



2009 ASSEMBLY BILL 238

April 30, 2009 - Introduced by Representatives ROTH, SMITH, BIES, BROOKS, GUNDERSON, KAUFERT, LOTHIAN, A. OTT, PETERSEN, SPANBAUER, TOWNSEND and M. WILLIAMS, cosponsored by Senators LASSA, OLSEN, SCHULTZ and TAYLOR. Referred to Committee on Children and Families.

1 **AN ACT to amend** 49.47 (4) (b) 3., 49.47 (4) (i) 2. a. and 49.47 (4) (i) 2. c.; and **to**
2 **create** 49.47 (4m) of the statutes; **relating to:** determining eligibility of certain
3 persons for Medical Assistance without consideration of a spouse's income or
4 assets.

Analysis by the Legislative Reference Bureau

Under current law, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, under which eligible persons receive health care or long-term care services. Under one category of eligibility, commonly known as the medically needy category, a person is eligible if his or her income and assets do not exceed a specified level and he or she is blind or totally and permanently disabled. Generally, if the person is married, the income and assets of both of the spouses are taken into consideration for purposes of determining eligibility or continued eligibility.

This bill requires DHS to request a waiver that would allow DHS, if the waiver is granted, to disregard the income and assets of a person's spouse and to continue treating the person as single for purposes of determining the person's continued eligibility and family size if the person: 1) is blind or totally and permanently disabled; 2) is receiving MA under the medically needy category; 3) was single when he or she first became eligible for MA; and 4) marries after the bill is enacted and the waiver goes into effect. The bill makes an exception for persons who reside or begin residing in medical institutions or nursing facilities and receive long-term care services, because those persons are subject to federal law requirements relating to

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the assets of spouses when one spouse resides in an institution and the other does not.

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

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

1 **SECTION 1.** 49.47 (4) (b) 3. of the statutes is amended to read:

2 49.47 (4) (b) 3. For a person who is eligible under par. (a) 3. or 4., funds set aside
3 to meet the burial and related expenses of the person and his or her spouse, if
4 applicable, in an amount not to exceed \$1,500 each, minus the sum of the cash value
5 of any life insurance excluded under subd. 2w. and the amount in any irrevocable
6 burial trust under s. 445.125 (1) (a).

7 **SECTION 2.** 49.47 (4) (i) 2. a. of the statutes is amended to read:

8 49.47 (4) (i) 2. a. For the person or his or her spouse, if applicable, the sum of
9 the following, less the cash value of any life insurance excluded under par. (b) 2w. that
10 was obtained after July 1, 1993, exceeds \$8,000: the value of any burial space or
11 agreement described in par. (b) 2r. that was acquired after July 1, 1993; the amount
12 in any irrevocable burial trust under s. 445.125 (1) (a) that was acquired after
13 July 1, 1993; and any funds set aside after July 1, 1993, to meet the burial and
14 related expenses under par. (b) 3.

15 **SECTION 3.** 49.47 (4) (i) 2. c. of the statutes is amended to read:

16 49.47 (4) (i) 2. c. For the person or his or her spouse, if applicable, the value of
17 amounts set aside under par. (b) 3. for cemetery property and fees to open and close
18 grave sites, including mausoleum spaces, exceeds \$1,000.

19 **SECTION 4.** 49.47 (4m) of the statutes is created to read:

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1 49.47 (4m) WAIVER TO DISREGARD SPOUSE'S INCOME AND ASSETS. (a) Subject to par.
2 (b) 2., except as provided in ss. 49.453 to 49.455 and notwithstanding ch. 766 and the
3 income and resources limitations under sub. (4), if a beneficiary described in sub. (4)
4 (a) 4. who was unmarried when he or she first became eligible for medical assistance
5 under this section marries, when determining the individual's continued eligibility
6 for medical assistance under this section the department shall not consider the
7 income or assets of the individual's spouse and shall continue to treat the individual
8 as if he or she is unmarried for purposes of the individual's family size, as long as the
9 individual remains continuously eligible for medical assistance under this section
10 while married to the spouse.

11 (b) 1. No later than the first day of the 4th month beginning after the effective
12 date of this subdivision [LRB inserts date], the department shall request a waiver
13 from the secretary of the federal department of health and human services to
14 implement the determination of continued eligibility of an individual described in
15 par. (a) in the manner provided in par. (a).

16 2. The department shall implement the determination of continued eligibility
17 in the manner provided in par. (a) only if a waiver under subd. 1. that is consistent
18 with par. (a) is granted and in effect.

19 **SECTION 5. Initial applicability.**

20 (1) The treatment of section 49.47 (4m) (a) of the statutes first applies to
21 individuals receiving medical assistance under section 49.47 of the statutes who
22 marry on the date that a waiver under section 49.47 (4m) (b) of the statutes, as
23 created by this act, goes into effect.

24

(END)