CHAPTER 49.

PUBLIC ASSISTANCE.

GENERAL RELIEF

49.01 Definitions. As used in chapter 49:

(1) "Relief" means such services, commodities or money as are reasonable and necessary under the circumstances to provide food, housing, clothing, fuel, light, water, medicine, medical, dental, and surgical treatment (including hospital care), optometrical services, nursing, transportation, and funeral expenses, and include wages for work relief. The food furnished shall be of a kind and quantity sufficient to provide a nourishing diet. The housing provided shall be adequate for health and decency. Where there are children of school age the relief furnished shall include necessities for which no other provision is made by law.

(2) "Work relief" means any moneys paid to dependent persons entitled to relief who have been required by any municipality or county to work on any work relief project.

(3) "Work relief project" means any undertaking performed in whole or in part by persons receiving work relief.

(4) "Dependent person" or "dependent" means a person without the present available money or income or property or credit, or other means by which the same can be presently obtained, sufficient to provide the necessary commodities and services specified in subsection (1).

(5) "Municipality" means any town, city or village.

(6) "Department" means the state department of public welfare.

(7) "Eligible" or "eligibility" means a dependent person who has continuously resided for one whole year in this state immediately prior to an application for relief except that temporary assistance including medical care may be granted during the initial year to meet an emergency situation pending the negotiations for the return of the applicant and family to the former place of residence or legal settlement outside this state or to meet a medical emergency developing during the initial one year period of residence. Such temporary assistance shall not extend beyond 20 days unless a medical emergency requires further extension.

History: 1957 c. 190.

Under 49.01 (1) and 49.14 (1), a county operating under the county system of relief administration authorized by 49.03, and acting through its public welfare department, could discharge its obligation to provide dependent persons with relief and support by offering to provide a dependent person with suitable housing and food at the county home, or through the facilities of a privately operated boarding house, in lieu of making

cash payments directly to him. State ex rel. Nelson v. Rock County, 271 W 312, 73 NW (2d) 564.

One may be a "dependent person" under (4), even though he has a cause of action for damages against another, where such other denies liability. 43 Atty. Gen. 261.

49.02 Relief administration. (1) Every municipality shall furnish relief only to all eligible dependent persons therein and shall establish or designate an official or agency to administer the same.

(2) Every county may furnish relief only to all eligible dependent persons within the county but not having a legal settlement therein, and if it elects to do so, it shall establish or designate an official or agency to administer the same.

(3) When the settlement of an eligible dependent person is unknown or in doubt relief may be initially administered by the municipality in which such person is found in need, but the matter shall be promptly investigated and reported or referred as the case may be to the county in which the municipality is situated.

(4) Nothing in this section shall prevent any county or municipality from entering into a joint or co-operative agreement under section 66.30.

(5) The municipality or county shall be liable for the hospitalization of and care rendered by a physician and surgeon to a person entitled to relief under this chapter, without previously authorizing the same, when, in the reasonable opinion of a physician, immediate and indispensable care or hospitalization is required, and prior authorization therefor cannot be obtained without delay likely to injure the patient. There shall be no liability for such care or hospitalization beyond what is reasonably required by the circumstances of the case, and liability shall not attach unless, within 7 days after furnishing the first care or hospitalization of the patient, written notices by the attending physician and by the hospital be mailed or delivered to the official or agency designated in accordance with this section, reciting the name and address of the patient, so far as known, and the nature of the illness or injury, and the probable duration of necessary treatment and hospitalization. Any municipality giving care or hospitalization as provided in this section to a person who has settlement in some other municipality may recover from such other municipality as provided in s. 49.11.

(6) Officials and agencies administering relief shall assist dependent persons to regain a condition of self-support through every proper means at their disposal and shall give such service and counsel to those likely to become dependent as may prevent such dependency.

(7) Whenever the authorities charged with the administration of this section have reason to believe that a person receiving relief is engaging in conduct or behavior prohibited in ch. 944, they shall promptly notify the law enforcement officials of the county thereof, including facts relating to such person's alleged misconduct or illegal behavior.

History: 1953 c. 513; 1957 c. 167, 190, 478.

A retired and pensioned minister, removing from Green Lake county to Milwaukee county on April 1, 1927, and there residing in a Lutheran home for the aged, acquired a legal settlement in Milwaukee county on April 1, 1928, under 49.02 (4) (Stats. 1927); he continued thus to reside in Milwaukee county until admitted as a mental patient to a state hospital in September, 1937; his legal settlement, for the purpose of charging or apportioning the expense of his maintenance under 51.08 as a patient in such hospital from September, 1937, was not affected by, and did not revert back to Green Lake county under, an amendment made to 49.02 in 1933, providing that the time spent by any person as an inmate of any home for the care of aged persons, maintained by any society, shall not be included as part of the year necessary to acquire legal settlement in the municipality in which such home is located. Milwaukee County v. State Dept. of Public Welfare, 258 W 113, 45 NW (2d) 82.

The provisions of chs. 45 and 49 provide for 2 separate systems of public assistance. A veteran is entitled to relief under proper circumstances under the provisions of ch. 49 in the same manner as any other dependent person. Municipal authorities are not relieved from their obligations under ch. 49 by the provisions of ch. 45. A municipality granting relief under ch. 49 to a veteran may not require reimbursement from the county for such relief by reason of any provisions of ch. 45. 39 Atty. Gen. 26.

A county is liable for medical and hospital care only if it is established that the person receiving such care is a dependent person "entitled to" relief. 39 Atty. Gen. 75.

The county or municipality in which a dependent person is present is the one obligated to make the initial grant of relief. If he does not have settlement in the county or municipality granting the relief, the question to what unit the relief should be charged is dependent on legal settlement, which is an issue of fact to be determined under 49.11 (7). 39 Atty. Gen. 295.

The charges which may be made against a county under (5), in the absence of authorization by the county, are limited to the reasonable value of emergency services for which prior authorization could not be obtained without delay likely to injure the patient. The extent of permissible treatment and the amount of permissible charges will need to be determined on the basis of the facts in each case. 40 Atty. Gen. 74.

Although medical and hospital care given to a person receiving old-age assistance might constitute relief under proper circumstances, so as to be recoverable from the county of his legal settlement, that would be possible only upon strict compliance with 49.02 and in a case where no other provision had been made for such medical and hospital care. Since the enactment of ch. 702, Laws 1951, the expense of medical and hospital care given as relief may be recovered from the county of legal settlement even though the recipient has no settlement in any municipality in such county and even though the county does not operate under the county system. 41 Atty. Gen. 45.

Counties may provide for payment of taxes and interest on behalf of a dependent person who is the owner of an equity in the home in which he lives. They may advance

payments on the principal in such a case only if they make provision under 49.06 and 49.08 for reimbursement ot the county of the amount of any such payments resulting in increase of the recipient's property interest. 43 Atty. Gen. 144.

See note to 49.03, citing 43 Atty. Gen. 162.

49.03 Optional county systems. (1) The county board may, by a resolution adopted by an affirmative vote of a majority of all its members:

(a) Provide that the county shall bear the expense of maintaining all eligible dependents therein and thereupon the county shall relieve all eligible dependents in the county; and all powers conferred and duties imposed by this chapter upon municipalities shall be exercised and performed by the county, or

(b) Abolish all distinction between eligible county dependents and eligible municipal dependents as to medical, surgical, dental, hospital and nursing care and optometrical services; and have the entire expense of such care a county charge.

(2) The county board by a resolution adopted by an affirmative vote of majority of all its members may repeal any resolution adopted under subsection (1).

History: 1957 c. 190.

Dependent persons residing on an Indian reservation in a county administering relief are entitled to relief from the county under (1) (a), regardless of whether they have legal settlement. 38 Atty. Gen. 531.

See note to 49.02, citing 43 Atty. Gen. 144.

Where a county system of relief has been adopted under 49.03 (1), all relief as defined by 49.01 (1), must be administered by the same agency. It may be either the welfare department under 46.22 (5) (b), or such other official or agency as may be designated under 49.02. 43 Atty. Gen. 158.

A county administering relief under 49.02 and 49.03 (1) has no right to condition the granting of relief upon authorization by a county court. 43 Atty. Gen. 162.

49.04 State dependents. (1) From the appropriation made in s. 20.670 (19) the state shall reimburse the counties for such temporary assistance as may be needed pursuant to s. 49.01 (7) for all dependent persons who do not have a settlement within any county in this state and who have resided in the state less than one year.

(2) The state department of public welfare shall make suitable rules and regulations governing the administration of temporary assistance under s. 49.01 (7) including the notification of reimbursement charges, the relief to be provided, the presentation of claims for reimbursement and other matters necessary to the provision of relief to such state dependent persons receiving temporary assistance. The observance of such rules and regulations by a county shall be a condition for reimbursement.

(3) The presentation of a claim for reimbursement shall be accompanied by a verified copy of the sworn statement required by s. 49.11 (1), and an affidavit that diligent effort was made to ascertain the facts relating to the dependent's legal settlement and period of residence in the state, and reciting such other facts as the department requires. Any claim for relief furnished after June 30, 1953, shall be filed with the state department of public welfare on the following June 30 or not to exceed 30 days thereafter. If the department is satisfied as to the correctness of the claim it shall certify the same to the director of budget and accounts for payment to the county entitled thereto; provided that if the total amount payable to all counties exceeds the amount available under the appropriation made in s. 20.670 (19) the department shall prorate the amount available among the counties according to the amounts due them. Any necessary audit adjustments for any current or prior fiscal years may be included in subsequent certifications.

(4) Any county aggrieved by the disallowance of its claim for reimbursement hereunder may petition the department for a hearing which shall be accorded after due notice. The department may of its own motion order such investigation and hearing as it deems necessary. Such hearing shall be governed by chapter 227.

History: 1953 c. 251; 1957 c. 190.

The state is liable to Milwaukee county for relief furnished by the county in the County General Hospital to a dependent person who did not have a settlement within any county in the state and who had resided in the state less than one year, although the admission of such person to the hospital was not authorized by the director of the county department of public welfare. Milwaukee County v. State Dept. of Public Welfare, 273 W 516, 78 NW (2d) 884.

Relief to a woman married to a man who has resided in Wisconsin less than a year and has no legal settlement in any county in Wisconsin is a state charge, even though the woman had resided in Wisconsin more than a year prior to the marriage. Relief to her children by a former marriage does not become a state charge in such a case, unless the husband has assumed liability for their support. 40 Atty. Gen. 385.

Reimbursement to a county may be made by the state for hospital treatment, only where such treatment was given as relief under authorization of the local agency designated by statutes to administer relief. 42 Atty. Gen. 172.

Specification in 49.04 (3) of time during which claims are to be filed is not a statute of limitations and not in conflict with the 2-year limitation of 49.11 (5) (g). 43 Atty. Gen. 127.

49.046 Relief to needy Indians. From the appropriation made in s. 20.670 (16) and (56) the department may grant relief to needy Indians not eligible for aid under ss. 49.18, 49.19, 49.20 to 49.38, 49.40 or 49.61 and residing on tax-free lands or may appoint the welfare agency in the county or municipality wherein such needy Indians reside to admin-

ister such relief. Any such agency so appointed shall make such reports as are required and such accounting for funds as are made available under this section. The department shall adopt and publish suitable rules and regulations governing eligibility for the amount of and the furnishing and paying of relief under this section. The department may enter into suitable agreements with any appropriate agency of the federal government for provision of relief to needy Indians. The sums appropriated in s. 20.670 (16) and (56) for the purposes of this section shall not become available until released by the emergency board. Such sums shall be made available by the emergency board at such times and in such amounts as the board may determine to be necessary to adequately provide for the purposes for which they are appropriated, with due regard for the whole amount available for such purposes. If the provision relating to release by the emergency board is invalid, the appropriation in s. 20.670 (16) and (56) shall not be invalidated but shall be considered to be made without any condition as to time or manner of release.

History: 1951 c. 484.

A local agency administering aid to needy Indians under 49.046 is directly liable for workmen's compensation benefits if it elects to grant them work relief under 49.05, unless it contracts so as to transfer the liability to another agency under 49.05 (4). 41 Atty. Gen. 289.

49.05 Work relief. (1) Any municipality or county required by law to administer relief may require persons entitled to relief to labor on any work relief project authorized and sponsored by the municipality or county, at work which they are capable of performing. When a work relief project requires the employment of skilled tradesmen, and the number of such tradesmen listed on the relief rolls of the municipality or county sponsoring the project is not sufficient to meet the requirements of the project, the municipality or county may hire tradesmen who are not receiving public relief, and they shall be paid at the prevailing wage for such labor in the municipality or county.

(2) The basis of payment of persons granted work relief shall be determined by the unit of government responsible for the person's relief.

(3) Municipalities or counties may authorize work relief projects for the performance of any work not prohibited by law, provided that such projects are not operated so as to supplant regular employes of the municipality or county or the other municipal or county units hereinafter mentioned. Municipalities or counties may, by mutual agreement, assign persons entitled to work relief to work on work relief projects operated by the state or by other municipalities, counties, school districts, drainage districts, utility districts, metropolitan sewerage areas or other governmental units. Such agreements may or may not provide for full or partial work relief reimbursement to the municipality or county loaning such persons by the municipality or county or unit to which such persons are loaned.

(4) Municipalities or counties granting work relief shall be directly liable to persons granted work relief for any benefits legally recoverable under the workmen's compensation law of Wisconsin, but may contract with another governmental unit, for whose benefit such work relief project is primarily designed, to share such liability or wholly assume the same, and such other governmental unit is hereby authorized to make such contracts of sharing or total assumption of liability.

(5) Municipalities or counties may authorize the sale of products made on any work relief project to governmental units, and to religious, charitable or educational institutions.

(6) Municipalities or counties may operate work relief projects which will serve to rehabilitate disabled persons so as to enable such persons to qualify for employment in public or private industry.

(7) The value of work relief labor shall be deemed to offset the payments made therefor and such payments shall not be recoverable under section 49.11.

In the absence of extraordinary circumstances, benefits are recoverable under the workmen's compensation law by one injured on work relief projects carried out under 49.05, although such person would otherwise be entitled to relief under 49.046. 41 Atty. Gen. 289.

49.06 Home and insurance exempt. No person shall be denied relief on the ground that he has an equity in the home in which he lives or a cash or loan value not in excess of $300 in a policy of insurance. No applicant for relief shall be required to assign such equity or insurance policy as a condition for receiving relief. Where persons are not in fact dependent, as defined by this chapter, but who, if they converted their limited holdings, real or personal, would, by reason of a fallen market or by reason of economic or other conditions, be required to suffer a substantial loss, then and in that event such persons shall be permitted, by proper assignments to the county or municipality, to render themselves qualified to receive relief. The county or municipal agency may sell, lease or transfer the property, or defend and prosecute all actions concerning it, and pay all just

claims against it, and do all other things necessary for the protection, preservation and management of the property.

A county department of public welfare has authority to request assignment of a cause of action inuring to one seeking relief, as a condition of granting relief, only in cases where assignment of such cause of action is necessary to render the assignor eligible to receive relief. 42 Atty. Gen. 178.

See note to 49.02, citing 43 Atty. Gen. 144.

