



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0146/1
TJD:amn

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 263**

January 29, 2018 - Offered by Representative SUBECK.

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** 49.8475 of the
3 statutes; **relating to:** incentive programs for counties and tribes that identify
4 fraudulent activity in certain public assistance programs, requiring the
5 exercise of rule-making authority, and making appropriations.

Analysis by the Legislative Reference Bureau

This substitute amendment requires the creation of optional incentive programs for counties and tribes to receive reward payments for identifying fraudulent activity in certain public assistance programs. FoodShare is also known as the food stamp program and the federal Supplemental Nutrition Assistance Program and provides benefits to eligible low-income households for the purchase of food. The Department of Health Services administers FoodShare. The federal government pays the benefits for FoodShare while the state and federal governments share the cost of administration.

Under the substitute amendment, 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 a reward payment if an employee or officer of the county or tribe identifies fraudulent activity in Medical Assistance or FoodShare. Under the

substitute amendment, 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. Under the substitute amendment, 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.

Under current law, a county or tribe may retain a portion of incorrect overpayments in public assistance programs administered by DHS, including Medical Assistance and FoodShare, that are recovered as the 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 substitute amendment, a county or tribe may retain the full amount of FoodShare overpayment recoveries that the state is permitted to retain under federal law. The substitute amendment 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 the identified fraudulent activity. Current law also allows a county or tribe to retain a portion of incorrect overpayments that are recovered in the Wisconsin Works program as the 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.

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. 49.8475 (2), to develop and
9 implement a registry of recipient immunizations, to reimburse 3rd parties for their
10 costs under s. 49.475, for costs associated with outreach activities, for state

1 administration of state supplemental grants to supplemental security income
2 recipients under s. 49.77, and for services of resource centers under s. 46.283. No
3 state positions may be funded in the department of health services from this
4 appropriation, except positions for the performance of duties under a contract in
5 effect before January 1, 1987, related to the administration of the Medical Assistance
6 program between the subunit of the department primarily responsible for
7 administering the Medical Assistance program and another subunit of the
8 department. Total administrative funding authorized for the program under s.
9 49.665 may not exceed 10 percent of the amounts budgeted under pars. (p) and (x).

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

11 20.435 (4) (L) *Fraud and error reduction.* All moneys received as the state's
12 share of the recovery of overpayments and incorrect payments under ss. 49.497 (1)
13 and (1m), 49.793 (2) (a), and 49.847, all moneys received from counties and tribal
14 governing bodies as a result of any error reduction activities under ss. 49.197 and
15 49.845, and all moneys credited to this appropriation account under ss. 49.497 (2) (b),
16 49.793 (2) (b), and 49.847 (3) (b), for any contracts under s. 49.197 (5), for any
17 activities to reduce error and fraud under s. 49.845, to pay federal sanctions under
18 the food stamp program, for reward payments under 49.8475 (2), and for food stamp
19 reinvestment activities under reinvestment agreements with the federal
20 department of agriculture that are designed to improve the food stamp program.

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

22 20.435 (4) (nn) *Federal aid; income maintenance.* All moneys received from the
23 federal government for the costs of contracting for the administration of the Medical
24 Assistance program under subch. IV of ch. 49 and the Badger Care health care
25 program under s. 49.665 and the food stamp program, other than moneys received

1 under par. (pa), for costs to administer income maintenance programs, as defined in
2 s. 49.78 (1) (b), and for reward payments under 49.8475 (2).

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

4 20.435 (4) (pa) *Federal aid; Medical Assistance and food stamp contracts*
5 *administration.* All federal moneys received for the federal share of the cost of
6 contracting for payment and services administration and reporting, other than
7 moneys received under pars. (nn) and (np), to reimburse 3rd parties for their costs
8 under s. 49.475, for administrative contract costs for the food stamp program under
9 s. 49.79, for reward payments under s. 49.8475 (2), and for services of resource
10 centers under s. 46.283.

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

12 20.437 (2) (dz) *Temporary Assistance for Needy Families programs;*
13 *maintenance of effort.* The amounts in the schedule for administration and benefit
14 payments under Wisconsin Works under ss. 49.141 to 49.161, the learnfare program
15 under s. 49.26, and the work experience program for noncustodial parents under s.
16 49.36; for payments to local governments, organizations, tribal governing bodies,
17 and Wisconsin Works agencies; for kinship care and long-term kinship care
18 assistance as specified under s. 49.175 (1) (s); for aid payments and local
19 administration with respect to any services or program specified under s. 49.175 (1);
20 for reward payments under s. 49.8475 (3); and for emergency assistance for families
21 with needy children under s. 49.138. Payments may be made from this appropriation
22 account for any contracts under s. 49.845 (4) and for any fraud investigation and
23 error reduction activities under s. 49.197 (1m). Moneys appropriated under this
24 paragraph may be used to match federal funds received under par. (md).
25 Notwithstanding ss. 20.001 (3) (a) and 20.002 (1), the department may transfer funds

1 between fiscal years under this paragraph. Notwithstanding ss. 20.001 (3) and
2 20.002 (1), the department of health services shall credit to this appropriation
3 account funds for the purposes of this appropriation that the department transfers
4 from the appropriation account under s. 20.435 (5) (bc). All funds allocated by the
5 department but not encumbered by December 31 of each year lapse to the general
6 fund on the next January 1 unless transferred to the next calendar year by the joint
7 committee on finance.

