

No. 271, A.]

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CHAPTER 418.

AN ACT to repeal and recreate 49.03 (3), (4) and (6) and to amend 49.03 (1), (2), (7), (8a), (a), (b), (d), (e), (f) and (g) of the statutes, relating to the procedure for the recovery of poor relief.

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

SECTION 1. 49.03 (1) and (2) of the statutes are amended to read:

49.03 (1) When any person not having a legal settlement therein shall be taken sick, lame, or otherwise disabled in any town, city or village, or from any other cause shall be in need of relief as a poor person and shall not have money or property to pay his board, maintenance, attendance and medical aid and shall make a sworn statement *setting forth the facts relating* * * * to his legal settlement, the town board, village board or common council shall provide such assistance to such persons as it may deem just and necessary, and if he shall die, it shall give him a decent burial. It shall make such allowance for such board, maintenance, nursing, medical aid and burial expenses as it shall deem just, and order the same to be paid out of the town, city or village treasury.

(2) *Where the person so relieved claims a legal settlement in a county other than the county where the relief is being granted or claims to have no legal settlement the* * * * expenses so incurred shall be a charge against the county *containing the municipality which furnished the relief.* The account therefor shall be audited by the county board and paid out of the county treasury, and may be recovered by * * * *such county* * * * from the county where such person has his legal settlement, and such county in return, except when operating under the county system of relief * * *, *may in the same proceeding and under the same order* recover from the town, village or city of such person's legal settlement. *If the county wherein the aid is granted fails to audit and pay the account within 8 months after the account is filed with the county clerk, the town, city or village which furnished the relief may commence a proceeding against said county under section 49.03 (8a) to recover for the relief*

granted. In such a proceeding the county may set up and prove the defenses that legal settlement of the recipient is in the town, city or village which granted the aid or that the recipient was not in need of aid that was furnished or that the notices required to be served were defective to the prejudice of the county. If a county is unable to recover due to the negligence of the town, city or village which granted the relief in ascertaining the facts relating to the recipient's legal settlement or in giving the notices required under this section or in ascertaining the need for the aid or because the town, city or village granting the aid is actually the place of legal settlement of the recipient, the state department of public welfare may enter an order providing for reimbursement to the county from said town, city or village. Where the person so relieved has his legal settlement in the county where relieved, and the county system of relief is not in operation, the city, village or town furnishing the relief may recover therefor from the town, city or village of legal settlement.

SECTION 2. 49.03 (3), (4) and (6) of the statutes are repealed and recreated to read:

49.03 (3) (a) If a county grants relief to a person claiming legal settlement in another county, the county clerk shall within 10 days after such person becomes a public charge file with the county clerk of such other county a notice as is provided for in paragraph (f).

(b) If a town, city or village grants relief to a person claiming legal settlement in another county the clerk of such town, city or village shall within 10 days after such person becomes a public charge file with the county clerk of his county a notice as is provided for in paragraph (f) and the county clerk shall within 10 days after the receipt thereof file a copy of said notice with the county clerk of the county in which such person claims a legal settlement.

(c) When the clerk of a county receives a notice from the county clerk as provided for in section 49.03 (3) (a) and (b) and his county is not operating under the county system of maintaining its poor, the said county clerk shall within 10 days after the receipt of such notice file a copy of the notice with the clerk of the town, city or village in which the person being relieved claims a legal settlement. If the county is operating under the county system of maintaining its poor, the county clerk need not

file the notice with the clerk of the town, city or village in which the person being relieved claims legal settlement until the county ceases to operate under the county system of maintaining its poor and begins operating on the local system of maintaining its poor.

(d) If a town, city or village grants relief to a person claiming legal settlement within the county wherein said town, city or village is located, the clerk of such town, city or village granting the relief shall within 10 days after such person becomes a public charge file with the clerk of the town, city or village in which the recipient claims a legal settlement a notice as is provided for in paragraph (f) and shall at the same time file a copy of said notice with the county clerk of his county.

(e) If a town, city or village grants relief to a person who appears to be without a legal settlement in any town, city or village in the state of Wisconsin, a copy of the sworn statement of said person together with a notice as is provided for in paragraph (f) shall be filed with the county clerk of the county within 10 days after such person becomes a public charge.

