

**1983 Assembly Bill 773**

Date of enactment: **April 18, 1984**  
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**1983 Wisconsin Act 205**

*AN ACT to amend 49.02 (5) (c) 1, 49.02 (5) (c) 3, 49.02 (5) (d) and 49.11 (4) (f) 1; to repeal and recreate 49.02 (5) (c) 2; and to create 49.02 (5) (c) 2m, 49.02 (5) (cm), 49.02 (5m) and 49.11 (1m) of the statutes, relating to notice provisions and medical care under general relief and granting rule-making authority.*

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

SECTION 1. 49.02 (5) (c) 1 of the statutes, as affected by 1983 Wisconsin Act 27, is amended to read:

49.02 (5) (c) 1. Within 3 working days after the patient is initially provided emergency medical treatment or hospitalization an agent of the hospital gives has written notice of the treatment or hospitalization delivered to the relief administering agency or official of the municipality or county in which the hospital is located and within 3 working days after the patient is initially provided emergency medical treatment or hospitalization an agent of the hospital gives oral notice and mails written notice of the treatment or hospitalization to the relief administering agency or official of the municipality or county in which the patient has legal settlement; patient's last-known address is located, if different than the municipality or county in which the hospital is located. Each notice provided under this subdivision shall include the patient's name and last-known address and a statement about the nature of the illness or injury and the probable duration of necessary treatment and hospitalization. Each written notice provided under this subdivision shall also include a written statement by the attending physician certifying the need for the emergency medical treatment or hospitalization;

SECTION 2. 49.02 (5) (c) 2 of the statutes, as affected by 1983 Wisconsin Act 27, is repealed and recreated to read:

49.02 (5) (c) 2. Within 10 days after the patient is initially provided emergency medical treatment or hospitalization an agent of the hospital mails or delivers the form required under this subdivision to the relief administering agency of the municipality or county in which the hospital is located. The hospital shall provide the information that it has obtained that is requested on a form developed and provided by the department. The hospital shall make reasonable efforts to obtain the information requested on the form either from the patient, if able, or some other person who has knowledge of the facts. The form shall, at a minimum, include the patient's phone number, the name of the patient's closest relative, the name of the patient's employer, information regarding the patient's finances including income, assets, liabilities and insurance coverage and information related to the patient's eligibility for other medical and hospital assistance programs. The form shall also include, either from the patient, if able, or some other person who has knowledge of the facts, a sworn statement of facts relating to the patient's residence and legal settlement. For 20 days after the initial information is provided under this subdivision, the hospital has a continuing obligation to seek and report information relevant to the patient's care and eligibility under this section to the relief administering agency of the municipality or county in which the hospital is located;

SECTION 2m. 49.02 (5) (c) 2m of the statutes is created to read:

49.02 (5) (c) 2m. Within 10 days after the patient is initially provided emergency medical treatment or hospitalization an agent of the hospital mails or delivers to the relief administering agency or official of the municipality or county in which the hospital is located a form signed by the patient, if able, that authorizes the relief administering agency or official of the municipality or county in which the hospital is located to verify any information submitted to that agency or official by the hospital; and

SECTION 3. 49.02 (5) (c) 3 of the statutes, as affected by 1983 Wisconsin Act 27, is amended to read:

49.02 (5) (c) 3. ~~Within~~ If a municipality or a county elects to require hospitals to obtain authorization as provided in this subdivision, within 72 hours after the patient is initially provided emergency medical treatment or hospitalization an agent of the hospital obtains authorization for continued treatment or hospitalization of the patient from the municipality or county in which the patient has legal settlement or, if none exists, the municipality or county in which the hospital is located. If an agent of the hospital fails to obtain the authorization within the 72-hour period, either because he or she was unable to reach the municipality or county or because the municipality or county has failed to

grant or deny the authorization within the 72-hour period, the hospital may continue to provide the treatment or hospitalization until the authorization is denied if an agent of the hospital makes daily good faith efforts to obtain authorization from the municipality or county for continued treatment or hospitalization of the patient. A municipality or county is liable for such continued treatment and hospitalization if all other requirements under this subsection are met.

