

No. 16, A.]

[Published June 23, 1959.

CHAPTER 104

AN ACT to repeal and recreate 49.11 of the statutes, relating to procedure for collecting general relief claims from the municipality or county of legal settlement, and granting rule-making authority.

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

SECTION 1. 49.11 of the statutes is repealed and recreated to read:

49.11 LEGAL SETTLEMENT, COLLECTION FROM. (1) SWORN STATEMENT OF SETTLEMENT. When relief is furnished to a dependent person, either he, if able, or some other person who has knowledge of the facts, shall be required to make a sworn statement of facts relating to his residence and settlement, which statement shall be incorporated into the nonresident notice.

(2) RIGHT TO COLLECT FROM PLACE OF SETTLEMENT. The county or municipality in which the relief recipient has his settlement shall be chargeable with relief furnished. If the relief recipient has no settlement in this state, then the county wherein the relief is furnished shall be chargeable with such relief; and the state shall reimburse for relief charges when the person has no settlement and until such person has had residence in this state for a period of one year, pursuant to s. 49.04.

(a) *When the furnishing municipality is without the county of settlement.* 1. When the relief recipient claims to have settlement outside of the county in which relief is furnished, the relief furnished shall be a charge against the county in which the relief is furnished. Such charge shall be audited by a committee designated for such purpose by the county board and shall be paid by the county of the municipality furnishing the relief within 60 days of the receipt of the voucher or claim. Thereafter such county may recover from the county of settlement, and the latter county may, except when operating under the county system of relief, recover from the municipality of settlement.

2. If the county wherein the aid is furnished fails to pay the charge to the granting municipality within 60 days after it is filed with its clerk, the municipality may proceed against said county under this section to recover for such relief furnished.

CHAPTER 104

(b) *When furnishing municipality is within county of settlement.* When operating under the municipal system and the relief recipient claims to have settlement in a municipality within the same county, the relief furnished shall be a charge against such municipality and may be recovered by the furnishing municipality directly.

(c) *When county settlement or no settlement.* When the relief recipient claims to have county settlement or no settlement, the charges for the relief furnished may be recovered by the furnishing municipality directly from the county wherein the relief is furnished, and if such recipient has no settlement and has not resided in this state for at least one year, the county may, in turn, recover from the state under s. 49.04.

(3) **DEFENSES AVAILABLE.** The defenses available to any municipality or county in a proceeding under s. 49.11 for reimbursement, shall be as follows:

(a) That the settlement is not in the municipality or county as claimed.

(b) That the relief recipient was not a dependent person as defined in s. 49.01 (4) and was not in need of the relief furnished.

(c) That the notices required to be served or filed were defective to the prejudice of the municipality or county.

(d) That the limitations as prescribed in this section had expired.

(4) **PROCEDURES FOR RECOVERY.** When the municipality furnishing relief is not the municipality of settlement, a nonresident notice shall be served upon the municipality of claimed settlement as hereinafter provided. Such nonresident notice shall be on a standard form prescribed by the department and shall contain the following: The name of the municipality or county furnishing relief; the name, residence and birth dates of the persons receiving relief and of all the members of his household; the name of the county or municipality in which settlement is claimed and the facts upon which such claim is based; the date on which relief was first furnished; a copy of the sworn statement as described in s. 49.11 (1). The effect of this nonresident notice shall lapse when there is no general relief furnished to the person or his family for a period of 6 months. The effect of the nonresident notice may be reinstated, at any time, by notice (on forms prescribed by the department) by certified mail by the furnishing municipality or county to the municipality or county chargeable, within 30 days after the new relief is furnished, after such lapse of 6 months, and forwarded in the same manner as the original nonresident notice.

(a) *Reply to nonresident notice.* The municipality or county of claimed settlement shall either deny or acknowledge settlement within 20 days after receipt of the nonresident notice, and if denied, such denial shall contain all the facts upon which the denial is based. Failure to deny shall be considered as an acknowledgment of settlement as claimed until such denial shall be filed.

(b) *Transmittal of notices, replies and claims.* 1. When settlement is claimed in a county or a municipality in other than the furnishing county, the nonresident notice shall be completed by the furnishing municipality or county, and transmitted to the county clerk of its county (except in counties on the county system, wherein the county clerk is the initiating agent), who shall in turn, transmit said notice to the county clerk of the county in which settlement is claimed. In counties operating under the municipal system of relief, it is the duty of the county clerk to forward such nonresident notice to the clerk of the municipality of claimed settlement.

2. Denials or acknowledgments of responsibility shall be mailed

directly to the municipality or county furnishing relief with copies being sent to all forwarding agencies.

3. When verified claims are received by the county clerk from the municipality furnishing relief and payment to the municipality is made under sub. (2) (a) 1, such clerk shall, within 75 days from the date he first receives such claim forward a verified claim, on forms prescribed by the department, to the clerk of the county wherein settlement is claimed. In counties operating under the municipal system, it is the duty of the county clerk to forward such claim to the clerk of the municipality of claimed settlement within 7 days after the receipt thereof. When operating under the county system of relief verified claims received from the county relief agency pursuant to par. (e) 3 shall be forwarded within 75 days from the date such claim is received, on forms prescribed by the department, to the clerk of the county wherein a settlement is claimed.