(f) The nonresident notice which the clerk of the town, city, village or county is to file under section 49.03 (3), (a), (b), (c), (d) and (e) shall be a written notice which shall state the name of the municipality granting the relief, the name of the person and members of his household who have received public aid, the name or designation of the town, city or village where such person claims a legal settlement, or if such place could not, after due diligence, be ascertained, a statement of such fact, and the date on which the aid or support was furnished. Along with the nonresident notice the clerk shall also file a copy of the sworn statement taken from the relief recipient.

(g) In case the nonresident notices provided for above are not given within 10 days after the person becomes a public charge the notices may be given at any other time but the municipality so notified shall be liable only for the expense incurred for the support of such person from and after the time of the giving of such notice. Failure of the clerk of any municipality to file a nonresident notice within the periods provided for shall make such municipality responsible to any municipality damaged because of such neglect until the notice is filed.

(h) If the clerk of the town, city or village with whom such notice is filed, or the clerk of the county if the county is operat-

ing on the county system of relief or the recipient is claimed to be without legal settlement in the state of Wisconsin, shall fail to file a denial that the recipient's legal settlement is in the designated municipality within 20 days from the time of the receipt of the nonresident notice, such town, city, village or county shall be liable for the expense and support of such poor person until said denial is filed with the clerk of the town, city, village or county originating the nonresident notice. The denial shall state the facts and other data upon which legal settlement is disputed and any information which the denying municipality has regarding the recipient's legal settlement.

(4) Verified claims for relief granted shall be filed with the same parties and the procedure for the filing of claims shall be the same as is provided in section 49.03 (3) for the filing of nonresident notices. Where a defendant county operates on the town, city and village system of poor relief administration, a copy of the verified claim shall be filed by the clerk of the defendant county with the clerk of the town, city or village of alleged legal settlement within 30 days after such claim has been filed with him, and failure to so file with the town, city or village shall bar any right of a defendant county to recover over from the town, city or village.

(6) (a) Where poor relief is administered by towns, cities and villages, accounts against the county must be filed within one year from the date the relief grant is issued or be barred and the county relieved of its duty to audit and pay the same.

(b) Where the recipient's legal settlement is claimed to be in the county wherein the relief is granted, claims shall be filed with the town, city or village of alleged legal settlement within 6 months after the granting of the relief or recovery of the same shall be barred.

(c) Where the legal settlement is alleged to be in another county verified claims must be filed within 2 years from the date the relief grant is issued or be barred.

(d) Where a verified claim for poor relief has been disallowed either by action or lapse of time, the clerk shall within 30 days file a notice of disallowance with the clerk of the unit filing the claim, and action to recover the amount claimed must be commenced within 90 days from the date of the filing of such notice of disallowance, but until such notice of disallowance is filed the

90 days within which action may be brought to recover the amount disallowed shall not begin to run. In no event can an action be maintained to recover for any relief grant more than 6 years after its issuance.

(e) An account for any relief granted prior to the effective date of this subsection (July 1, 1943) which is valid on said date shall be subject to the provisions of this subsection in like manner as if such relief had been granted on said date, except that filing of a claim for such relief prior to said date in the manner prescribed in section 49.03 (3) shall for all purposes satisfy the filing requirements of this section, and except that nothing in this subsection shall be construed to effect the tolling of the 6-year statute of limitations on such account for relief.

(f) Any right or claim growing out of a relief account of claim, not barred by the 6-year statute of limitations, which a county or municipality had against another county or municipality prior to the effective date of this paragraph (1943) may be enforced by said county or municipality against such other county or municipality in a proceeding before the state department of public welfare as provided in section 49.03 of the 1943 statutes.