SECTION 4. 49.02 (5) (cm) of the statutes is created to read:

49.02 (5) (cm) Each relief administering agency or official of a municipality or a county that elects to require hospitals to obtain authorization under par. (c) 3 shall either establish a written procedure using medical criteria for responding to requests for authorization for continued treatment or hospitalization under par. (c) 3, or it shall delegate the authorization responsibility to the requesting hospital, the attending physician or other medical personnel designated by the agency or official. Each relief administering agency or official shall inform the department as to whether it has developed a procedure for responding to requests or whether it has delegated the responsibility. Each relief administering agency or official that develops a written procedure for responding to requests shall provide a copy to the department.

SECTION 5. 49.02 (5) (d) of the statutes, as affected by 1983 Wisconsin Act 27, is amended to read:

~~49.02 (5) (d) Any municipality or county giving care or hospitalization as provided in this subsection to a person who has settlement in some other municipality or county may recover from such other municipality or county as in which a hospital is located that provides emergency medical treatment or hospitalization to a person under this subsection shall follow the procedures provided in s. 49.11 sub. (5m) to determine liability for the treatment or hospitalization. If the municipality or county in which the hospital that provides emergency medical treatment or hospitalization is located does not comply with the requirements under sub. (5m) it shall be liable for the costs specified in sub. (5m).~~

SECTION 6. 49.02 (5m) of the statutes is created to read:

49.02 (5m) (a) Liability for emergency medical treatment or hospitalization provided under sub. (5) and for all treatment or hospitalization provided under this section as a result of the injury or illness for which emergency medical treatment or hospitalization was provided shall be determined as follows:

1. The municipality or county in which the patient has legal settlement is liable, except that no municipality or county is liable for treatment or hospitalization provided to any person who has not resided within such municipality or county during the previous 24 months.
2. If there is no municipality or county of legal settlement, or if such municipality or county is not liable because the person has not resided within such municipality or county during the previous 24 months, the county in which the person's last-known address is located is liable.
3. If there is no municipality or county of legal settlement, or if such municipality or county is not liable because the person has not resided within such municipality or county during the previous 24 months, and the person has no known address, the county in which the injury or incident occurred for which emergency medical treatment or hospitalization was provided is liable.

(b) A municipality or county in which a hospital is located that provided emergency medical treatment or hospitalization to a person shall, within 45 days after the treatment or hospitalization was initially provided, make a good faith effort to determine all of the following:

1. The persons's place of legal settlement.
2. The county in which the persons's last-known address is located.

3. The county in which the injury or incident occurred for which the emergency medical treatment or hospitalization was provided.

(c) 1. If a municipality or county determines under par. (b) that the person has a place of legal settlement it shall within 45 days after the emergency medical treatment or hospitalization was initially provided send to the municipality or county determined to be the place of legal settlement a nonresident notice which shall be in the form prescribed under s. 49.11 (4) (intro.), and it shall provide to the municipality or county determined to be the place of legal settlement all facts known to it regarding the person's treatment and hospitalization and injury or illness.

2. If a municipality or county determines under par. (b) that the person has no place of legal settlement it shall within 45 days after the treatment or hospitalization was initially provided send a notice of that determination to the county in which the patient's last-known address is located. The notice shall also contain the patient's name, last-known address and all facts relating to the person that are known to the municipality or county in which the hospital is located regarding the patient's treatment and hospitalization, injury or illness and residence.

3. If a municipality or county determines under par. (b) that the person has no place of legal settlement and has no known address, it shall within 45 days after the treatment or hospitalization was initially provided send a notice of that determination to the county in which the injury or incident occurred for which emergency medical treatment or hospitalization was provided. The notice shall also contain the patient's name and all facts relating to the person that are known to the municipality or county in which the hospital is located regarding the patient's treatment and hospitalization, injury or illness and residence.

(d) 1. A municipality or county that receives a notice under par. (c) shall mail a denial or acknowledgment of liability within 20 days after receipt of the notice to the relief administering agency or official of the municipality or county in which the hospital that provided the treatment or hospitalization is located. If liability is denied, the denial shall contain all the facts upon which the denial is based. Failure to timely deny liability is an acknowledgment of liability.