4. Allowances or disallowances shall be sent to the clerk of the furnishing county with a copy to the clerk of the county of claimed settlement. The municipality or county of claimed settlement shall, upon receipt of the claim for reimbursement, either allow or disallow such claim. Failure to allow such claim for the period hereinafter indicated shall be deemed a disallowance thereof.

(c) *Transmittal of notice, replies and claims between units in same county.* When the furnishing municipality and the municipality of claimed settlement are within the same county, all nonresident notices, denials or acknowledgments, claims and allowances or disallowances shall be filed directly with the clerks of the respective municipalities.

(d) *Transmittal of notice, replies and claims when person has no settlement or county settlement.* When claim is made that responsibility rests with the furnishing municipality's county because the recipient has no settlement or has a county settlement, all filing shall be done directly with the county clerk and the municipal clerk. When settlement is claimed as county settlement in a county other than the county of the furnishing municipality the transmittal shall be in the same manner as if such county of claimed settlement were operating under a county system of relief.

(e) *Time and limitations for filing.* 1. All filings and mailings shall be done by certified or registered mail. The nonresident notice and statement concerning residence shall be initially filed and transmitted within 20 days of the date of furnishing relief. The forwarding agents shall forward such notices within 7 days of the receipt thereof.

2. The acknowledgment or denial of settlement shall be transmitted within 20 days of the receipt of the nonresident notice.

3. Claims for reimbursement shall be filed with the county clerk of the furnishing county within one year of the date on which the relief is furnished.

4. Disallowance or allowance of claims by the municipality or county of claimed settlement shall be transmitted within 60 days of receipt of the claim for reimbursement, and failure to allow or disallow within such period shall be deemed a disallowance.

(f) *Penalty for failure to timely file.* 1. Failure to timely 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, the effect of such nonresident notice shall revert to the date on which such relief was first furnished.

2. Failure to timely initiate and transmit a claim for reimbursement shall be a complete bar to recovery on such claim not timely filed.

(5) GENERAL LIMITATIONS. In addition to the other limitations and penalties hereinbefore stated, recovery of relief granted shall be barred unless a proceeding is commenced before the department:

(a) Within 6 months after receiving written notice of a disallowance of a claim.

(b) Within one year after disallowance by failure to allow a claim.

(c) Under any other circumstances within 2 years of the date relief is first furnished under the nonresident notice which is the basis for the claim, including claims against the state.

(6) WHO MAY SUE. (a) *County*. Upon receipt of notice of the disallowance of the claim of any county, its clerk shall forthwith notify the district attorney of his county, who may institute a proceeding in the name of the county for the recovery of so much of the claim as has been disallowed, and in such action the county shall not be required to give bond.

(b) *Municipality*. Upon receipt of notice of disallowance of the claim of any municipality against another municipality within the same county the clerk receiving such notice shall notify the governing body of his municipality which may thereupon institute a proceeding under sub. (7).

(7) PROCEDURE. (a) *Jurisdiction and practice*. The department is vested with exclusive original jurisdiction to hear all proceedings brought under this section on claims that have been disallowed or which have not been acted upon as required by statute. A county which has furnished relief or paid a municipality for the relief furnished shall be plaintiff, except where the suit is between municipalities within the same county or where a municipality is suing its own county for failure to pay, and shall join as parties defendant all municipalities or counties liable presently or ultimately. The parties have the right to be present at any hearing, by attorney or any other authorized agent approved by the department, and to present pertinent testimony and argument. The department shall appoint examiners to conduct such hearings. The department or an examiner thereof, for the purpose of carrying out such powers and duties, may issue subpoenas. The department may make such regulations and adopt such rules of practice not inconsistent herewith or with ch. 227 as will enable it to effectually perform its duties hereunder. The order of the department shall determine the ultimate liability of all parties in the proceeding and may grant to the prevailing party and against the losing party witness fees of \$5 per day and 5 cents per mile for travel.

(b) *Pleadings and hearing*. Such proceedings shall be commenced by complaint which shall be entitled "Before the state department of public welfare of Wisconsin." The complaint shall contain the names of the parties and matters and prayers as in complaints generally. It may be served, with sufficient copies, upon the department by registered or certified mail; the department shall then note such service upon the original complaint and so notify the claimant. The department shall immediately transmit a copy by registered or certified mail to the defendant county or municipality, which shall have 20 days from the time of the mailing of such copy by registered or certified mail to serve an answer, with sufficient copies, upon the department. The department shall acknowledge such service and mail a copy of the answer to the claimant. When the department has determined that the matter is 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 reasonable period. The department shall make its findings and order and transmit copies thereof to the parties by registered or certified mail as soon as possible after such hearing.

(c) *Judicial review.* Such order shall be subject to review under ch. 227, except that such review shall be instituted in the circuit court in one of the following counties: Douglas, Eau Claire, Marathon, Brown, La Crosse, Dane or Milwaukee, and may be heard at a regular or special term.

(d) *Service by mail.* The mailing within such 20 days, of any notice herein provided shall be by registered or certified mail with return receipt requested.

(e) *State special charge.* When a matter is finally determined on 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 director of budget and accounts 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 March 22 following. 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 director of budget and accounts.

SECTION 2. The act shall take effect January 1, 1960.

Approved June 17, 1959.
