 (a) unless the waiver is granted.



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1 (b) If the department of health services determines that it needs a waiver to  
2 allow reward payments under sub. (2) (b) to qualify as administrative costs involved  
3 in the operation of the food stamp program or to allow a county and tribe to use any  
4 federal funds received under sub. (2) (b) for any purpose, the department shall  
5 request the necessary waiver from the secretary of the federal department of  
6 agriculture and may not implement the incentive program under sub. (2) (b) unless  
7 the waiver is granted.

8 (c) If the department of children and families determines that it needs a waiver  
9 to allow reward payments under sub. (3) to qualify as state expenditures for purposes  
10 of determining whether the state is maintaining a certain level of historic support  
11 under the temporary assistance for needy families program under 42 USC 601 to 619  
12 or to allow a county and tribe to use any federal funds received under sub. (3) for any  
13 purpose, the department shall request the necessary waiver from the secretary of the  
14 federal health and human services and may not implement the incentive program  
15 under sub. (3) unless the waiver is granted.

16 (END)