Where one has a cause of action on which liability is denied so that it cannot be established without litigation, the cause of action is not a source of "present available" means of support under 49.01 (4) and does not furnish a proper case for assignment under this section. Where one has a cause of action on which liability is admitted, it may be a proper subject for assignment. 43 Atty. Gen. 261.

49.08 Recovery from dependents; property in joint tenancy. (1) If any person at the time of receiving relief under ss. 49.01 to 49.17 or as an inmate of any county or municipal institution in which the state is not chargeable with all or a part of the inmate's maintenance or as a tuberculosis patient provided for in ch. 50 and s. 58.06 (2), or at any time thereafter, is the owner of property, the authorities charged with the care of the dependent, or the board in charge of the institution, may sue for the value of the relief from such person or his estate. In such action the statutes of limitation shall not be pleaded in defense, except that nothing herein shall eliminate the bar of s. 313.08. The court may refuse to render judgment or allow the claim in any case where a parent, wife or child is dependent on such property for support, provided that the court in rendering judgment shall take into account the current family budget requirement as fixed by the United States department of labor for such community or as fixed by the authorities of such community in charge of public assistance. The records kept by the municipality or institution are prima facie evidence of the value of the relief furnished. This section shall not apply to any person who receives care for pulmonary tuberculosis as provided in s. 50.04.

(2) If upon the death of any person any property prior to death was held in joint tenancy, then ss. 230.47 (1m) and (3) and 230.48 (1m) and (3) shall apply and the liability and recovery shall be the same as provided in sub. (1) except that it shall only be for relief furnished under ss. 49.01 to 49.17 and the judge so finds, and if there is no personal property or the personal property is insufficient to pay the debt and obligation and real property remains, the court shall enter judgment which shall constitute a prior lien for the unsatisfied amount as hereafter provided and remain a prior lien until satisfied or until the death of the surviving joint tenant at which time recovery may be had. The authorities or board shall file a copy of the judgment with a description of the property in the office of the register of deeds of every county in which real property of the joint tenant is located. This subsection is authority only to counties having a population of 500,000 or more for relief furnished by such counties and shall apply only to persons resident of such counties at the time of death.

History: 1957 c. 399, 664, 699.

Homestead is not exempt from execution of judgment in favor of county for relief advanced by county when judgment provides that the homestead shall not be exempt. 39 Atty. Gen. 589.

A county which has a cause of action for the recovery of the value of relief granted a recipient, does not have the basis for a garnishment action as required by 267.01 until judgment is obtained thereon. The county has a cause of action pursuant to 49.08 when the recipient has property in the form of a chose in action. 40 Atty. Gen. 349.

See note to 49.02, citing 43 Atty. Gen. 144.

49.09 Removal of dependents. (1) When a dependent person, other than a recipient of old-age assistance, aid to blind, aid to dependent children, or aid to totally and permanently disabled persons is receiving relief elsewhere than at his place of settlement and refuses to return thereto, the officer or agency of the place administering relief or of the place of settlement may petition the judge of the county court or the judge of any other court of record of the county in which the relief is furnished for an order directing such person to return to his place of settlement. The petition shall state specifically the reasons upon which the order is sought and copies shall be served upon the dependent person, the officer or agency of the place of residence or the place of legal settlement. Notice of hearing shall be served upon the same parties at least 10 days in advance of the hearing. Service may be made personally or by registered mail with return receipt requested.

(2) If the judge finds that return to the place of legal settlement does not substantially reduce the employment and earning opportunities of the dependent person, does not materially disrupt family ties, and does not work any material injustice to him, he may order the dependent person to return to his place of settlement. The order of the judge for removal shall specify a time beyond which no further relief shall be granted the dependent person unless he returns to the place of his legal settlement and shall further specify the conditions to be complied with by the petitioning municipality to provide suitable transportation to the place of settlement. The cost of transportation shall be chargeable to the place of legal settlement and may be recovered as any other relief costs, pursuant to section 49.11. If the place of legal settlement is the petitioner, the entry of such order shall not be a defense to collection of future relief charges unless it can show affirmatively that all conditions as to providing transportation specified in the order were

fully complied with. Any such removal order may be suspended by the judge at any time without notice or hearing upon application of the relief agency of the place of residence for authority to issue relief to meet an emergency medical condition, and further the judge may in his discretion at any time entertain an application by the dependent person or either municipality to revoke such removal order and upon giving of notice and hearing as provided in subsection (1), may revoke such order temporarily or permanently. A copy of the order suspending the removal order or a copy of revocation of the removal order shall be served on the place of legal settlement within 10 days of the entry thereof and any and all relief granted pursuant to the suspension of revocation order will be chargeable to the place of legal settlement to the same extent as though no removal order had been entered. Any removal order entered by a judge shall affect and be binding on only those municipalities which have been served with the petition and notice of hearing.

(3) When a dependent person without a legal settlement in a county or municipality in this state applies for relief and is found in need, the relief agency may furnish temporary assistance including emergency medical care but shall immediately correspond with the state in which such person formerly resided or had a legal settlement. If such other state admits that the dependent person formerly resided there within a prior 3-year period, then the relief agency in this state shall offer to the person requesting relief transportation for such person, and for his dependents if necessary, to the municipality of former residence or legal settlement. If the person declines to accept such offer no further relief to him or his dependents shall be granted except for temporary assistance to meet a medical emergency. In the event the dependent person has resided less than one whole year in this state immediately prior to application for relief then the temporary assistance shall not extend beyond 20 days unless a medical emergency requires further extension.

History: 1951 c. 725; 1953 c. 268; 1957 c. 190.

49.10 Legal settlement, how determined. (1) A wife has the settlement of her husband if he has any within the state; but if he has none, she has none.

(2) Legitimate minor children have the settlement of their father if living, or of their mother if their father is deceased; but if the parents are divorced, the children have the settlement of the parent who has legal custody, and if such parent has no settlement, the children have none.

(3) Minor children born out of wedlock have the settlement of their mother unless her parental rights are terminated; and if her settlement is lost, theirs is lost.

(4) Every person (except as otherwise provided in this section) who continuously resides in any municipality one whole year without receipt of aid under this chapter gains a legal settlement therein; and every person who continuously resides in a county for one year without receipt of such aid who has not acquired legal settlement in a municipality acquires legal settlement in such county. Time spent by a person in any municipality while supported therein as a dependent person or while residing in a transient camp or while employed on any municipal, county, state or federal work relief project or program or as an inmate of any home, asylum or institution for the care of aged, neglected or dependent persons, maintained by any lodge, society or corporation, or of any state or United States institution for the care of veterans of the military and naval services, or while residing or while employed on any Indian reservation over which the state has no jurisdiction, shall not be included as part of the year necessary to acquire or lose a settlement. No legal settlement shall be lost, acquired or changed while a person is supported in whole or in part in any institution or foster home as a public charge or while residing in a licensed nursing home. The time spent by any person while residing on lands owned, operated or controlled by another municipality shall not be included as part of the year necessary to acquire a legal settlement in the town, city or village wherein such lands are located, but shall be included as part of the year necessary to acquire a legal settlement in such other municipality.

(5) After September 16, 1940, the time spent by any person in the service of the United States army, navy, marine corps, coast guard, or any branch thereof, shall not be included as part of the year necessary to acquire or lose a settlement in any municipality. The provisions of this subsection are retroactive, except that payments or determinations made before July 11, 1943 on the basis of legal settlement under this section before said date are not affected but any findings or determinations on settlement made before such effective date shall not be determinative of settlement in subsequent cases where the application of this subsection would result in a different finding or determination on settlement.

(6) Marriage emancipates minors so that they acquire settlement in their own right.

(7) Every settlement continues until it is lost by acquiring a new one in this state or by continuously residing for one whole year elsewhere than the municipality in which such

settlement exists; and upon acquiring a new settlement or upon continuously residing for one whole year elsewhere than the municipality of settlement all former settlements are lost.

(8) Where a divorce has been granted, the date from which a new settlement may be acquired by a married woman shall be the day on which the divorce is granted and not the termination of the year period thereafter when the divorce judgment becomes final.

(9) When any territory is organized into or attached to any municipality every person having a settlement in such territory, and who actually dwells or has his home, or if absent, had his last dwelling place or home therein, thereafter has a settlement in such new municipality or the one to which such territory is so attached. The organization into or attachment to any municipality of any territory shall not prevent any person from acquiring a legal settlement therein within the time and by the means by which he would have gained it there if no new municipality had been organized or such territory had not been attached.

(10) The provisions of this section shall not affect any commitments to institutions, payments or decisions made or actions, proceedings or petitions pending or causes of action existing on the basis of legal settlement before the effective date of this section.

(11) When this section is applied to any county operating under the county system of administering public assistance the term "municipality" as used herein shall mean and include such county unless the context clearly requires otherwise.

(12) Any person without legal settlement in any municipality in a county (which is not operating on the county system) who resides in that county one whole year gains a legal settlement in the county; that which interrupts residence toward the gaining or losing of legal settlement in a municipality likewise interrupts residence toward the gaining or losing of a county legal settlement; every such settlement continues until it is lost by acquiring a new one in this state or by residing for one whole year elsewhere than the county of legal settlement or by residing one whole year in a municipality within the county of legal settlement, and the residence which went toward the gaining of the county legal settlement shall, if continuous in the municipality, be included toward the gaining of legal settlement in that municipality.

History: 1951 c. 702; 1957 c. 155, 296 s. 15; 1957 c. 496, 560, 699.

In 49.02 (8), Stats. 1943, since renumbered 49.10 (9), the words "if absent, had his last dwelling place or home therein," have reference to a permanent, and not a mere temporary, absence, so that, where a certain person was permanently absent from the town of Burke when certain territory therein was annexed to the city of Madison but his legal settlement was still in the town and he had his last dwelling place or home while residing in the town in the annexed territory, his legal settlement was transferred to the city of Madison as a result of the annexation, and the town of Burke was not liable for relief thereafter supplied to him by Columbia county. The alleged fact that the town of Burke illegally supplied relief to such person while he was residing outside the town prior to such annexation, would not prevent the provision from operating when the annexation was consummated. Madison v. State Dept. of Public Welfare, 262 W 636, 56 NW (2d) 536.

In this state, the determination of residence for legal-settlement purposes is governed by the identical principles that determine residence for divorce and voting purposes. Although both personal presence and intention are required to establish residence, the continued personal presence thereafter is not essential to continuous residence, and the intention to retain a residence once established by a person is an important element in determining whether he in fact retained such residence. Although it is presumed that the place where a married man's family resides is his residence, nevertheless such presumption may be overcome by evidence showing the fact to be otherwise. Milwaukee County v. State Dept. of Public Welfare, 271 W 219, 72 NW (2d) 727.

As used in (4) and (7) the term "residence" is the equivalent of domicil as generally used by the courts and in the textbooks. Carlton v. State Dept. of Public Welfare, 271 W 465, 74 NW (2d) 340.

Even after arriving at majority, a mentally incompetent child, if no legal guardian of his person is appointed and he continues to live with his parent, has the same domicil as that of the parent so long as he remains mentally incompetent; and if no legal guardian of his person is appointed and he does not continue to live with his parent, his domicil remains in the place where he was domiciled at the time of his separation from his parent, and he does not acquire a new domicil in another place. A legally appointed guardian of the person of an adult incompetent may change the domicil of the ward within the state. Carlton v. State Dept. of Public Welfare, 271 W 465, 74 NW (2d) 340.

The acquisition of a legal settlement for poor-relief purposes depends on residence, and the term "residence," not defined in the statute, is held to be the equivalent of the term "domicile" as generally used. Marathon County v. Milwaukee County, 273 W 541, 79 NW (2d) 233.

The legal settlement of children of a mother who has been granted their legal custody upon divorce from their father is the same as that of the mother under (2), and if she remarries, their settlement becomes that of the second husband under (1). 38 Atty. Gen. 624.

See note to 49.37, citing 38 Atty. Gen. 494.

Under (1), a wife whose husband has no legal settlement in the state cannot acquire a settlement in the state. 38 Atty. Gen. 626.

An insane person cannot voluntarily fix his residence in any place, nor his legal settlement. 21 Atty. Gen. 390, 39 Atty. Gen. 227.

Where parents of minor children are divorced, and neither parent has legal custody, the children have no legal settlement. An agency to which a child is committed under this section may not recover from a county under (6) for the support of children who have no legal settlement. The state is not chargeable for the support of children without legal settlement, who are committed to the custody of an agency under this section unless the commitment is to a state agency or institution. 39 Atty. Gen. 423.

An adult person who becomes mentally incompetent retains the legal settlement which he had at the time when he became incompetent. 39 Atty. Gen. 575.

The receipt of public assistance outside of this state by a nonresident who had set-

tlement in Wisconsin does not stop the running of the one-year period of absence necessary to lose settlement. Settlement in a municipality in this state is lost by one year's residence in a foreign state even though the person involved is continuously supported as a dependent person. 39 Atty. Gen. 570.

Persons residing on federal enclave ceded to the United States government do not acquire legal settlement. 40 Atty. Gen. 122.

Absence from the place of residence for hospitalization and medical treatment does not interrupt residence nor defeat settlement in the community of residence when other requirements are met. 40 Atty. Gen. 168.

Children who had a legal settlement in B county which was derived from their mother did not lose such settlement by being placed in a foster home in A county where they were supported at public charge, although the mother left the state and continuously resided elsewhere for more than 2 years. In such case petition for hospitalization under 142.01 should be filed in B county. 40 Atty. Gen. 380.

A municipality may recover for relief granted after the effective date of ch. 702, Laws 1951, on the basis of settlement in a county acquired by residence prior to the enactment of the law. 41 Atty. Gen. 30.

See note to 49.02, citing 41 Atty. Gen. 45.

A man is not precluded from acquiring a new legal settlement, under 49.10 (4), by public assistance given to children of his wife by a former marriage, if he has not assumed liability for their support. 41 Atty. Gen. 113.

(12), created by ch. 702, Laws 1951, does not operate to render any county liable for relief granted prior to its enactment. 41 Atty. Gen. 142.

Under (2), minor children whose legal settlement was derived from their mother, who obtained their custody upon her divorce, lost such settlement upon the death of the mother, the father having no settlement in this state. 43 Atty. Gen. 215.

The provisions of (4), relating to time spent on lands located in one municipality and owned by another, do not apply where the lands are owned by a county operating on the county system of relief and are located in said county. 43 Atty. Gen. 223.

A single instance of furnishing relief in the form of food and supplies, during a one-year period, may be sufficient in the light of attendant circumstances to prevent acquisition of a legal settlement under (4). 45 Atty. Gen. 241.

49.11 Legal settlement, collection from. (1) SWORN STATEMENT OF SETTLEMENT. When relief is granted to a dependent person he shall be required to make a sworn statement of facts relating to his legal settlement; but if he is unable to make a sworn statement it may be made by any person having knowledge of the facts.

