

No. 392, A.]

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CHAPTER 160

AN ACT to repeal 49.61 (2) (c); to renumber 49.18 (6) (b) and 49.19 (3); to amend 49.18 (5) and (6) (a), 49.19 (1) (a) and (4) (d) and (e), 49.26 (3) (a), (10) and (11) (a), 49.27 and 49.61 (4); and to create 49.18 (6) (b) and 49.19 (3) (b) and (4) (c) of the statutes, relating to clarifying statutory provisions regarding the social security aid programs, and including in the statutes certain material now contained in administrative rules.

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

SECTION 1. 49.18 (5) and (6) (a) of the statutes are amended to read:

49.18 (5) Any person believing himself to be eligible for aid to the blind under this section shall be entitled to file * * * a sworn application made by himself, his parent or his legal guardian with the county agency of the county in which he resides, in such manner and form and containing such information as the department may prescribe.

(6) (a) The county agency shall promptly make such further investigation of the conditions and circumstances of the applicant as may be necessary or as is required by the rules and regulations of the department. *Eligibility and need shall be reinvestigated as often as necessary and at least once each year. All investigations shall be reported in writing and appropriately filed.* Every applicant shall be promptly notified in writing of the disposition made of his application. Aid to the blind shall be furnished with reasonable promptness to any eligible individual. * * *

SECTION 2. 49.18 (6) (b) of the statutes is renumbered 49.18 (6) (c).

SECTION 3. 49.18 (6) (b) of the statutes is created to read:

49.18 (6) (b) If the county agency finds a person eligible for aid under this section, it shall on a form to be prescribed by the state department of public welfare, direct the payment of such aid by order upon the county clerk or county treasurer of the county. Payment of aid shall be made monthly.

SECTION 4. 49.19 (1) (a) of the statutes is amended to read:

49.19 (1) (a) A "dependent child" * * * as used in this section * * * means a child under the age of 16, or under the age of 18 if found by the department to be regularly attending school, who has been deprived of parental support or care by reason of the death, continued absence from the home, or incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt in a residence maintained by one or more such relatives as his or their own home, or living in a residence maintained by one or more of such relatives as his or their own home because the parents of said child have been found unfit to have its care and custody, or who is living in a foster home having a permit under s. 48.38, when a permit is required under such section and placed in such home by a county agency pursuant to ch. 48.

SECTION 5. 49.19 (3) of the statutes is renumbered 49.19 (3) (a).

SECTION 6. 49.19 (3) (b) of the statutes is created to read:

49.19 (3) (b) If the county agency finds a person eligible for aid under this section, such agency shall on a form to be prescribed by the

state department of public welfare, direct the payment of such aid by order upon the county clerk or county treasurer of the county. Payment of aid shall be made monthly.

SECTION 7. 49.19 (4) (c) of the statutes is created to read:

49.19 (4) (c) The person having the care and custody of such dependent child must be fit and proper to have the same. Aid shall not be denied by the county agency on the grounds that a person is not fit and proper to have such care and custody until the agency has obtained a finding substantiating such fact from a juvenile or other court of competent jurisdiction; but in appropriate cases it is deemed to be the responsibility of the county agency to petition under s. 48.06 or refer the case to a proper child protection agency.

SECTION 8. 49.19 (4) (d) and (e) of the statutes are amended to read:

49.19 (4) (d) * * * The period of aid must be likely to continue for at least 3 months *except as hereinafter provided with respect to the wife of a husband committed to the department pursuant to s. 340.485.* Aid may not be granted to the mother or stepmother of a dependent child unless such mother or stepmother is without a husband, or the wife of a husband who is incapacitated for gainful work by mental or physical disability, likely to continue for at least 3 months in the opinion of a competent physician, or the wife of a husband who has been sentenced to a penal institution for a period of at least 3 months, *or the wife of a husband who has been committed to the department pursuant to s. 340.485 irrespective of the probable period of such commitment,* or the wife of a husband who has continuously abandoned her for at least 3 months, if the husband has been legally charged with abandonment under s. 52.05, or if the mother or stepmother has been divorced from her husband for a period of at least 3 months, dating from the interlocutory order, and unable through use of the provisions of law to compel her former husband to support the child for whom aid is sought.

(e) The ownership of a * * * *home and the lands used or operated in connection therewith or, in lieu thereof, a housetrailer, if such home or housetrailer is used as the person's abode,* by a person having the care and custody of any dependent child shall not prevent the granting of aid if the cost of maintenance of said * * * *home or housetrailer* does not exceed the rental which the family would be obliged to pay for living quarters.

SECTION 9. 49.26 (3) (a) of the statutes is amended to read:

49.26 (3) (a) The district attorney shall take the necessary proceedings and represent the county in respect to any matters under this section. Out of the amount collected on any claim for old-age assistance, the county court in which the estate is probated may authorize the payment of a collection fee of 10 per cent but not in excess of \$50 for the services of the district attorney *in estates where the district attorney does not act as the attorney for the administrator or executor unless collection is made from sources other than the estate* which fee shall be paid into the county treasury, but any part-time district attorney acting as the attorney for the administrator of an estate in probate shall be entitled to receive and retain any reasonable fee allowed to him by the court as attorney for the administrator *subject only to the limitation set out in s. 49.26 (5).* The district attorney shall report to the county board at its November meeting concerning collections made, fees allowed and estates pending. The county board may authorize the district attorney to act for the county generally to collect old-age assistance liens and claims for hospitalization, institutional care and general poor relief. It may authorize

him to compromise the payment of such claim, with the approval of such judge, officer or agency or of such committee of the county board as the board designates, but such compromise shall be made only when the collection of the full amount would produce undue hardship upon the debtor or the debt is uncollectible.