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

9 20.437 (2) (L) *Public assistance overpayment recovery, fraud investigation, and*
10 *error reduction.* All moneys received as the state's share of the recovery of
11 overpayments and incorrect payments under s. 49.191 (3) (c), 1997 stats., and s.
12 49.195, 1997 stats., for any contracts under s. 49.845 (4), for any activities under s.
13 49.197 (1m) to investigate fraud relating to the Aid to Families with Dependent
14 Children program and the Wisconsin Works program, for any activities under s.
15 49.197 (3) to reduce payment errors in the Wisconsin Works program, for reward
16 payments under s. 49.8475 (3), and for costs associated with collection of public
17 assistance overpayments.

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

19 49.793 (2) (a) Except as provided in par. (b), a county, multicounty consortium,
20 as defined in s. 49.78 (1) (br), or governing body of a federally recognized American
21 Indian tribe may retain ~~a portion of the full~~ amount of an overpayment the state is
22 authorized to retain under 7 USC 2025 that is recovered under sub. (1) due to the
23 efforts of an employee or officer of the county, multicounty consortium, or tribe. ~~The~~
24 ~~department shall promulgate a rule establishing the portion of the amount of the~~
25 ~~overpayment that the county, multicounty consortium, or governing body may~~

1 ~~retain.~~ This paragraph does not apply to recovery of an overpayment that was made
2 as a result of state, county, multicounty consortium, or tribal governing body error.

3 **SECTION 8.** 49.8475 of the statutes is created to read:

4 **49.8475 Optional incentive program for counties and tribes that**
5 **identify fraud in certain public assistance programs. (1) DEFINITIONS.** In this
6 section:

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

9 (b) “Food stamp program” has the meaning given in s. 49.79 (1) (c).

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

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

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

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

22 (a).

23 2. That the amount of a reward payment to a county or tribe under the program
24 is equal to 20 percent of the amount that the department determines will be saved
25 in the Medical Assistance program as the result of eliminating the identified

1 fraudulent activity during the 12-month period after the fraudulent activity is
2 eliminated. Notwithstanding ss. 49.49 (5) and 49.497 (2) (a), a county or tribe that
3 receives a reward payment under this subdivision may not retain any funds that are
4 incorrectly paid as the result of the identified fraudulent activity and recovered due
5 to the efforts of an employee or officer of the county or tribe.

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

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

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

23 (3) **WISCONSIN WORKS.** The department of children and families shall establish
24 an optional incentive program, by rule, under which the department will provide a
25 reward payment to a county or tribe if an employee or officer of the county or tribe

1 identifies fraudulent activity in Wisconsin Works. The department of children and
2 families may make reward payments under the optional incentive program from the
3 appropriation under s. 20.437 (2) (dz), (L), and (mc). The department of children and
4 families shall establish the optional incentive program 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 to a county or tribe under the program
9 is equal to 20 percent of the amount that the department determines will be saved
10 in Wisconsin Works as the result of eliminating the identified fraudulent activity
11 during the 12-month period after the fraudulent activity is eliminated.
12 Notwithstanding ss. 49.195 (4) and 49.197 (2), a county or tribe that receives a
13 reward payment under this paragraph may not retain any funds that are incorrectly
14 paid as the result of the identified fraudulent activity and recovered due to the efforts
15 of an employee or officer of the county or tribe and may not receive a reward payment
16 under s. 49.197 (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 waiver from the federal department of health and human services. If the
24 federal department of health and human services disapproves the waiver request

1 made under this paragraph, the department of health services may not implement
2 the incentive program under sub. (2) (a).

3 (b) If the department of health services determines that it needs a waiver to
4 allow reward payments under sub. (2) (b) to qualify as administrative costs involved
5 in the operation of the food stamp program or to allow a county and tribe to use any
6 federal funds received under sub. (2) (b) for any purpose, the department shall
7 request the waiver from the U.S. department of agriculture. If the U.S. department
8 of agriculture disapproves the waiver request made under this paragraph, the
9 department of health services may not implement the incentive program under sub.
10 (2) (b).

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

20 (END)