(2) RIGHT TO COLLECT FROM PLACE OF SETTLEMENT. When the person so relieved claims a settlement outside the county where the relief is granted or claims to have a county settlement in the county or no settlement, the expenses shall be a charge against the county. The charge shall be audited by the county board, and may be recovered by such county from the county of his settlement, and such county in turn (except when operating under the county system of relief) may recover from the municipality of his settlement. If the county wherein the aid is granted fails to pay the charge to the granting municipality within 8 months after it is filed with its clerk, the municipality may proceed against said county under this section to recover for the relief granted. In such proceedings the county may set up the defenses that the settlement of the recipient is in the municipality which granted the aid or that he was not in need of the aid 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 municipality in ascertaining the facts relating to the recipient's settlement or in giving the notices required or in ascertaining the need for the aid or because his settlement is in the municipality, the department may order the municipality to reimburse the county. When the person relieved has his settlement in a municipality in the county where relieved, and the county system of relief is not in operation, the municipality furnishing the relief may recover therefor from the municipality of his settlement.

(3) NOTICE OF CLAIMED SETTLEMENT. (a) *County system.* When a county grants relief to a person claiming settlement in another county, its clerk shall within 20 days after he becomes a public charge file with the clerk of the other county a notice as provided in paragraph (f).

(b) *Municipal system.* If a municipality grants relief to a person claiming settlement in another county the municipal clerk shall within 20 days after he becomes a public charge file with the clerk of his county a notice as provided in paragraph (f) and that county clerk shall within 20 days after the receipt thereof file a copy of said notice with the clerk of the county in which such person claims a settlement.

(c) *Filing and transmitting.* When a county clerk receives notice from another county clerk as provided for in paragraphs (a) and (b) and his county is not operating under the county system of maintaining its dependents, he shall within 20 days after such receipt file a copy of the notice with the clerk of the municipality in which the dependent claims a settlement. If the county is operating under such county system, its clerk need not file notice with the municipal clerk until the county ceases to operate under the county system and operates on the municipal system.

(d) *Settled in county.* If a municipality grants relief to a person claiming settlement in a municipality in the same county, the municipal clerk shall within 20 days after such person becomes a public charge file with the clerk of the municipality in which the dependent claims a settlement a notice as provided for in paragraph (f).

(e) *Nonsettled.* If a municipality grants relief to a person who claims a county set-

tlement in the county or who appears to be without a settlement in Wisconsin, a copy of his sworn statement and a notice as provided for in paragraph (f) shall be filed with the clerk of the county within 20 days after such person becomes a public charge.

(f) *Content of notice.* The nonresident notice filed under paragraphs (a), (b), (c), (d) and (e) shall be on a standard form prescribed by the department and 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 of the municipality or county where he claims his settlement, or, if such place could not after due diligence be ascertained, a statement of such fact, and the date on which the relief was furnished. Along with the nonresident notice the clerk shall file a copy of the sworn statement taken as provided in section 49.11 (1).

(g) *Late filing.* If the required nonresident notices are not given within 20 days after the person becomes a public charge but are given later the municipality or county notified shall be liable only for the expense incurred for support from the time such notices are given.

(h) *Notice denying settlement.* Unless the municipality (or county when on the county system or when the dependent persons are county settled) upon which such nonresident notice is filed shall within 20 days deny that the dependent's settlement is as claimed, it shall be liable for his support until said denial is made. The denial shall state the facts upon which settlement is disputed, and copies shall be filed with all municipal and county clerks involved in the giving or transmission of the nonresident notice.

(i) *Lapse of nonresidence notice.* The effect of a nonresident notice is terminated by voluntary absence of the relief recipient for one year from the municipality or county originating such notice.

(4) VERIFIED CLAIMS TO BE FILED. 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 49.11 (3) for the filing of nonresident notices. When a defendant county operates on the municipal system of relief, a copy of the verified claim shall be filed against the municipality of legal settlement by the clerk of the defendant county within 30 days after such claim has been filed with him and failure to so file shall bar recovery by a defendant county from the municipality.

(5) STATUTE OF LIMITATIONS. (a) *Accounts against county.* When relief is administered by municipalities, claims therefor against the county are barred unless they are filed within one year from the date the relief is granted.

(b) *Intracounty claims.* When the dependent's settlement is claimed to be within the county wherein the relief is granted, claims not filed with the municipality of alleged settlement within one year after granting the relief are barred.

(c) *Intercounty claims.* When the settlement is alleged to be within another county claims not filed within 2 years from the date the relief is granted are barred.

(d) *Notice of disallowance.* When a claim for relief is disallowed (either by action or lapse of time) the clerk shall within 30 days file notice of disallowance with the clerk of the claimant who shall promptly notify his relief official or agency, and action on the claim must be commenced within 6 months after such filing and within 6 years after the relief was granted.

(e) *Old claims.* A claim for relief granted prior to July 1, 1943, which was 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 then prescribed shall for all purposes satisfy the filing requirements of this section; but nothing in this subsection shall toll the 6-year statute of limitations on any such claims.

(f) *Six-year limitation.* Any right growing out of a relief claim, (not barred by the 6-year statute of limitations) which a county or municipality had against another county or municipality prior to July 1, 1943, may be enforced in a proceeding before the department as provided in section 49.03 of the 1943 statutes.

(g) *Accounts against state.* All claims by counties against the state under the terms of section 49.04, which are not filed within 2 years from the date the relief is granted, are barred.

(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 an action in the name of the county for the recovery of so much of said 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 subsection (7).

(7) PROCEEDINGS. (a) *Jurisdiction and practice.* 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 department which is hereby given the exclusive power and duty to try and determine such controversies. In any such proceeding all municipalities or counties liable presently or ultimately, or connected with the controversy are necessary parties to the proceeding. 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 may 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 chapter 227 as will enable it to effectually perform its duties hereunder. 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) *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 mail; the department shall thereupon note 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 20 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 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 mail as soon as possible after such hearing.

(c) *Judicial review.* Such order shall be subject to review in the manner provided in chapter 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, 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 for shall be by registered 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.

History: 1951 c. 702.

The state may not reimburse a county which has reimbursed a municipality for relief furnished an indigent without legal settlement where such claim was filed by the municipality more than one year late and barred by (5) (a). 39 Atty. Gen. 69.

One county may not recover from another for relief given under 49.02, except as provided in 49.11, even though the need for relief was the result of the latter county's denial of an application under 49.19 for aid to dependent children, which denial was later reversed by the department of public welfare. 40 Atty. Gen. 116.

See note to 49.04, citing 43 Atty. Gen. 127.

49.12 Penalties; evidence. (1) Any person who, with intent to secure public assistance under any provision of ch. 49, whether for himself or for some other person, wilfully makes any false representations shall, if the value of such assistance so secured does not exceed $100, be imprisoned not more than 6 months; if the value of such assistance exceeds $100 but does not exceed $500, be imprisoned not more than one year; if the value of such assistance exceeds $500, be imprisoned not more than 5 years, and if the value of such assistance exceeds $2,500, be punished as prescribed under s. 943.20 (3) (c).

(2) Any person who wilfully does any act designed to interfere with the proper administration of public assistance shall be fined not less than $10 nor more than $100 or be punished by imprisonment for not less than 10 nor more than 60 days. The acceptance of any supplies or articles furnished to any person as general relief in exchange for or in payment for any intoxicating liquor or fermented malt beverage shall be deemed to be a violation of this subsection, but violations of this subsection shall not be limited to such acts,

(3) Any dependent person who sells or exchanges supplies or articles furnished him as assistance or who disposes of such supplies or articles in any other way than as directed, with intent thereby to defraud the county or municipality furnishing him assistance, and any person who purchases any article knowing it to have been furnished to another person as assistance shall be punished as provided in subsection (2).

(4) Any person who without legal authority sends or brings, causes to be sent or brought, or advises any dependent person to go to any municipality for the purpose of making him a charge upon such municipality shall be punished as provided in subsection (2).

(5) Any person in charge of public assistance or any of his assistants who receives or solicits any commission or derives or seeks to obtain any personal financial gain through any purchase, sale, disbursement or contract for supplies or other property used in the administration of public assistance shall be punished as provided in s. 946.13.

(6) Where a person is originally eligible for assistance and receives any income or assets or both thereafter and fails to notify the officer or agency granting such assistance of the receipt of such assets within 15 days after such receipt and continues to receive aid, such failure to so notify the proper officer or agency of receipt of such assets or income or both shall be considered a fraud and the penalties in sub. (1) shall apply.

(7) Any dependent person who uses money furnished him as relief for purposes other than as directed by the county or municipality furnishing such relief shall be punished as provided in subsection (2).

(8) Any person who makes any statement under oath to the authorities charged with the responsibility of furnishing assistance shall be considered to have made an admission as to the existence, correctness or validity of any fact stated, which shall be taken as prima facie evidence against the party making it in any complaint, information or indictment, and in any action or proceeding brought for the enforcement of any provision of this chapter.

(9) If any person obtains for himself, or any other person or dependents or both, assistance under this chapter on the basis of facts stated to the authorities charged with the responsibility of furnishing assistance and fails to notify said authorities within 7 days of any change in the facts as originally stated and continues to receive assistance based on the originally stated facts such failure to notify shall be considered a fraud and the penalties in sub. (1) shall apply. The negotiation of a check received in payment of such assistance by the recipient after any change in such facts which would render him ineligible for such assistance shall be prima facie evidence of fraud in any such case.

History: 1951 c. 331; 1953 c. 376; 1955 c. 696; 1957 c. 163, 218, 220, 591.

The term "proper officer or agency" as used in (6) means the officer or agency administering the public assistance program in the particular county. It is not so vague and indefinite as to cause the statute to be unconstitutional as a denial of due process of law. 44 Atty. Gen. 82.

49.14 County home; establishment. (1) Each county may establish a county home for the relief and support of dependent persons pursuant to section 46.17.

(2) In all counties whose population is less than 250,000 such county home shall be governed pursuant to sections 46.18, 46.19 and 46.20.

(3) No county in which a county home is established shall contract to conduct the same or to support and maintain the inmates thereof; and all agreements in violation of this subsection are void.

(4) The trustees or any person employed by the county board pursuant to subsections (1) and (2), may administer oaths concerning any matter submitted to him or them, in connection with their functions.

See note to 49.01, citing State ex rel. Nelson v. Rock County, 271 W 312, 73 NW (2d) 564.

When authorized by the county board, a portion of a county tuberculosis sanatorium may be used as a unit of the county home for the aged, provided that, as required by 46.18, responsibility for management and operation of each section is separate, and proper accounts and records are kept. 43 Atty. Gen. 338.

49.15 County home; commitments; admissions. (1) When it appears to the satisfaction of any court of record upon petition that a person is without a home or necessary care or is living in a state of filth and squalor likely to induce disease, the court, after affording such person an opportunity to be heard in person or by someone in his behalf, may commit such person to the county home of his county, if there be one therein, otherwise to the county home of some other county, for an indefinte time subject to further order. If the person sought to be committed has a legal settlement, the petition for commitment shall be signed by the relief officer of the municipality of settlement and the cost of care and maintenance shall be a charge against such municipality; but if the person has no legal settlement or the county in which he has settlement operates on the county system of relief the petition shall be signed by the relief officer of the county and the cost

of care and maintenance shall be a charge against the county. Any order or process issued by the court may be served and such commitment may be made by the petitioning officer.

(2) Any person upon application to the board of trustees may be admitted to the county home upon such terms as may be prescribed by the board. If such person or his relatives are unable to pay for his care and maintenance he may be admitted as a charge of the municipality of his legal settlement or the county if he has no settlement, but no municipality or county shall be bound without the written approval of its relief officer or agency, except as provided in subsection (3).

(3) The actual cost for care and maintenance rendered a relief recipient who has legal settlement in another county shall be a proper relief charge and a liability against the place of settlement and recoverable pursuant to section 49.11.

(4) The county board of any county may by resolution provide that the county shall bear the expense of maintaining all dependent persons committed or admitted to the county home, and may repeal any resolution adopted under this subsection.

History: 1955 c. 506.

In view of (2), the county public welfare department was not required to proceed to have a dependent person committed to the home by court order under (1) as a condition precedent to making relief available to him in the form of enjoyment of the facilities of the home. State ex rel. Nelson v. Rock County, 271 W 312, 73 NW (2d) 564.

The charge which may be made against a person residing at his own expense in a county home, established and operated pursuant to 46.18 to 46.21, is not limited to actual cost of maintenance. The board of trustees may establish a scale of fees under which such person who requires medical care may be charged a higher rate reasonably related to the additional expense of his maintenance. 41 Atty. Gen. 208.

Funeral expenses may be paid as aid to dependent children under (5) only if eligibility for aid exists at the date of death. Funeral expenses for a mother may be paid as aid to dependent children under (5) only if eligibility for aid exists at the date of the mother's death. 43 Atty. Gen. 197.

49.16 County hospital; establishment. (1) Each county may establish a county hospital for the treatment of dependent persons, pursuant to section 46.17.

(2) In counties with a population of 250,000 or more such institution shall be governed pursuant to section 46.21, but in all other counties it shall be governed pursuant to sections 46.18, 46.19 and 46.20.

In the treatment of a full-pay patient in a hospital owned and operated by a county, for a condition creating no public danger or problem, the county was acting in its proprietary, rather than in its governmental capacity; and in receiving the patient into the hospital as a private patient, and charging her a rate which was the standard sum fixed at such amount as, with the anticipated patient load, would return revenues in excess of operating expenses as calculated by the county, the county was not operating the hospital on the same basis as a charitable institution; and, as to such patient, the county was not immune from liability for injuries sustained by her because of the negligence of a hospital employe of the county. Carlson v. Marinette County, 264 W 423, 59 NW (2d) 486.

County may establish a county hospital in a portion of a county tuberculosis hospital with one superintendent for both institutions, provided proper accounts and records are kept so as to accurately reflect the cost of operating and maintaining each unit, including shared costs, and provided that each unit is operated in compliance with the statutory provisions applicable to each. 45 Atty. Gen. 75.

49.17 County hospitals; admissions. (1) Any person upon application to the board of trustees may be admitted to the county hospital upon such terms as may be prescribed by the board. If such person or his relatives are unable to pay for his care and maintenance he may be admitted as a charge of the municipality of his legal settlement or the county if he has no settlement, but no municipality or county shall be bound without the written approval of its relief officer or agency, except as provided in subsection (2).

(2) The actual cost for hospitalization and treatment rendered a relief recipient who has legal settlement in another county shall be a proper relief charge and a liability against the place of settlement and recoverable pursuant to section 49.11.

(3) The county board of any county may by resolution provide that the county shall bear the expense of maintaining all dependent persons admitted to the county hospital, and may repeal any resolution adopted under this subsection.

49.171 County infirmaries; establishment. (1) Each county, or any 2 or more counties jointly, may establish, pursuant to section 46.17 or 46.20 a county infirmary for the treatment, care and maintenance of the aged infirm.

(2) In counties with a population of 500,000 or more, such institution shall be governed pursuant to section 46.21, but in all other counties it shall be governed pursuant to sections 46.18, 46.19 and 46.20.

(3) As used in sections 49.171 to 49.173:

(a) An aged infirm person is a person over the age of 65 years so incapacitated mentally by the degenerative processes of old age, or so incapacitated physically, as to require continuing infirmary care.

(b) A county infirmary is a county institution created pursuant to subsection (1) or (2) under the general supervision and inspection of the state department of public wel-

fare pursuant to sections 46.16 and 46.17 as to adequacy of equipment and staff to treat, care for and maintain the physical and mental needs of aged infirm persons.