SECTION 10. 49.26 (10) and (11) (a) of the statutes are amended to read:

49.26 (10) The county agency with the consent of the county board may from its appropriation for old-age assistance make and pay for necessary and essential repairs or purchase tax certificates or pay balances due on land contracts so as to enable a recipient of old-age assistance to receive a deed, or pay and cause to be satisfied existing mortgages or any other prior liens on property on which the county has an old-age assistance lien, or procure insurance against loss by fire or wind on the buildings on property on which the county has an old-age assistance lien, or pay fees to appraisers, court fees, and similar fees arising in relation to enforcing and collecting old-age assistance liens on property, and such expenditures shall be deducted and returned to the appropriation as a priority in determining the net amount recovered to be shared by the federal, state and county governments under s. 49.25.

(11) (a) When a person receiving such assistance shall die not having cashed his old-age assistance checks issued immediately prior to death, the director or employe of the county agency shall have authority to do so upon being appointed special administrator for the sole purpose to disburse the proceeds of such checks without bond as herein provided upon order of the county court of his county. Such money shall be used to pay for expenses incurred by such old-age recipient for his room, board, lodging, care, medical service, nursing home care, hospitalization or necessities during the period for which such checks were issued. All persons having such claims shall file same, upon the usual claim form, with such county court within 2 months of the date of the order for the hereinafter provided notice of the date or forfeit any claim to the proceeds of such checks. Such notice shall contain the name of the recipient as shown on such old-age assistance checks, and require all persons having such claims to file same within 2 months of the date of the order therefor. Such notice may be published once in some newspaper published or circulated in such county or be posted in 2 public places in such county as the court shall direct, within 15 days of the date of such order. From the proceeds of such checks the cost of such publication, if any, shall first be paid; next there shall be paid the \$3 filing fee required under s. 253.29 (2); if the remainder is not sufficient to pay all of the above enumerated claims then nursing home care shall next be paid and the balance prorated among the other claimants. Any such unpaid claimant shall have the right otherwise provided by law to file a claim for any unpaid balance against the estate of such deceased person. The unclaimed portion of the proceeds of such checks shall be refunded to such county, except that where there is probate, general or special administration proceedings pending then such balance shall be paid to the administrator or executor. Such notice shall be in substantially the following form:

STATE OF WISCONSIN

County Court: . . . County.

All persons having claims for room, board, lodging, care, medical service, nursing home care, hospitalization, or necessities furnished to ---- ----, an old-age assistance recipient of ---- county, which were incurred from and after ---- shall be presented to said court, at the court house, in the

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city of _____, in said county, on or before the _____ day of _____, A.D. 19____, or be forever barred from making any claim to the proceeds of certain old-age assistance checks of said deceased.

All said claims will be heard and adjusted by said court, at said court house, on the first Tuesday of _____, A.D. 19_____.

Dated _____, 19_____

By the court:

Judge

SECTION 11. 49.27 of the statutes is amended to read:

49.27 (1) An applicant for old-age assistance shall file * * * a sworn application in writing *made by himself or his legal guardian* with the county in which he resides, in such manner and form as shall be prescribed by the department. Any individual wishing to make application for old-age assistance shall have opportunity to do so. Every applicant shall be promptly notified in writing of the disposition made of his application. Old-age assistance shall be furnished with reasonable promptness to any eligible individual.

(2) If a person eligible for or receiving old-age * * * assistance, *aid to the totally and permanently disabled or aid to the blind* goes to another county to reside in a private tax-exempt, charitable, benevolent or fraternal institution or home for the aged, or a county home, or a municipal home, or a private nursing or convalescent home, and continues to be eligible for old-age assistance, *aid to the totally and permanently disabled or aid to the blind as defined in * * * this chapter* while therein residing, he shall receive such assistance, including care given under * * * s. 49.40, from the county from which he moved, or continue to receive his assistance from the county paying the same at the time he moved, respectively, unless he has a legal settlement under s. 49.11 in the county in which the institution or home is located, in which case such county shall make payment of such * * * assistance as he is eligible to receive. As used herein a private nursing or convalescent home means a place not public, admitting 3 or more unrelated persons for indefinite residence for the purpose of furnishing them board, room, laundry and care because of prolonged illness or defect or during recovery from injury or disease, including the procedures commonly employed in waiting on the sick, such as administration of medicines, preparation of diets, bedside care, application of dressings and bandages and treatments prescribed by a physician.

SECTION 12. 49.61 (2) (c) of the statutes is repealed.

SECTION 13. 49.61 (4) of the statutes is amended to read:

49.61 (4) The county agency shall promptly make an investigation to ascertain all pertinent facts as to the applicant's eligibility. *Eligibility and need shall be reinvestigated as often as necessary and at least once each year. All investigations shall be reported in writing and appropriately filed.*

Approved May 26, 1955.