2. The municipality or county in which the hospital that provided the treatment or hospitalization is located shall, within 30 days after the date it mailed a notice under par. (c), notify the hospital that provided the treatment or hospitalization of an acknowledgment of liability by a municipality or county under subd. 1. The hospital shall recover the costs of the treatment or hospitalization specified under par. (a) directly from the municipality or county of acknowledged liability.

3. If liability is timely denied under subd. 1, the municipality or county in which the hospital that provided the treatment or hospitalization is located shall institute a proceeding under par. (e) within 20 days after receipt of the denial.

(e) 1. The department is vested with exclusive original jurisdiction to hear all proceedings brought under this paragraph for claims to establish liability for treatment or hospitalization specified under par. (a). The municipality or county instituting a proceeding under this paragraph shall join as parties defendant all municipalities or counties which may be liable. Each party defendant may also join as parties defendant all municipalities or counties which may be liable. The parties have a right to be represented at any hearing, by an attorney or any other authorized agent approved by the department and to present relevant testimony. The department shall appoint examiners to conduct hearings under this paragraph and the department or examiner may issue subpoenas for the hearings. The department shall, by order, determine the liability of all parties in a proceeding. The department may promulgate rules needed to implement this paragraph.

2. A proceeding under this paragraph shall be initiated by complaint. The complaint shall contain the names of the parties and matters and requests for relief as in complaints generally. The complainant shall serve the complaint and sufficient copies upon the department by registered or certified mail. The department shall note receipt of service on the original complaint and shall acknowledge receipt of service to the complainant. The department shall immediately send a copy of the complaint by registered or certified mail to all named defendants. Within 20 days after the department mailed the complaint, a defendant shall serve an answer upon the department by registered or certified mail. The department shall acknowledge receipt of an answer and shall immediately send a copy of the answer to all other parties to the proceeding by registered or certified mail. The department may allow additional defendants to be named at any point during a proceeding and may continue or adjourn a proceeding for a reasonable period of time to enable the defendant and all parties to receive notice of the joinder and an opportunity to respond. The department shall notify the parties of the time and place of hearing. The department shall make findings and issue an order and shall send a copy of the findings and order to each party by registered or certified mail as soon as possible after the hearing. The order is subject to judicial review as provided under ss. 227.16 to 227.21.

3. Any municipality or county may assert the following defenses in a proceeding under this paragraph:

a. That the patient was not a dependent person or was not in need of some or all of the treatment or hospitalization provided based upon the standards established by the municipality or county in which the hospital that provided the treatment or hospitalization is located.

b. That a notice required under this subsection was defective to the prejudice of the municipality or county.

c. That a time limitation prescribed under this subsection had expired.

d. That legal settlement or liability is not in the municipality or county as claimed.

4. When a proceeding under this paragraph is finally determined on appeal, or if no appeal is taken within the prescribed time, the department shall send a copy of the final order to the hospital that provided the treatment or hospitalization. The hospital shall recover the costs of the treatment or hospitalization specified under par. (a) directly from the municipality or county named in the order.

SECTION 7. 49.11 (1m) of the statutes is created to read:

49.11 (1m) RELIEF DOES NOT INCLUDE. In this section relief does not include treatment or hospitalization specified under s. 49.02 (5m) (a) that is initially provided on or after the effective date of this subsection (1983).

SECTION 8. 49.11 (4) (f) 1 of the statutes is amended to read:

49.11 (4) (f) 1. Failure timely to initiate or transmit a nonresident notice or an acknowledgment or denial shall be a bar to recovery or a right to deny recovery until such notices are received. ~~If the furnishing municipality or county claims settlement of a relief recipient to be in a municipality in a county operating under a municipal system, and later discovers that settlement is in another municipality within the same county, an amended nonresident notice may be filed, and if done within 40 days of the date on which relief is furnished, such notice shall revert to the date on which such relief was first furnished.~~

SECTION 9. **Initial applicability.** The treatment of sections 49.02 (5) (c) 1 to 3 and (d) and (5m) of the statutes by this act first applies to emergency medical treatment or hospitalization that is initially provided on the effective date of this act.