History: 1951 c. 724.

49.172 County infirmaries, admissions; standards. (1) The following standards shall apply to admissions to a county infirmary:

(a) The primary standard shall be need of infirmary care, rather than ability to pay for such care, and no person shall be excluded from an infirmary solely because of his ability or inability to pay for his care.

(b) The person admitted must be an aged infirm individual, and it must be reasonably apparent that unless admitted he will be without care adequate for his needs.

(c) Except as provided in par. (d), any person who has resided in this state for at least one year, and who meets the other standards for admission, is eligible for admission, and no person shall be excluded solely on the ground that he has no legal settlement in the county or counties which operate the infirmary. The time spent by any person in a county infirmary either as a voluntary or a committed patient shall not be included as time necessary to acquire or lose a legal settlement in any municipality.

(d) An applicant who has removed his residence to Wisconsin from a state which requires that one who has removed his residence from Wisconsin to such state, reside in the latter more than one year before being eligible for a similar type of care, shall be required to reside in this state for a like period before becoming eligible for admission.

(2) The board of trustees of a county infirmary (subject to regulations approved by the county board) shall establish rules and regulations governing the admission and discharge of voluntary patients.

(3) When it appears to the satisfaction of the county court of the county in which an infirmary is located, upon petition for commitment, that a person meets the standards set forth in sub. (1), it may, after affording such person an opportunity to be heard in person or by someone on his behalf, commit him to a county infirmary. The power to commit includes persons who entered an infirmary voluntarily. The court may also, on petition and after a hearing, order the discharge of any patient, upon a showing that he is no longer in need of infirmary care, or that he can be adequately cared for elsewhere.

(4) The board of trustees on receipt of an application for voluntary admission, or the county court on the filing of a petition for commitment, shall appoint a person licensed to practice medicine and surgery in this state to examine personally the applicant or the subject of the petition and to advise the board or court whether such person meets the standard prescribed by sub. (1) (a).

(5) The state department of public welfare shall prescribe and prepare the forms to be used for the voluntary admission or commitment of patients.

(6) The county court in the case of a commitment, and the board of trustees in the case of a voluntary admission, shall pass on the economic status of the patient at the time of commitment or admission, and in all cases in which the patient has legal settlement in another county shall notify the county of legal settlement of the fact of such commitment or admission.

History: 1951 c. 724; 1953 c. 61; 1955 c. 506.

49.173 County infirmaries; cost of treatment, care and maintenance of patients. (1) In the first instance the county or counties operating an infirmary shall defray the actual per capita cost of treatment, care and maintenance. To the extent that a patient is a public charge, such county or counties shall be reimbursed for such expenditures on the following basis as determined from annual infirmary reports filed with the state department of public welfare under section 46.18 (8), (9) and (10):

(a) By the state, 100 per cent of the actual cost for each patient who has no legal settlement in this state;

(b) By the state, 50 per cent of such cost for every other patient;

(c) If a patient has a legal settlement in some other county of this state, 50 per cent of such cost, by the county of his legal settlement. The procedure for making such reimbursement shall be as provided by section 46.106.

(2) To the extent that a patient is not a public charge, such cost shall be charged and paid in advance for each calendar month, and payment may be enforced by the board of trustees.

(3) The state department of public welfare may at any time examine any patient, the cost of whose care is charged in whole or part to the state, to determine if he is still in need of infirmary care. If the department determines such care is no longer needed, the state's liability for such cost ceases upon notice to the infirmary.

(4) Beginning with the fiscal year ending June 30, 1952, the records and accounts of each county infirmary shall be audited annually. Such audits shall be made by the department of state audit as provided in section 15.22 (12) (d) and (e) as soon as prac-

ticable following the close of the infirmary's fiscal year. In addition to other findings, such audits shall ascertain compliance with the mandatory uniform cost record-keeping system requirements of section 46.18 (8), (9) and (10), and verify the actual per capita cost of maintenance, care and treatment of patients. Any resulting adjustments to settlements already made under sections 49.173 and 46.106 shall be carried into the next such settlement.

History: 1951 c. 724.

The rate charged for maintenance of persons in county infirmaries is in all cases limited to actual per capita cost of treatment, care and maintenance. 41 Atty. Gen. 208.

49.174 Fees and expenses of proceedings. The fees of judges, examining physicians, witnesses and guardians ad litem and other expenses of proceedings under sections 49.171 to 49.173 shall be governed by section 51.07.

History: 1951 c. 724.

AID TO THE BLIND

49.18 Aid to the blind. (1) (a) Any needy person who is blind shall receive aid from the county of his residence as provided in this section. The amount granted shall be determined on the basis of need taking into consideration all income and resources as well as ordinary and special expenses incidental to blindness, except that as permitted or required for federal aid in making such determination of need the first $50 per month of earned income shall be disregarded in determining such amount; provided that any amount of earned income so disregarded in determining the amount of aid to the blind a recipient of such aid is eligible for, shall not be taken into consideration in determining the need of any other individual for aid to the blind, old-age assistance, aid to dependent children or aid to totally and permanently disabled persons. The maximum aid per month shall not exceed $75.

(b) For the purposes of this section, the term "aid to the blind" means money payments to, or medical care in behalf of or any type of remedial care recognized under this section or s. 49.40 in behalf of blind individuals who are needy, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual (a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, except that the exclusion of money payments to needy individuals described in clause (a) or (b) shall, in the case of any such individuals who are not patients in a public institution, be effective July 1, 1952. Beginning July 1, 1953, no payment of aid to the blind shall be made to any individual in a private or public institution unless a standard-setting authority has been designated or established which shall be responsible for establishing and maintaining standards for such institution. Such individuals shall not be barred from receiving general aid under ss. 49.02 and 49.03.

(c) The department shall by rule establish a definition of blindness in terms of ophthalmic measurements.

(e) An applicant for aid to the blind shall not be eligible for such aid if his property exceeds:

1. A homestead (regardless of value) which is used as a place of abode by such applicant.

2. A total of $500 in cash and liquid assets for emergency use; provided that such $500 exemption shall not be subject to control by the county agency; and provided further that withdrawal for other than emergency purposes from such $500 emergency fund shall be regarded as income.

3. Tangible personal property of reasonable value in actual use including, but not in limitation thereof, wearing apparel, household goods, personal belongings, stock-in-trade, tools of a trade, and retailing, manufacturing or farming equipment.

4. An insurance policy not in excess of $1,000 cash value, provided that such insurance policy shall not be subject to control by the county agency.

5. An insurance policy not in excess of $1,000 cash value, provided that if such recipient of aid to the blind requests the county agency to provide for payment of premiums thereon he shall name the county agency as beneficiary of the policy, and in naming the county agency as beneficiary shall provide that the beneficiary so named cannot be changed nor such policy cashed without the written consent of said beneficiary. From the proceeds of such policy, the county agency shall first make an allowance for the recipient's funeral expenses in an amount which, combined with other funds of the recipient, shall not exceed $300. After payment of funeral expenses, the proceeds from the policy shall be retained by the county agency named as beneficiary in payment of aid paid under this section furnished by such agency or other county agencies (on a pro rata basis if insufficient to pay in full) and any proceeds in excess of the amount needed to pay the claim for aid to the

blind shall be disposed of as provided by the insured. Any net amount recovered pursuant to this subsection shall be paid to the United States, the state and its political subdivisions in the proportion in which they respectively contributed to such aid to the blind. The county agency granting aid to the blind to a person who has named the county agency beneficiary of a life insurance policy under this subdivision shall provide for the payment of the premiums on the policy, which premiums may be included in the grant of the recipient within the maximum limitations of par. (a) or paid directly to the insurance company without regard to the maximum limitations imposed by par. (a). For any payment made directly to the insurance company, the county agency shall be entitled to recover and retain the amount of such premiums so paid before prorating with the United States and the state as above provided.

(1a) On the death of a recipient of such aid, if the estate of the deceased is insufficient to defray the funeral and burial expenses, such reasonable amount not exceeding $150 shall be paid for such expenses as the county agency directs, exclusive of and in addition to the actual cemetery charges, not exceeding $35, if the estate of the deceased is insufficient to defray these expenses. The relatives or friends of a beneficiary or the county responsible for the burial of a beneficiary, or both such persons and the county, may pay such additional actual cemetery charges as are in excess of $35.

(2) To entitle an applicant to such aid:

(a) He must have resided in this state at the time he lost his sight, or for one year preceding his application. An applicant who has resided less than one year in Wisconsin may be granted aid to the blind if the state from which he removed his residence to Wisconsin grants such aid to any resident of Wisconsin who has moved to such state and lived there less than one year; provided that aid to the blind may not be continued to exceed one year to any recipient who removes his residence to another state;

(b) He must not be in attendance at any state, county or municipally owned school for the blind or deaf wherein instruction, room and board and other incidentals are furnished free, except the summer school of the Wisconsin school for the visually handicapped;

(c) He must not while receiving aid to the blind be publicly soliciting alms;

(d) He must not have relatives legally responsible for his support and able to support him as provided in s. 52.01.

(4) All applicants for aid to the blind shall be examined by a physician skilled in diseases of the eye who shall keep such records and render such reports as the department prescribes. If it be a requirement for federal aid the applicant shall be given the opportunity to select an optometrist to make the examination and such report as the department prescribes. Reexamination shall also be made when necessary. A reasonable fee for each examination shall be established by the department. An applicant for a peddler's license shall pay for his own examination, not to exceed $2, and obtain a certificate showing whether he is blind.

(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.

(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.

(c) The decision of the agency shall be final unless a proceeding for review by the department is taken under s. 49.50 (8) or (9). The agency may, however, after affording a fair opportunity to the recipient to be heard, revoke or modify any aid, as warranted by new information or altered conditions.

(7) Any person receiving aid shall submit to a reexamination as to his blindness and furnish other information whenever requested so to do by the county agency.

(8) No aid to the blind shall be payable under this section to any person for any period with respect to which he is receiving aid to dependent children under section 49.19, old-age assistance under sections 49.20 to 49.39 or aid to totally and permanently disabled persons under section 49.61.

(9) The county board shall annually levy a property tax sufficient to pay the aid provided by this section, taking into account the available state and federal aid.

(10) The county treasurer and county agency administrator of each county shall monthly certify under oath to the department in such manner as the department prescribes, the claim of the county for state and federal reimbursement under this section, and if the department approves it, it shall certify to the director of budget and accounts for reimbursement to the county 30 per cent of the approved amount paid by the county for blind aid pursuant to this section, plus federal aid received for such expenditure plus 30 per cent of any amount paid to an eligible recipient in excess of the amount which the federal government will take into account in making reimbursement but not in excess of $75, as provided in s. 49.18 (1). If the total amount due all counties exceeds the sum appropriated by s. 20.670 (12) and (52), the appropriation shall be prorated by the department among the counties according to the amounts due them. To facilitate prompt reimbursement, the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of current or prior fiscal years may be made and included in subsequent certifications. The director of budget and accounts shall draw his warrant forthwith for reimbursement to the respective counties in accordance with the certification of the department.

History: 1951 c. 228. 432, 725; 1953 c. 31, 61, 286, 330, 513, 583; 1955 c. 160, 559; 1957 c. 366.

The amendment of (1), by ch. 432, Laws 1951, so as to change the maximum amount of grant for blind aid to $75 was not nullified by the repetition of the deleted words and omission of those substituted, in ch. 725, Laws 1951, where the failure to strike and italicize in the manner prescribed by 35.08 (2) and other circumstances indicate that the repetition of the words as they appeared in the later law was due to inadvertence. 40 Atty. Gen. 390.

Since enactment of ch. 725, Laws 1951, medical care may be furnished. The limitations in amount of aid which may be paid as blind and old-age assistance under 49.18 (1) (a) and 49.21 apply to medical care as well as cash payments made to recipients under those sections; but medical care under 49.40 may be furnished "in addition," even though it exceeds such fixed maximum. Reimbursement under 49.18 (10) and 49.38 (1), of "30 per cent of any amount paid to an eligible recipient" can be made only with respect to aid furnished in the form of cash payments to the primary beneficiaries of aid to the blind and old-age assistance. 41 Atty. Gen. 184.

Where a county grants to a recipient of a social security aid amounts in excess of those fixed by statute or valid departmental rule, the state department of public welfare should exercise its power under 49.18 (10), 49.19 (8) (b), 49.38 (1), and 49.61 (9) to disallow the county's claim with respect to the excess payment. Where a county's grant to a recipient of a social security aid is less than the proper amount established under state regulations, the state department of public welfare should exercise its power under 49.18 (10), 49.19 (8) (b), 49.38 (1), and 49.61 (9) to disallow the county's claim with respect to the total amount. 43 Atty. Gen. 108.

AID TO DEPENDENT CHILDREN

49.19 Aid to dependent children. (1) (a) A "dependent child" as used in this section means a child under the age of 18, 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, aunt, first cousins, nephews or nieces 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 license under s. 48.62, when a license is required under such section and placed in such home by a county agency pursuant to ch. 48.

(b) Any individual wishing to make application for aid to dependent children shall have opportunity to do so. Application for aid shall be made on forms prescribed by the department. Any person having knowledge that any child is dependent upon the public for proper support or that the interest of the public requires that such child be granted aid may bring the facts to the notice of an agency administering such aid in the county in which the child resides.

(c) The term "aid to dependent children" means money payments with respect to, or medical care in behalf of or any type of remedial care recognized under subsections (1) to (9) or section 49.40 in behalf of, a dependent child or dependent children, and includes money payments or medical care or any type of remedial care recognized under said subsections for any month to meet the needs of the relative with whom any dependent child is living if money payments have been made under the state plan with respect to such child for such month.

(2) A prompt investigation of the circumstances of the child shall be made (which shall include a visit to its home) before granting aid. A report upon such investigation shall be made in writing and become a part of the record in the case. Every applicant shall be promptly notified in writing of the disposition of his application. Aid shall be furnished with reasonable promptness to any eligible individual.

(3) (a) After the investigation and report, aid may be granted to the person having the care and custody of the child as the best interest of the child requires. No such aid shall be furnished any person for any period during which he is receiving old-age assistance, aid to the blind or aid to totally and permanently disabled persons.

(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.

(4) The aid shall be granted only upon the following conditions:

(a) There must be a dependent child who is living with the person charged with its care and custody and dependent upon the public for proper support and who is under the age of 18 years. Aid may also be granted for minors other than to those specified.

(b) Each child to be eligible for aid shall have resided in the state for one year immediately preceding the application for such aid or if born within one year immediately preceding the application the parent or other relative as described in sub. (1) (a) with whom the child is living shall have resided in the state for one year immediately preceding the birth of the child.

(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 ch. 48 or refer the case to a proper child protection agency.

(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. 959.15. 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. 959.15 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 in proceedings commenced under s. 52.10, or if the nother 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.

(f) Whenever better provisions, public or private, can be made for the care of such dependent child, aid under this section shall cease. Prompt notice shall be given to the appropriate law enforcement officials of the county of the furnishing of aid under this section in respect of a child who has been deserted or abandoned by a parent.