SECTION 3. 49.03 (7), (8a), (a), (b), (d), (e), (f) and (g) of the statutes are amended to read:

49.03 (7) Upon receipt of notice of the disallowance of the claim of any county, the county clerk receiving such notice shall forthwith notify the district attorney of his county, who shall be authorized and empowered to institute an action in the name of the county, for the recovery of so much of said claim as shall have been disallowed, and in such action no county shall be required to give bond for the faithful prosecution thereof or payment of costs adjudged therein. *Provided, however, that upon receipt of disallowance of the claim of any municipality upon another municipality within the same county the clerk receiving such notice shall notify the governing body of his municipality which may thereupon cause to be instituted a proceeding under subsection (8a) before the state department of public welfare for the recovery of so much of the claim as shall have been disallowed.*

(8a) (a) All relief claims by one municipality or county against another municipality or county, which have been disallowed or which have not been acted upon as required by statute, may be prosecuted before the * * * state department

of *public welfare* which is hereby given the exclusive power and duty to hear, try and determine such controversies and to render its findings therein. In any such proceeding all municipalities or counties in any respect liable presently or ultimately, or connected with the controversy shall be deemed to be necessary parties and shall be parties to such proceeding. The parties shall have the right to be present at any hearing, by attorney, or any other authorized agent approved by the * * * *department*, and to present such testimony and argument as may be pertinent to the controversy before the * * * *department*. The * * * *department* may appoint examiners to hold and conduct such hearings. The * * * *department* or an examiner thereof, for the purpose of carrying out such powers and duties, may issue such subpoenas as shall be necessary to fully hear and determine such claims. The * * * *department* may make such rules and regulations and adopt such rules of practice and pleading not inconsistent herewith as will enable it to effectually perform its duties and powers hereunder, and it shall not be restricted because of failure of enumeration of powers. The * * * *department* may grant to the prevailing party and against the losing party actual expenses incurred for witnesses but not to exceed \$2 per day for witness fees nor 5 cents per mile for travel.

(b) Such proceedings shall be commenced by complaint which shall be entitled "Before the * * * *State Department of Public Welfare* of the state of Wisconsin." Such complaint shall contain the names of the parties and matters and prayers as in complaints generally. Such complaint may be served, with sufficient copies, upon the * * * *department* by registered mail; the * * * *department* shall thereupon make note of such service upon the original complaint and so notify the claimant. The * * * *department* shall immediately transmit a copy by registered mail to the defendant county or municipality, which shall have 15 days from the time of the mailing of such copy to serve by registered mail an answer, with sufficient copies, upon the * * * *department*. The * * * *department* shall acknowledge such service and mail a copy of such answer to the claimant. When the * * * *department* has determined that the matter is finally at issue, it shall notify the parties of the time and place of hearing thereon and in its discretion may continue or adjourn such hearing for a period not exceeding 15 days. The * * * *department* shall make its findings and

order and transmit copies thereof to the parties by registered mail as soon as possible after such hearing * * *.

(d) Such appeal shall be heard upon the record made before the * * * *department*. The findings of fact made by the * * * *department*, acting within its powers, shall, in the absence of fraud, be conclusive. Upon such hearing, the court shall affirm or reverse the findings and order of the * * * *department* or, in the interest of justice, it may remand the record for further proceedings. Such findings and order shall be set aside only upon the following grounds: (1) that the * * * *department* acted without or in excess of its powers, (2) that the findings were procured by fraud, (3) that the findings of fact by the * * * *department* do not support the order.

(e) Upon the hearing of any such appeal the court shall disregard any irregularity or error of the * * * *department* unless it be made to affirmatively appear that the appellant was damaged thereby. Costs but not attorney fees, shall be adjudged against the losing party. Any party aggrieved by the decision of the circuit court made under * * * *paragraph* (d) * * * may appeal therefrom to the supreme court as from an order of a circuit court.

(f) The record in any case shall be transmitted to the * * * *department* within 20 days after the order or judgment of the court, unless appeal shall be taken from such order or judgment.

(g) When a matter is finally determined by appeal, or if no appeal is taken within the prescribed time, the amount owing by a county or municipality shall be certified by the * * * *department* to the secretary of state and shall thereafter be collected as are other special state charges against counties and municipalities, with interest at the rate of 6 per cent per annum to be computed to the time when the secretary of state shall collect such amount. The state treasurer shall remit to the prevailing county or municipality such amount as soon after March 1 of each year as may be upon order of the secretary of state.

SECTION 4. This act shall take effect July 1, 1943.

Approved June 30, 1943.