(g) Aid shall be granted to a mother who is otherwise eligible under this section during the period extending from 6 months before to 6 months after the birth of her child, providing she has resided in the state for one year immediately preceding the birth of the child or in the case of an unborn child for one year immediately preceding the application, if her financial circumstances are such as to deprive either the mother or child of proper care. The aid allowed under this paragraph may be given in the form of supplies, nursing, medical or other assistance in lieu of money.

(5) The aid shall be sufficient to enable the person having the care and custody of such children to care properly for them. The amount granted shall be determined by a budget for the family in which all income (except as provided by s. 49.18 (1) (a)) as well as expenses shall be considered. Such family budget shall be based on a standard budget, including the parents or other person who may be found eligible to receive aid under this section. Medical and dental aid may be granted to a minor child, to the person having his care and custody, and to the incapacitated father when he is in the home, as necessary. Not to exceed $150 shall be allowed to cover the burial expenses of a dependent child or its parents, exclusive of and in addition to the actual cemetery charges, not exceeding $35, if the estate of the deceased is insufficient to defray these expenses. The relatives or friends of a beneficiary or the county responsible for the burial of a beneficiary, or both such persons and the county, may pay such additional actual cemetery charges as are in excess of $35. Aid pursuant to this section shall be the only form of public assistance granted to the family for the benefit of such child; and no aid shall continue longer than one year without reinvestigation. This subsection does not prohibit such public assistance as may legitimately accrue directly to persons other than the beneficiaries of this section who may reside in the same household.

(6) The county agency may require the mother to do such remunerative work as in its judgment she can do without detriment to her health or the neglect of her children or her home; and may prescribe the hours during which the mother may work outside of her home.

(7) The county board shall annually appropriate a sum of money sufficient to carry out the provisions of this section. The county treasurer shall pay out the amounts ordered paid under this section.

(8) (a) The county treasurer and the county agency administrator shall certify monthly under oath to the department in such manner as the department prescribes, the claim of the county for state and federal reimbursement for aid under this section, setting forth separately the amount paid in cases for which no federal aid is recoverable, and the amount paid in all other cases.

(b) If the department is satisfied that the amount claimed is correct and that the aid allowed has been granted in compliance with the requirements of this section it shall certify to the director of budget and accounts one-third of the amount paid by the county plus federal aid received for such expenditures. If the total amount due to counties from the state under this section is more than the amount appropriated from state funds for aid to dependent children, the department shall prorate among the various counties according to the amounts due them. To facilitate prompt reimbursement the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of current or prior years may be included in subsequent certifications. The director of budget and accounts shall draw his warrant forthwith for reimbursement to the respective counties in accordance with the certification of the department. In determining the amount available for distribution to the counties, one-half of the annual appropriation from state funds shall be allotted to each half year.

(9) If the head of a family is a war veteran and is hospitalized or institutionalized because of disabilities in a county other than that of his residence or settlement at time of admission, aid shall be granted to the dependent children of such veteran by the county wherein the head of the family had his residence or settlement at the time of admission so long as he remains hospitalized or institutionalized.

(10) Aid under this section may also be granted to a non-relative who cares for a child dependent upon the public for proper support in a foster home having a license under s. 48.62, regardless of the cause or prospective period of dependency. The state shall reimburse any county for one half of the amount of aid granted under this subsection. The county treasurer and the county agency administrator shall certify monthly in the manner provided in sub. (8) to the department the claim of the county for state reimbursement under this subsection, setting forth the entire amount granted by the county under this subsection. If the department is satisfied that the aid was granted under this subsection it shall certify to the director of budget and accounts for payment to the county one half of such entire amount from the appropriation for state aid made under s. 20.670 (11) and in the event that there shall be federal reimbursement for such aid then such certification shall also include for payment to the county the amount allowed as federal aid to be paid out of the appropriation made by s. 20.670 (51). A child under one year of age shall be eligible for aid under this subsection irrespective of any other residence requirement for eligibility within this section.

History: 1951 c. 725; 1953 c. 31, 286, 513; 1955 c. 160, 257, 652, 653; 1957 c. 190, 366, 592, 610, 616, 621, 665, 672.

Where children, whose custody has been awarded to a parent by decree of divorce, do not reside with the parent but live with another relative in a different county, the county in which they reside with such relative is the one in which request for aid should be made. 39 Atty. Gen. 345.

Where person is receiving aid to dependent children, supplementary aid for hospitalization and medical care is available under 49.19 (5) and 49.40, and not under general relief, 49.02 (5) or 49.17. 40 Atty. Gen. 78.

The transfer of dependent children from the home of their parents in one county to the home of another relative in another county, for a temporary period, by order of the juvenile court of the first county which by its order retained jurisdiction, did not operate to change the residence of those children for purposes of aid to dependent children. 40 Atty. Gen. 144.

Neither the department nor the county authority administering aid to dependent children has power to establish an arbitrary administrative maximum for grants under (5). 40 Atty. Gen. 190.

Since enactment of ch. 725, Laws 1951, medical care may be furnished. 41 Atty. Gen. 184.

Wages of unemancipated minor children living in the home are to be considered in preparation of the family budget under (5), upon which the amount to be granted as aid for dependent children is based. A county agency might require as a condition to a grant of aid to dependent children that a parent resume authority over an emancipated minor child, if the circumstances are such that the emancipation is revocable and if the county agency deems the revocation in the best interests of the child for whom aid is being given. 41 Atty. Gen. 309.

The residence of a child on parole from the Wisconsin school for boys is in the county where he is residing with his uncle, for purposes of aid to dependent children. 42 Atty. Gen. 7.

The department has the responsibility under (8) (b) to prevent any county from receiving reimbursement from state and federal funds for aid to dependent children which is given in a manner not conforming with the provisions of (5), requiring that

such aid be the only form of public assistance granted to the family for the benefit of such child. 43 Atty. Gen. 51.

A parolee from the Wisconsin school for girls who has been placed in her sister's home, but who has not been deprived of parental support or care by reason of the death, continued absence from the home, or incapacity of a parent, is not a dependent child within the meaning of (1) (a) so as to be subject to the statutory provisions relating to aid to dependent children. 43 Atty. Gen. 71.

Where there is a statutory provision, such as in (5), or a valid rule of the state department of public welfare, establishing a fixed policy that no other public assistance shall be allowed for the benefit of a recipient of a particular social security aid, the department should disallow in full the county's claim with respect to any recipient receiving more than the specified maximum. In other cases where a county grants in excess of the maximum, the department may disallow the claim in full if it determines that the circumstances are such that to do so is necessary to compel compliance with state policies. 43 Atty. Gen. 108.

See note to 49.18, citing 43 Atty. Gen. 108.

A county may contract for services of private social welfare agency on individual case basis for care of unwed mother and child at time of confinement. 45 Atty. Gen. 235.

While a brother is not liable under 52.01 for the support of a child for whose benefit aid to dependent children is granted under 49.19, he may be held liable to contribute to the support of his mother to whom such aid is being paid. 46 Atty. Gen. 74.

OLD-AGE ASSISTANCE

49.20 County old-age assistance. (1) For the more humane care of aged, dependent persons a state system of old-age assistance is hereby established. Such system of old-age assistance shall be administered in each county by the county agency, under the supervision of the state department of public welfare. The cost of old-age assistance shall in the first instance be borne by the county, but the county shall be entitled to state and federal aid as provided in s. 49.38.

(2) The term "old-age assistance" means money payments to or medical care in behalf of or any type of remedial care recognized under ss. 49.20 to 49.38 or s. 49.40 in behalf of needy individuals who are 65 years of age or older (or 60 years or older in the event of the change in the federal law as provided in s. 49.22 (1)) but does not include any such payments or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual (a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof, except that the exclusion of money payments to needy individuals described in clause (a) or (b) shall, in the case of any such individuals who are not patients in a public institution, be effective July 1, 1952. Beginning July 1, 1953, no payment of old age assistance shall be made to any individual in a private or public institution unless a standard-setting authority has been designated or established which shall be responsible for establishing and maintaining standards for such institutions. Such individuals shall not be barred from receiving general aid under ss. 49.02 and 49.03. Old-age assistance shall also be granted to aged dependent persons residing voluntarily in county or city homes and the department shall make claim for federal reimbursement therefor when federal funds are made available for that purpose and pay the same to the county.

History: 1951 c. 725; 1953 c. 330, 513, 631.

Since enactment of ch. 725, Laws 1951, medical care may be furnished. 41 Atty. Gen. 184.

49.22 Persons eligible. (1) Any needy person who complies with the provisions of ss. 49.20 to 49.38 shall be entitled to financial assistance in old age. The amount granted shall be determined by a budget in which all income and resources, except as provided by s. 49.18 (1) (a), as well as expenses shall be considered and the aid per month shall not exceed $75. Old-age assistance may be granted to a person only if:

(a) He is dependent;

(b) He has attained the age of 65 years. This minimum age shall be reduced to 60 years whenever the federal government makes aid available to the states for old-age assistance to persons between 60 and 65 years of age;

(c) He has resided in the state continuously during the year immediately preceding the date of application. An applicant who has resided less than one year in Wisconsin may be granted old-age assistance if the state from which he removed his residence to Wisconsin grants assistance to any resident of Wisconsin who has moved to such state and lived there less than one year; provided that an applicant who has removed his residence to Wisconsin from a state which requires that an applicant who has removed his residence from Wisconsin to such state, reside in such state more than one year before he is eligible for old-age assistance be required to reside in this state for a like period before becoming eligible for old-age assistance in this state; and provided that old-age assistance may be continued when a recipient removes his residence to another state until he satisfies the residence requirements for eligibility for old-age assistance in such state;

(d) He has no person responsible for his support and able to support him as provided in s. 52.01;

(e) He has not conveyed or transferred any property in contemplation of such assistance or to avoid the provisions of ch. 49. Any transfer of property made after old-age

assistance has been granted or within 2 years prior to application for assistance and without an adequate and full consideration in money or money's worth shall, unless shown to the contrary, be presumed to have been made in contemplation of such assistance, or to avoid the provisions of ch. 49.

(2) A person shall be considered dependent within the meaning of this section even though he or his spouse owns property if the property owned either by him or his spouse is not in excess of the following:

(a) A home and the lands used or operated in connection therewith or, in lieu thereof, a house trailer, if such home or house trailer is used as the person's abode. Ownership of a life estate in a home by the dependent person or his spouse does not disqualify such person for old-age assistance even though the home is not used by him as his place of abode.

(b) Tangible personal property of reasonable value and in actual use.

1. $500 in liquid assets which may be retained by the recipient free of the control of the county agency.

2. Any sum which a recipient of old-age assistance shall have on deposit with the county treasurer for payment of his funeral expenses under s. 49.22 (2) (c) 1, statutes of 1953, shall be returned to the recipient.

(3) (a) Any person who applies for old-age assistance after March 31, 1955 and who owns an insurance policy with a cash value not to exceed $1,000 the premiums of which have been paid by some person other than the applicant may continue to own such policy without restriction or control by the county welfare agency provided the applicant does not request payment of the premiums of the policy by the welfare agency.

(b) Any person applying for or receiving old-age assistance who owns an insurance policy with a cash value not to exceed $1,000 and requests the county welfare agency to provide for payment of premiums thereon shall name the county welfare agency as beneficiary of the policy and in naming the county welfare agency as beneficiary shall provide that the beneficiary so named can not be changed nor such policy cashed without the written consent of said beneficiary. From the proceeds of such policy, the welfare department shall first make an allowance for recipient's funeral expenses in an amount which combined with other funds of recipient shall not exceed $300. After payment of funeral expenses, the proceeds from the policy shall be retained by the county agency named as beneficiary in payment of aid paid under ss. 49.20 to 49.40 furnished by such agency or other county agencies (on a pro rata basis if insufficient to pay in full) and any proceeds in excess of the amount needed to pay the claim for old-age assistance shall be disposed of as provided by the insured.

(c) The county agency granting old-age assistance to a person who has named the county agency beneficiary of a life insurance policy under par. (b) shall provide for the payment of the premiums on the policy. Such premiums may be included in the grant of the recipient within the maximum limitations of sub. (1) or paid directly to the insurance company without regard to the maximum limitation imposed by sub. (1) and if paid directly to the insurance company the county agency shall be entitled to deduct and retain as reimbursement for the amount so expended as premiums from the recovery made from the policy before reporting the balance as a recovery under s. 49.25.

(d) Any insurance policy heretofore assigned to county agencies by old-age assistance recipients under s. 49.22 (2) (c) 3, statutes of 1953, shall be reassigned to the old-age assistance recipients.

History: 1951 c. 305; 1953 c. 31, 337, 667; 1955 c. 19.

For attorney general's opinion on this subject as it appeared in the 1951 statutes, see 40 Atty. Gen. 161, 40 Atty. Gen. 479 and 41 Atty. Gen. 184.

Discussion of requirements of (2) as to assignment of life insurance policies owned by recipients of old-age assistance. 42 Atty. Gen. 234.

One who is receiving old-age assistance, and who owns a homestead subject to lien under 49.26 (4) and (5), renders himself ineligible for receipt of further assistance if he transfers such homestead without adequate consideration. 42 Atty. Gen. 279.

Funds received by a county agency administering old-age assistance, pursuant to (2) (c) 1, are not to be transferred to the county treasurer but are subject to the provisions of ch. 34, relating to public deposits. The state department of public welfare may adopt rules to establish standard practices with respect to the handling of such funds but may not supersede or modify any statutory provision. 42 Atty. Gen. 281.

A trust for payment of funeral expenses may be terminated by agreement of the parties during the life of the person for whose funeral it is provided. The fact that an irrevocable trust has been provided for payment of funeral expenses of an applicant for old-age assistance does not render him ineligible for assistance under (2) (c), if the fund does not exceed $300. If such fund exceeds $300, the owner is ineligible for old-age assistance. 43 Atty. Gen. 169.

Funds recovered through assignment of insurance policies under (2) (c) 3 should be paid to the United States, the state and its political subdivisions, in the proportion in which they contributed to the old-age assistance. 43 Atty. Gen. 227.

A contract of life insurance issued in the name of an applicant for old-age assistance is subject, to the extent of the cash or loan value at the date of the first old-age assistance, to (2) (c) 3, irrespective of the source of the money from which premiums were paid, in the absence of a valid claim to ownership by a third party. 43 Atty. Gen. 251.

49.22 (2) (c) 1 does not require a county to turn over to an old-age assistance recipient the sum of $500 out of the proceeds of the sale of such person's home where the

county's lien under 49.26 exceeds the sale price, but the county's lien may be released in whole or in part under 49.26 (8) if the facts so warrant. 44 Atty. Gen. 302.

Circumstances under which a county agency might discontinue payment of premiums on an insurance policy under which it is the beneficiary pursuant to (3) (b) and (c) or permit a change in beneficiary, discussed. 44 Atty. Gen. 311.

49.235 Members of Grand Army Home. Persons who are members of the Grand Army Home for Veterans at King may be granted old-age assistance if they are otherwise eligible for such aid pursuant to the provisions of ch. 49. The provisions of s. 45.37 (9) shall not apply to money payments of old-age assistance paid to or in behalf of such members.

History: 1951 c. 718.

49.25 Assistance recovered. On the death of a person who has received old-age assistance, the total amount of such assistance paid (including aid paid under sections 49.30 and 49.40 as old-age assistance) shall be a claim against his estate, but such claim shall not take precedence over the allowances under section 313.15 or over any claim for care or maintenance furnished by the state or its political subdivisions. The court may disallow such claim or any part thereof if satisfied that such disallowance is necessary to provide for the maintenance or support of a surviving spouse or minor or incapacitated adult children, and thereupon the claim shall be waived to the extent of the amount disallowed and that amount assigned to such spouse or children for maintenance or support. The net amount recovered pursuant to this section or section 49.26 shall be paid to the United States, the state and its political subdivisions, in the proportion in which they respectively contributed to such old-age assistance. The county agency of the county from which the deceased beneficiary received old-age assistance shall file the claim herein provided.

Funds received from an insurance policy assigned to a county by an applicant for old-age assistance are part of the final estate of the decedent and must be prorated between claims of a county for relief and claims for old-age assistance. 45 Atty. Gen. 6.

49.26 Transfer of property; liens on real property. (1) PERSONALTY AND FOREIGN REALTY. If the county agency deems it necessary, it may require as a condition to a grant of assistance that all or any part of an applicant's personal property (except that mentioned in s. 49.22 (2) and real property not situated in Wisconsin be transferred to the county agency. The property shall be managed by the county agency who shall pay the net income to those entitled thereto. The county agency may sell, lease or transfer the property, or defend or prosecute all actions concerning it, and pay all just claims against it, and do all other things necessary for the protection, preservation and management of the property.

(2) RETURN OF EXCESS. If old-age assistance is discontinued during the life of the beneficiary and the property thus transferred exceeds the total amount of assistance paid (including medical expense paid as old-age assistance), the excess of such property shall be returned to the beneficiary; and in the event of his death such excess, less funeral expenses paid as old-age assistance, shall be considered the property of the beneficiary for administration proceedings. The county agency shall execute and deliver all necessary instruments to give effect to this subsection.

(3) DISTRICT ATTORNEY, DUTIES AND FEES, COLLECTIONS, PROBATE OF ESTATES. (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.

(b) If no qualified person shall apply for administration of the estate of a beneficiary of old-age assistance within 60 days after death, the county agency shall so apply. Any fee allowed a full-time or part-time employe of the county welfare department as

administrator of such estate shall be paid by him into the county treasury to be credited to the agency's appropriation as a reduction in cost. The agency shall report to the county board at the November meeting concerning collections so made, fees allowed employes and pending probate proceedings.

(4) CERTIFICATE OF LIEN, FILING. All old-age assistance paid to any beneficiary (including aid paid under sections 49.30 and 49.40 as old-age assistance) constitutes a lien as hereafter provided and remains a lien until satisfied. When old-age assistance is granted, the name and residence of the beneficiary, the amount of assistance granted, the date when granted, the name of the county, and such other information as the department requires, shall be entered on a certificate, the form of which shall be prescribed by the department. The county agency shall file such certificate, or a copy thereof, in the office of the register of deeds of every county in which real property of the beneficiary is situated.

(5) LIEN, COVERAGE, EXCEPTIONS; JOINT TENANCY. (a) Upon such filing the lien herein imposed attaches to all real property of the beneficiary including a house trailer used as an abode presently owned or subsequently acquired (including joint tenancy and homestead interests) in any county in which such certificate is filed for any amount paid or thereafter paid under ss. 49.20 to 49.38 and 49.40, and remain such lien until satisfied. Such lien shall not sever a joint tenancy nor affect the right of survivorship except that the lien shall be enforceable to the extent that the beneficiary had an interest prior to his decease. The county court may order sale of such realty free and clear of the lien and the lien shall attach to the net proceeds of such sale after taxes, prior encumbrances and the costs of the sale have been deducted.

(b) Such lien shall take priority over any lien or conveyance subsequently acquired, made or recorded except tax liens and except that the amounts allowed by court in the estate of any deceased beneficiary and remaining unpaid after all funds and personal property in the estate have been applied according to law, for administration and for hospitalization, nursing and professional medical care furnished such decedent during his last sickness, not to exceed $300 in the aggregate, shall be charges against all real property of such deceased upon which an old-age assistance lien has attached, and which in such order shall be paid and satisfied prior to such lien out of the proceeds derived from such real property upon liquidation of such old-age assistance lien. The certificate need not be recorded at length by the register of deeds, but upon the filing thereof all persons are hereby charged with notice of the lien and of the rights of the county.

(c) The amount allowed by the court in any such estate for funeral expenses not to exceed $300 shall be a charge against all real property of such deceased upon which an old-age assistance lien has attached and shall be paid and satisfied before such lien out of the proceeds derived from such real property upon liquidation of such lien.

(d) When the proceeds from such property are insufficient to pay the amounts allowed under par. (b) and the amount of the funeral expenses allowed under par. (c), such amounts shall be reduced proportionately. For the purposes of such reductions the amounts allowed under par. (b) shall be considered in the aggregate.

(6) REGISTER OF DEEDS, INDEX, FEES. The register of deeds shall keep a separate book, properly indexed, in which shall be entered an abstract of every certificate so filed which shall show the time of filing, the name and residence of the beneficiary, the date of the certificate, the name of the grantor county, and a record of releases and satisfactions. No fee shall be charged for filing such certificate, release or satisfaction or the entry of the abstract thereof except in counties wherein the register of deeds is compensated otherwise than by salary, and in such counties a fee of 25 cents shall be paid to the register of deeds by the county filing the certificate, release or satisfaction.

(7) LIENS, ENFORCEMENT. Such liens shall be enforceable by the county filing the certificate after transfer of title of the real property by conveyance, sale, succession, inheritance or will, in the manner provided for the enforcement of mechanics' liens upon real property; provided, however, that in any action to foreclose such a lien the statute of limitations shall not be pleaded in defense. No such lien and no claim under section 49.25 shall be enforced against the homestead of the beneficiary while it is occupied by a surviving spouse or by any surviving minor children, or any incapacitated adult children of the beneficiary.

(7a) NONPRIORITY OF LIEN. The old-age assistance lien shall not take precedence over any claim for care or maintenance furnished by the state or its political subdivisions, but all such public claims when allowed by the court shall share pro rata.

(8) LIENS, RELEASE. When the county agency of the lienor county is satisfied that collection of the amount paid as old-age assistance will not thereby be jeopardized or that the release of the lien in whole or in part is necessary to provide for the maintenance of the beneficiary, his spouse, or minor children, or incapacitated adult child, it may release

the lien as to all or any part of the real property of the beneficiary (including a house trailer as in sub. (5)), which release shall be filed in the office of the register of deeds of the county in which the certificate is filed. The beneficiary, his heirs, personal representatives or assigns may discharge such lien at any time by paying the amount thereof to the treasurer of the proper county who, with the approval of the county agency, shall execute a satisfaction which shall be filed with the register of deeds.

(9) LIENS, LIQUIDATION. The county board may authorize any county agency or official to bid in property at foreclosure under this section at a price not to exceed the amount of the claim for assistance, which claim or any part thereof may be applied as a credit on such a bid, or such agency or official may accept a conveyance in lieu of foreclosure. Title to property acquired under this section vests in such agency for the purpose of liquidation, and may be sold and title transferred by it without regard to s. 59.07 (1) (c). In the event the county acquires such property, payment as provided by s. 49.25 shall not be made until the property is sold and payment thereon shall be based on the sale price.

(10) LIENS, TAXES, REPAIRS, LAND CONTRACTS. 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, pay taxes 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) CHECKS NOT CASHED BEFORE DEATH; SPECIAL ADMINISTRATION. (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 any 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 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

(b) If such special administrator is not satisfied with the justness of any such claim he may object thereto and the matter shall be heard before the court upon proper notice. No money shall be disbursed hereunder without court order. If any such recipient was under guardianship such guardian as such shall have the authority to disburse the proceeds of such checks as provided in paragraph (a). If probate, or administration (whether general or special) shall be granted of such recipient's will or estate, the proceeds of such checks shall be disbursed by such administrator or executor upon the above claims pursuant to general probate or administration practice except that in the case of special administration the notice provided for in paragraph (a) shall be given.

(c) In the event that probate, general or special administration is granted prior to the time of the disbursement of the proceeds of such checks then the special administrator appointed under paragraph (a) shall, upon order of the county court, pay the amount of such pension checks unpaid, less the cost of publication, to such personal representative of such deceased person.

History: 1951 c. 319 s. 204; 1951 c. 708, 725, 727; 1953 c. 337, 513; 1955 c. 160; 1957 c. 425, 433, 610.

Under (4) (prior to amendment in 1945), when a husband and wife, owning certain real estate in joint tenancy, applied individually for old-age assistance, and it was granted and liens to secure its repayment were filed on June 12, 1941, the joint tenancy was thereby severed and a tenancy in common resulted, so that, on the death of the wife, the surviving husband did not become the sole owner of the entire property subject to the lien but, instead, an undivided half of the property became a part of the estate of the deceased wife subject to the lien. (Goff v. Yauman (1941), 237 W 643, adhered to as having been relied on in assigning real estate in probate proceedings up to 1945, when the legislature amended the statute to provide that such lien shall not sever a joint tenancy nor affect the right of survivorship except that the lien shall be enforceable to the extent that the beneficiary had an interest prior to his decease.) Estate of Feiereisen, 263 W 53, 56 NW (2d) 513.

A grantee is chargeable with constructive notice of the existence of a recorded lien for old-age assistance on the property conveyed. Fitzgerald v. Buffalo County, 264 W 62, 58 NW (2d) 457.

32 O.A.G. 10 modified to conform to amendment of 233.23, which enlarges husband's right of curtesy. Old-age assistance lien enforceable against curtesy right in real estate. 39 Atty. Gen. 148.

When a county takes a tax deed to realty on which it has an old-age assistance lien the lien is extinguished so that there is no need to execute a release. 39 Atty. Gen. 402.

Lien for old-age assistance attaches only to property owned by the recipient at the time the lien is filed or thereafter acquired. Where a bona fide conveyance has preceded the initial assistance, there can be no present interest in existence upon which the lien may properly attach. 39 Atty. Gen. 432.

"Special tax" assessed by a city under 144.06 is a tax lien under 49.26 (5). 39 Atty. Gen. 479.

A claim of the United States government does not have priority under the statutes of the United States (31 U.S.C.A. s. 191) over the lien of a county under 49.26 (4) to (10) if the lienor has not previously become insolvent. 40 Atty. Gen. 253.

Funds recovered by payments under (8), to discharge an old-age assistance lien, are subject to the proration provisions of (7a). When a county takes a tax deed to premises on which it has an old-age assistance lien, the surplus over the amount necessary to satisfy the tax claims is to be prorated under (7a) until liquidated public assistance claims are met in full. 41 Atty. Gen. 55.

Administrator's fees paid into the county treasury pursuant to (3) (b) are to be computed as a reduction in the expenditures incurred in administration of old-age assistance, in determining the state and federal aid to be paid under 49.51 (3). 41 Atty. Gen. 155.

If the personal property of a decedent who was a beneficiary of old-age assistance is insufficient to pay debts and costs of administration, the lien of a county for old-age assistance must be enforced by filing a claim in administration proceedings pursuant to 49.25 and 49.26 (5), if such proceedings are undertaken. 41 Atty. Gen. 300.

Old-age assistance lien discussed as it affects rights of vendee under executory land contract. 41 Atty. Gen. 319.

Transfers of real estate to county as security for old-age assistance under 49.26 (1), before the amendment thereof by ch. 7, Laws Special Session 1937, were in the nature of mortgages with legal title remaining in the grantors. Where legal title was solely in the husband and the county purported to release its lien by a quit claim deed in joint tenancy, no joint tenancy was created. County's release does not have to be signed by county clerk under 59.67 (2), but may be by county pension department or other agency mentioned in 49.51 (5) as created by said ch. 7, upon designation by county board. 42 Atty. Gen. 61.

No fees for services of an attorney in connection with sale of property subject to old-age assistance liens in administration proceedings have priority over the lien except such as may be included within the $300 allowed by (5). 41 Atty. Gen. 369.

A county administrator of old-age assistance may release an old-age assistance lien only under the circumstances provided in (8). If a lien is to be released to permit sale of the realty in administration proceedings, that should be done by order of the county court under the conditions prescribed in (5). Authority to compromise an old-age assistance claim secured by a lien on a joint tenancy interest may be exercised only by the officials and in the manner prescribed by (3), in the absence of circumstances which would warrant the administrator to grant a release under (8). 42 Atty. Gen. 182.

The county agency administering old-age assistance has no authority to release the lien given by (4), the sole purpose of giving priority to the debt of a third person not included within the purview of (8), where the effect of the release is to jeopardize collection of the county's claim. 42 Atty. Gen. 193.

Under (1) a county board may purchase and continue in effect insurance to protect the county's interest in property on which it holds an old-age assistance lien, but premiums for such insurance could not be paid by the county from the old-age assistance appropriation and secured by the old-age assistance lien. 42 Atty. Gen. 225.

The county may, in lieu of foreclosing an old-age assistance lien, take conveyance from heirs of the old-age assistance beneficiary under circumstances in which merger by conveyance from mortgagor to mortgagee would be proper. 43 Atty. Gen. 44.

A lien for old-age assistance, under (4) and (5), upon realty owned solely by the beneficiary, has priority over the rights of the widow in the absence of the release of lien, or of administration proceedings. 43 Atty. Gen. 336.

Proration of estate among claims for old-age assistance, relief, and institutional care, discussed. Where old-age assistance

was applied for, by husband and wife individually, before 1945, this act severed a joint tenancy and converted it to a tenancy in common. Thereafter, claims for the support and care of each of them individually receive prorated shares of their separate estates. 44 Atty. Gen. 181.

Where a county agency administers an estate to enforce an old-age assistance lien, the county is not entitled to fees for services of its corporation counsel as attorney for the administrator. 44 Atty. Gen. 247.

See note to 49.22, citing 44 Atty. Gen. 302.

The residue of proceeds from sale of realty in administration proceedings under (5) is subject to assignment by the county court, after satisfaction of the county's lien. 46 Atty. Gen. 12.

The county officer charged with administration of old-age assistance may release liens under the circumstances described in (8), without specific authorization from the county board; under other circumstances the release is effected under (3). 46 Atty. Gen. 12.

49.27 Application for assistance; continued eligibility; county liability. (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 assistence, 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. 49.10 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.

(3) If a person eligible for or receiving old-age assistance, aid to totally and permanently disabled or aid to the blind who resides in any of the facilities enumerated in sub. (2) goes to another county to reside and within the period of 6 months thereafter takes residence in any of said facilities and continues to be eligible for old-age assistance, aid to 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. 49.10 in a county in which the facility is located in which case such county shall make payment of such assistance as he is eligible to receive.

History: 1951 c. 219, 725; 1953 c. 61; 1955 c. 160; 1957 c. 413, 672.

Where person receiving old-age assistance moved to fraternal home in another county, and thereby became ineligible for further aid under 49.23 (1), Stats. 1947, county paying the same at time recipient moved is not responsible, under 49.27, for continuing benefits after change in 49.23 (1) in 1949 permitted him again to become eligible. 39 Atty. Gen. 576.

49.28 Investigation. Every application shall be promptly investigated. Grants shall be reinvestigated as often as necessary and at least once each year. All investigations shall be reported in writing and appropriately filed.

49.29 Certificate, conditions, revocation, recovery of excess. (1) A certificate shall be issued to each applicant when old-age assistance is allowed stating the date upon which payments shall commence and the amount of each monthly instalment.

(2) Each beneficiary shall file such reports as the department may require. If it appears at any time that the beneficiary's circumstances have changed his certificate may be modified or revoked. Any sum paid in excess of the amount due shall be returned to the county and may be recovered as a debt due the county.

49.30 Funeral expenses. On the death of a beneficiary reasonable funeral expenses shall be paid to such persons as the county agency directs; provided, that these expenses do not exceed $150, exclusive of and in addition to the actual cemetery charges, but not to exceed $35, provided that the relatives or friends of a beneficiary or the county responsible for the burial of a beneficiary, or both such persons and the county, may pay

such additional actual cemetery charges as are in excess of $35, and that the estate of the deceased is insufficient to defray these expenses.

History: 1953 c. 413, 513, 631.

Funeral expenses may not be paid as old-age assistance under 49.30, for a person who dies after the county agency has discontinued his grant because of ineligibility arising during a month for which a money payment has been made. 43 Atty. Gen. 197.

49.32 Payments exempt from levy. All amounts received as old-age assistance shall be exempt from every tax, and from execution, garnishment, attachment or any other process whatsoever and shall be inalienable.

Persons living in private institutions may, under proper circumstances, qualify for old-age assistance, former restriction in (1) having been eliminated. Inmates of county homes may be eligible for old-age assistance grants whether "committed" or "admitted" under 49.15. 39 Atty. Gen. 622.

49.33 Special inquiry. If there is a reason to believe that a certificate has been improperly obtained a special inquiry shall be made, and payment may be suspended pending the inquiry. If on inquiry it appears that the certificate was improperly obtained, it shall be canceled; but if it appears that it was properly obtained the suspended instalments shall be paid.

49.34 Frauds punished. Any person who by means of a wilfully false statement, representation, impersonation or other fraudulent device, obtains, or attempts to obtain, or aids or abets any person to obtain a certificate to which he is not entitled, a larger allowance than that to which he is justly entitled, payment of any forfeited instalment grant, or aids or abets in buying or in any way disposing of the property of a beneficiary without the consent of the county agency, shall be fined not more than $500, or imprisoned not more than one year, or be punished by both such fine and imprisonment.

49.35 General penalty. (1) Any person who violates any provision of ss. 49.22 to 49.38, for which no penalty is specifically provided, shall be subject to a fine not exceeding $500 or to imprisonment not exceeding one year, or both.

(2) When a beneficiary is convicted under this section his certificate may be canceled.

49.36 Effect of conviction of offense. If a beneficiary is convicted of any offense, punishable by imprisonment for one month or longer, payments shall not be made during the period of imprisonment.

49.37 County appropriation, disbursement of funds, reimbursement of county. (1) The county board shall annually appropriate a sum of money sufficient to carry out the provisions of ss. 49.20 to 49.38, taking into account the money expected to be received during the ensuing year as state and federal aid. Upon the orders of the county agency, the county treasurer shall pay out the amounts ordered to be paid as old-age assistance.

(2) The county board may cause each municipality to reimburse the county for all amounts paid in old-age assistance to persons having a settlement therein, less the amounts received by the county from the state and federal governments pursuant to section 49.38. If the county board has taken such action the county clerk shall make a report to the board at its annual November meeting showing in detail the amounts which are chargeable to each municipality, and the board at such meeting shall determine the amount to be raised and paid by each municipality to reimburse the county.

(3) The county clerk shall charge the amount so determined to such municipality and shall certify the same to the municipal clerk. Each municipality shall annually levy a tax sufficient to meet such charges, and shall pay to the county the amount so certified. Such tax shall be a county special tax for tax settlement purposes but the municipality shall pay to the county on or before March 22 in each year the percentage of such tax actually collected, which percentage shall be determined by applying the ratio of collection of its entire tax roll excepting special assessments and taxes levied pursuant to section 59.96 to the amount of such county special tax.

History: 1953 c. 513.

49.10 (11) does not alter the liability of the municipalities to reimburse counties on the county system of relief for old-age assistance granted to persons having legal settlement in such municipalities pursuant to 49.37 (2) and (3). 38 Atty. Gen. 494.

49.38 State aid; reimbursement to county. (1) The county treasurer and county agency administrator shall monthly certify under oath, to the department, in such manner as the department prescribes, the claim of the county for state and federal reimbursement of aid paid under ss. 49.20 to 49.38. If the department is satisfied that the amount claimed has actually been expended in accordance with ss. 49.20 to 49.38, it shall certify to the director of budget and accounts 30 per cent of the approved amount paid by each county plus federal aid received for such expenditures plus 30 per cent of any amount paid to an eligible recipient in excess of the amount which the federal govern-

ment will take into account in making reimbursement but not in excess of $75, as provided in s. 49.22; provided that the department shall certify to the director of budget and accounts 100 per cent of the approved amount paid by each county to eligible persons pursuant to s. 49.235 or in behalf of such eligible persons as medical aid pursuant to s. 49.40, which certified amount shall include any federal aid received for such expenditures. To facilitate prompt reimbursement the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of current or prior fiscal years may be included in subsequent certifications.

(2) The director of budget and accounts shall forthwith draw his warrant for reimbursement to the counties in accordance with the certification of the department. If the total amount payable to all counties exceeds the amount available under the appropriations made in s. 20.670 (13), the department shall prorate the amount available among the counties according to the amount paid out by each. Whenever the department prorates the amount available to the various counties, the counties in the next following month may prorate to the recipients of old-age assistance such proportion of the amount allowed as the amount paid by the state bears to the full amount due from the state.

(3) Whenever the amount certified by the county treasurer and county agency administrator under s. 49.38 (1) shall include old-age assistance under ss. 49.20 to 49.38 and 49.40 furnished to a person who would otherwise be eligible for relief under s. 49.045 [Stats. 1955] the department shall include in the certification under s. 49.38 (1) to the director of budget and accounts 100 per cent of such approved amount paid by the county which amount shall include any federal aid received for such expenditures.

History: 1951 c. 432, 718, 725; 1953 c. 337; 1955 c. 385.

Reimbursement under 49.18 (10) and 49.38 (1), of "30 per cent of any amount paid to an eligible recipient" can be made only with respect to aid furnished in the form of cash payments to the primary beneficiaries of aid to the blind and old-age assistance. 41 Atty. Gen. 184.
See note to 49.18, citing 43 Atty. Gen. 108.

49.39 State aid to counties. Any county which is financially unable to fully perform its duties under ss. 49.18 to 49.38 and 49.61 after having received payments under ss. 20.670 (21) and 49.395 may make application to the department for financial assistance to enable it to perform such duties. Before making a determination upon the application, the department shall hold hearings, investigate and obtain or receive proof as to total indebtedness, and tax levy limitations, cash on hand, anticipated revenues from all sources, reasonableness of amounts of its expenditures and necessity therefor, tax delinquencies, reasonableness of valuation for taxation purposes and such other factors not enumerated which are probative on the applicant's financial condition. If the department is satisfied that the applicant's financial condition is such that it cannot provide money for such forms of public assistance, the department shall certify to the director of budget and accounts for payment to the applicant out of the appropriations provided by s. 20.670 (18) an amount which will, together with money that the applicant can provide, be sufficient to enable the applicant to properly perform its duties. No such payment shall be made unless the department's certification is approved by the emergency board. The department shall fix the time and place of hearing, issue subpoenas, take testimony and make reasonable rules and regulations which are necessary to enable it to effectively perform its duties under this section.

History: 1951 c. 432.

49.395 Additional aid to certain counties. Where the required total mill levy in any county for costs of old-age assistance including payments under s. 49.40 made in behalf of such recipients exceeds the average mill levy (the mill levy for all counties being based on the total valuation of personal and real property in such counties as determined by the department of taxation pursuant to s. 70.57) for such welfare purposes in all counties in the state by 50 per cent or more but is insufficient to pay the county's share of the cost thereof, the state shall bear 60 per cent of such costs in that county which are in excess of the amount which would be produced by a levy in the county of one and one-half times the average state mill levy for such welfare purposes. The department shall certify to the director of budget and accounts for payment to the counties out of the appropriations provided by s. 20.670 (21) such amounts as they shall be entitled to receive under the terms of this section. The department may so certify on an estimated basis subject to audit and adjustment at the end of each year.

History: 1951 c. 432.

The amount of state aid to be paid to any county is to be determined on the basis of the county tax levy for old-age assistance purposes, not including amounts levied by municipalities for payments required of them under 49.37 (2). 40 Atty. Gen. 295.

49.40 Medical care. (1) The county agency administering aid to the blind, aid to dependent children, old-age assistance and aid to totally and permanently disabled persons may provide for medical care needed by recipients of such aids. A person shall

be considered a recipient if at the time such care is authorized aid to the blind, aid to dependent children, old-age assistance or aid to totally and permanently disabled persons is being granted to him. The provisions of s. 49.11 shall not apply to this section. Medical care shall, as necessary, be authorized by such county agency and allowed within money payments to the recipient under ss. 49.18 (1) (a), 49.19 (5), 49.22 and 49.61 (6) (a) or paid by the county agency in addition to or in lieu of such money payments; provided that the method of payment for any medical service either by money payment or vendor payment shall be determined by the department for the purpose of obtaining maximum federal participation. Medical care provided under this section includes hospitalization, home care when prescribed by a physician and nursing home care; physicians', dentists', and nurses' services; drugs, medical supplies and equipment; prosthetic appliances and other medical services as each is prescribed by a physician; optometrical services; transportation to obtain medical care; and prepayment of medical care.

(2) Upon forms prescribed by the department claims by counties for reimbursement for vendor medical payments made in behalf of recipients shall be made at the same time and in the same manner as other claims for aid to the blind, aid to dependent children, old-age assistance and aid to the totally and permanently disabled and if approved by the department 35 per cent of such expenditures after deduction of any federal aid that may be received for such expenditures shall be certified by the department to the director of budget and accounts as reimbursement to the counties. Any federal aid that may be received for such expenditures shall be certified by the department to the director of budget and accounts as reimbursement to the counties. To facilitate prompt reimbursement the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of current or prior years may be included in subsequent certifications.

History: 1951 c. 222, 725; 1953 c. 337, 558, 631; 1957 c. 261, 611, 672.

Provisions in (1), that the county agency administering old-age assistance and certain other aids may "supplementary to such aids" authorize and pay for medical, hospital and certain other care for "recipients" of such aids, and in (2) that the state will reimburse the county in part, require the contribution of state funds only in cases where the patient was simultaneously receiving some cash payment from old-age assistance, and not where the payment of checks or other cash benefits from old-age assistance was discontinued by the county during the period of hospitalization. Milwaukee County v. Bayley, 259 W 38, 47 NW (2d) 319.

Supplementary medical care given by a county to an old-age recipient is part of old-age assistance and not general relief. It cannot be charged back to the county of legal settlement. A county of legal settlement cannot grant supplementary medical assistance to an old-age assistance recipient residing in and receiving assistance from another county. 38 Atty. Gen. 662.

Where a person is eligible to be sent to Wisconsin general hospital pursuant to 49.40, ch. 142 does not apply and he cannot be sent there pursuant to the provisions of that chapter. 49.40 (1) is mandatory and requires county agencies to grant medical care to recipients of social security aids whenever the same is necessary. 41 Atty. Gen. 52.

Medical care under this section may be supplied to recipients of aid to the blind and of old-age assistance who are outside the state, under the same circumstances under which the statutes authorize aids in the form of cash payments to be made, since the definitions under 49.18 (1) (b) and 49.20 (2) include not only money payments but medical care. 41 Atty. Gen. 158.

The limitations in amount of aid which may be paid as blind and old-age assistance under 49.18 (1) (a) and 49.21 apply to medical care as well as cash payments made to recipients under those sections; but medical care under 49.40 may be furnished "in addition," even though it exceeds such fixed maximum. 41 Atty. Gen. 184.

Medical care may be provided under 49.40 for a dependent child for any month in which a money payment has been made, even though the child becomes ineligible for aid to dependent children during the month, but only if the care is authorized before the county agency learns of the ineligibility. 43 Atty. Gen. 197.

Proposed plan for setting aside in county treasury a fund to be used for payments of medical care for categorical aid recipients pursuant to (1), and charging to each such recipient's account a per capita share of said fund, is not "prepayment of medical care" in the contemplation of that statute. If it were a prepayment of medical care it would constitute doing an insurance business which the county is not authorized to engage in. 45 Atty. Gen. 194.

49.41 Assistance grants exempt from levy. All grants of old-age assistance, aid to dependent children, aid to the blind, and aid to totally and permanently disabled persons shall be exempt from every tax, and from execution, garnishment, attachment and every other process and shall be inalienable.

STUDENT LOANS

49.42 Loans to students. (1) From the appropriation provided by s. 20.670 (47), the department shall make loans to qualified residents of the state who have good academic records to that point, are in financial need and possess qualities of leadership, and are desirous of attending or currently are attending the university, the state colleges, or other educational institutions in this state of like rank above the high school.

(2) Such loans shall be made to students who would otherwise be unable to continue their education.

(3) Loans shall be made on the student's application indorsed by the principal of the high school from which the student will or has received his diploma or by the authorities

of the institution which the applicant desires to attend or is attending. The terms of the loans shall be prescribed by the department, which may adopt and enforce all necessary rules to carry out this section.

(4) Loans may be made to minors; and minority shall not be a defense to the collection of the debt.

History: 1953 c. 61; 1957 c. 97, 632.

ADMINISTRATION OF SECURITY AIDS

49.50 State supervision. (2) RULES AND REGULATIONS, MERIT SYSTEM. The department shall adopt rules and regulations, not in conflict with law, for the efficient administration of aid to the blind, old-age assistance, aid to dependent children and aid to totally and permanently disabled persons, in agreement with the requirement for federal aid, including the establishment and maintenance of personnel standards on a merit basis. The provisions of this section relating to personnel standards on a merit basis supersede any inconsistent provisions of any law relating to county personnel; provided that the provisions of this subsection shall not be construed to invalidate the provisions of s. 46.22 (6).

(3) PERSONNEL EXAMINATIONS. State-wide examinations to ascertain qualifications of applicants in any county department administering old-age assistance, aid to dependent children, aid to the blind or aid to totally and permanently disabled persons shall be given by the state bureau of personnel. The bureau shall be reimbursed for actual expenditures incurred in the performance of its functions under this section from the appropriations available to the department for administrative expenditures.

(4) PERSONNEL LISTS. All persons who are qualified as a result of examinations shall be certified to the counties in which they reside at the time of examination; if there are no resident qualified persons for any class of positions on the list certified to the county, appointments shall be made from available lists without regard to residence within the county.

(5) COUNTY PERSONNEL SYSTEMS. In counties having a civil service system, the department may delegate to the civil service agency in such county responsibility for determining qualifications of applicants by merit examination, provided the standards of qualifications and examinations have been approved by the department and the state bureau of personnel. The personnel in such counties shall be exempt from such reexamination provided such personnel has qualified for present positions by examinations conducted pursuant to standards acceptable to the department.

(6) DEPARTMENT TO ADVISE COUNTIES. The department shall advise all county officers charged with the administration of such laws of these requirements and shall render all possible assistance in securing compliance therewith, including the preparation of necessary blanks and reports. The department shall also publish such information as it deems advisable to acquaint persons entitled to public assistance and the public generally with the laws governing the same.

(8) FAIR HEARING AND REVIEW. Any person whose application for aid to the blind, old-age assistance, aid to dependent children and aid to totally and permanently disabled persons is not acted upon by the county agency with reasonable promptness after the filing of the application, or is denied in whole or in part, or whose award is modified or canceled, or who believes his award to be insufficient, may petition the department for a review of such action. The department shall, upon receipt of such petition, give the applicant or recipient reasonable notice and opportunity for a fair hearing. The department may make such additional investigation as it may deem necessary. Notice of the hearing shall be given to the applicant and to the county clerk; and the county shall be entitled to be represented at such hearing. The department shall render its decision as soon as possible after the hearing and shall send a certified copy of its decision to the applicant, the county clerk and the county officer charged with administration of such assistance. The decision of the department shall have the same effect as an order of the county officer charged with the administration of such form of assistance. Such decision shall be final, but may be revoked or modified as altered conditions may require.

(9) HEARING TO INSURE PROPER ADMINISTRATION. The department may at any time terminate payment of state or federal aid on any grant of old-age assistance, aid to dependent children, aid to the blind or aid to totally and permanently disabled persons which may have been improperly allowed or which is no longer warranted due to altered conditions. Such action shall be taken only after thorough investigation and after fair notice and hearing. Such notice shall be given to the recipient of the assistance, the county clerk, and the county officer charged with the administration of such assistance, and their statements may be presented either orally or in writing, or by counsel. Any

decision of the department terminating the payment of state and federal aid shall be transmitted to the county treasurer, and after receipt of such notice he shall not include any payments thereafter made in such case in the certified statement of the expenditures of the county for which state or federal aid is claimed.

(10) JOINT COMMITTEE ON STANDARDS. A joint committee on institution standards consisting of 6 members shall develop minimum uniform standards for the care, treatment, health, safety, welfare and comfort of patients in county institutions and in the Grand Army home for veterans at King in accordance with the provisions of ss. 49.18 (1) (b), 49.20 (2) and 49.61 (1m). Three members shall be from the membership of the state board of public welfare chosen by such board. Three members shall be chosen by the governor and shall be designated as the county board member, the county trustee member and the county superintendent member. The county board member shall be chosen from a list of 5 names of county board chairmen submitted by the Wisconsin county boards association. The county trustee and superintendent members shall be chosen from a list of 5 names for each position submitted by the Wisconsin county hospital association. Terms of office shall begin on January 1, 1952 and shall continue for a period of 2 years. Any member shall be disqualified and cease to be a member of the committee upon losing the status upon which his appointment as a member was based. Vacancies shall be filled in the original manner for the unexpired term. All members shall serve without compensation. A uniform standards plan shall be submitted to the state board of public welfare on or before June 1, 1952. The board shall have power to establish and enforce the standards submitted by the joint committee. Annually, between January 1 and June 1 of each year the joint committee on standards shall review the minimum standards and rules and regulations for their establishment and enforcement and recommend to the state board of public welfare any changes. Such changes shall be effective as of July 1 of that year. If any county home or infirmary fails within 90 days to comply with the uniform standards in a manner satisfactory to the department it may suspend state aid to such institution.

History: 1951 c. 725; 1953 c. 354, 513.

Under 49.50 (2) and 46.016, the department is authorized to establish uniform standards for the granting of old-age assistance, aid to dependent children, aid to the blind, and aid to the totally and permanently disabled, and under 49.50 (7), county agencies administering these programs are required to use such standards in determining eligibility and need. 39 Atty. Gen. 403.

See note to 49.19, citing 40 Atty. Gen. 190.

The department may order payment for medical care for a person outside the state in the same circumstances as it could order cash payments. 41 Atty. Gen. 158.

49.51 County administration. (2) COUNTY DEPARTMENTS OF PUBLIC WELFARE. (a) *Administration in counties having a population of 500,000.* In counties having a population of 500,000 or more, the administration of welfare services shall be vested in a department of public welfare under the jurisdiction of the county board of public welfare as provided in s. 46.21 and in conformity with the provisions of s. 49.50. The director of county institutions and departments shall appoint a director of public welfare and such director of public welfare shall appoint his assistants, provided that the present director of public welfare acting on July 13, 1951 shall continue as such director during the balance of his legal tenure. The civil service status of persons presently appointed to the several welfare services hereinafter listed as of July 3, 1949 is continued. The county department of public welfare shall have the following functions, duties and powers, and such other welfare functions as may be delegated to it:

1. To make investigations relating to relief or welfare administration and admissions to state and county institutions upon request of court, superintendent, district attorney, veterans' service commission or any other county official.

2. Furnishing services to families or persons other than the granting of financial or material aid where such services may prevent such families or persons from becoming public charges or restore them to a condition of self-support.

3. To make certification or referral of eligibles for state or federal works or other assistance programs, eligibility for which is based on need, when designated to perform such certification or referral services, and to certify eligibility for and distribute surplus commodities and foodstuffs.

4. Making investigations which relate to welfare services upon request by the state department of public welfare.

5. The maintenance of administrative and reporting relationships with all pertinent state departments.

6. The administration of relief under sections 49.02 and 49.03 in the event that the county administers relief under those sections.

7. The administration of aid to dependent children under section 49.19.

8. The administration of aid to the needy blind under section 49.18.

9. The administration of old-age assistance under sections 49.20 to 49.38.

10. The administration of aid to permanently and totally disabled persons under section 49.61.

11. To administer child welfare service under and subject to the provisions of ss. 48.56 and 48.57, thereby administering the functions otherwise administered by county children's board and licensed child welfare agencies and the authority to accept permanent care and custody and guardianship of any child upon the order of a competent court to this effect and to place children for adoption and to give consent to the adoption of such child pursuant to the statutes regulating adoption proceedings.

12. To make such investigations as are provided for in s. 48.88 (2) (a), if the court having jurisdiction so directs.

(3) REIMBURSEMENT. (a) *Federal aid.* The state shall reimburse the counties for expenditures incurred in the administration of old-age assistance, aid to dependent children, aid to the blind and aid to totally and permanently disabled persons, to be prorated in accordance with the amount expended by each county for such administration and be paid from the appropriation made by s. 20.670 (54).

(b) *State aid.* The state shall also reimburse the counties 25 per cent of the expenditures incurred in the administration of old-age assistance, aid to dependent children, aid to the blind, and aid to totally and permanetly disabled persons, and for related welfare services performed by a county agency administering such aids in co-operation with or at the request of the state department pursuant to express authorization; provided, that if the appropriation in s. 20.670 (14) is insufficient for the payment in full of the amounts due the counties under this provision such appropriation shall be prorated. In no event shall reimbursement to any county under this subsection exceed its total expenditures for administration and if any reduction is necessary to avoid payments over such total, the amount available under this paragraph shall be reduced.

(c) *Reimbursement made monthly.* Payment of the state aid for administration under this section shall be made monthly on certification of the state department of public welfare, at the same time and in the same manner as state and federal aid for old-age assistance, aid to dependent children, aid to the blind and aid to totally and permanently disabled persons.

(4) PRORATION WHEN STATE APPROPRIATIONS ARE INSUFFICIENT. Whenever the state prorates the appropriations for state aid for old-age assistance, aid to dependent children, aid to the blind and aid to totally and permanently disabled persons among the counties, the counties may reduce the amounts allowed to the beneficiaries in the following month, by the amount of the state and federal aid unpaid. Such reduction shall be made on a pro rata basis and shall apply until the state and federal aid is paid in full. The amount unpaid by the state as determined with respect to amounts actually expended by the counties for any of these forms of public assistance shall remain as a charge against the state.

History: 1951 c. 314, 725; 1953 c. 513.

The county agencies charged with administration of social security aids have authority, under proper circumstances, to institute guardianship proceedings in behalf of recipients of such aids; and in such cases it is the duty of the district attorney to furnish legal service. 42 Atty. Gen. 231.

49.53 Limitation on giving information. (1) The use or disclosure of information concerning applicants and recipients for any purpose not connected with the administration of aid to dependent children, aid to the blind, old-age assistance and aid to totally and permanently disabled persons, except as provided under sub. (2), is prohibited. Any person violating this section shall be punished by a fine of not less than $25 nor more than $500 or by imprisonment not less than 10 days nor more than one year or both.

(2) (a) Each county agency administering aid to the blind, aid to dependent children, old-age assistance or aid to totally and permanently disabled persons shall monthly maintain a report at its office showing the names and addresses of all persons receiving such aids together with the amount paid during the preceding month, provided that nothing herein contained shall be construed to authorize or require the disclosure in such report of any information (names, addresses, amounts of aid or otherwise) pertaining to adoptions, to aid furnished to or in behalf of unmarried mothers pursuant to s. 49.19 (4) (d) and (g), or to aid furnished for the care of children in foster homes pursuant to s. 49.19 (10).

(b) Such report shall be kept as a public record by the county agency and shall be open to public inspection at all times during regular office hours. Any person seeking permission to inspect such book shall sign a request stating reasons for inspecting the report, and the agency shall keep a record of such requests.

(c) It is unlawful to use any information obtained through access to such report for

political or commercial purposes. The violation of this provision is punishable upon conviction as provided in sub. (1).

History: 1951 c. 725; 1953 c. 185.

County pension director may not furnish to county board member list of names of persons in his district with amounts of aid they have received monthly as aid to blind, aid to dependent children, or old-age assistance. 39 Atty. Gen. 205.

Permitting a representative of the department to testify, in an action to set aside deeds executed by a father, concerning an application of the defendant daughter for mother's aid, was error, but such testimony is deemed to have been disregarded by the trial court in view of other competent evidence to sustain its findings. Plainse v. Engle, 262 W 506, 56 NW (2d) 89.

It is unlawful to permit public inspection or publication of names of recipients of old-age assistance, aid to dependent children, aid to the blind, and aid to totally and permanently disabled persons, irrespective of the enactment of s. 618 of the federal Revenue Act of 1951. 40 Atty. Gen. 427.

49.61 Aid to totally and permanently disabled persons. (1) DEFINITION. As used in this section a totally and permanently physically disabled person is a person found by medical authority to be so totally and permanently disabled physically as to require constant and continuous care.

(1m) DEFINITION OF AID; INSTITUTION INMATES. For the purpose of this section, the term "aid to the totally and permanently disabled" means money payments to, or medical care in behalf of, or any type of remedial care recognized under this section or s. 49.40 in behalf of, needy individuals more than 18 years of age who are totally and permanently disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual (a) who is a patient in an institution for tuberculosis or mental diseases, or (b) who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof. Beginning July 1, 1953, no payment of aid to totally and permanently disabled persons shall be made to any individual in a private or public institution unless a standard-setting authority has been designated or established which shall be responsible for establishing and maintaining standards for such institutions. Such individuals shall not be barred from receiving general aid under ss. 49.02 and 49.03.

(2) ELIGIBILITY REQUIREMENTS. Aid under this section shall be granted only to an applicant:

(a) Who is more than 18 years of age;

(b) Who has resided in Wisconsin continuously for one year or more preceding the date of making application or of being granted aid;

(d) Who has no relatives able to support him and responsible for his support under s. 52.01;

(f) Whose property does not exceed a home of reasonable value together with ownership of other property such as cash, securities and insurance with a cash surrender value in an amount not to exceed $1,000 to provide a reasonable reserve for expenses of burial, last sickness and other emergency needs not covered by this section;

(g) Who is by certification of a licensed physician or panel of physicians on forms to be prescribed by the state department of public welfare found to be totally and permanently physically disabled, provided that such certification of disability shall be subject to review by a panel of physicians advisory to the state department of public welfare.

(3) APPLICATION. Application may be made by an agent or the legal guardian of a person believing himself to be eligible. Application shall be made on forms prescribed by the state department of public welfare to the welfare agency of the county in which he resides. Any individual wishing to make application for aid to the totally and permanently disabled shall have opportunity to do so.

(4) DETERMINATION OF ELIGIBILITY. 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.

(5) NOTIFICATION TO APPLICANT. The county agency shall promptly notify the applicant, his agent or his legal guardian, in writing, as to whether or not he has been found to be eligible for this form of aid and the amount, if any, which he will be granted, provided that any applicant dissatisfied with the decision of the county agency upon his application or whose application is not acted upon with reasonable promptness may file a petition for review as provided in section 49.50 (8). Aid shall be furnished to any eligible individual with reasonable promptness.

(6) AMOUNT OF AID. (a) The amount of aid which a person may receive under this section shall be according to his need but shall not exceed $80 per month. The agency shall, in determining need, take into consideration any other income and resources (except as provided by s. 49.18 (1) (a)) of an individual claiming aid under this section. Any

person receiving aid under this section shall not be eligible for old-age assistance, aid to the blind or aid to dependent children.

(b) On the death of a recipient of such aid, if the estate of the deceased is insufficient to defray the funeral and burial expenses, such reasonable amount not exceeding $150 shall be paid for such expenses to such persons as the county agency directs, exclusive of and in addition to the actual cemetery charges, not exceeding $35, if the estate of the deceased is insufficient to defray these expenses. The relatives or friends of a beneficiary or the county responsible for the burial of a beneficiary, or both such persons and the county, may pay such additional actual cemetery charges as are in excess of $35.

(7) ORDER DIRECTING PAYMENT. If the county agency shall find 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; all payments of aid shall be made monthly.

(8) COUNTY APPROPRIATION. The county board of each county shall annually appropriate a sum of money sufficient to carry out the provisions of this section taking into account the money expected to be received during the ensuing year as state aid.

(9) STATE AID REIMBURSEMENT TO COUNTY. The county treasurer and county agency administrator of each county shall monthly certify under oath to the state department of public welfare in such manner as the department prescribes, the claim of the county for state and federal reimbursement under this section, and if the department approves such claim, it shall certify to the director of budget and accounts for reimbursement to the county 30 per cent of the approved amount paid by each county for aid to totally and permanently disabled persons pursuant to this section, plus federal aid received for such expenditures, plus 30 per cent of any amount paid to an eligible recipient in excess of the amount which the federal government will take into account in making reimbursement but not in excess of $80, as provided by s. 49.61 (6) (a). If the total amount due all counties exceeds the sum appropriated by s. 20.670 (15) and (55) the appropriation shall be prorated by the department among the counties according to the amounts due them. To facilitate prompt reimbursement, the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of the current or prior fiscal years may be made and included in subsequent certifications. The director of budget and accounts shall draw his warrant forthwith for reimbursement to the respective counties in accordance with the certification of the department.

History: 1951 c. 595, 725; 1953 c. 31, 61, 286, 330, 558, 631; 1955 c. 160; 1957 c. 366.

The amendment of 49.61 (2) (a), by ch. 595, Laws 1951, so as to eliminate the maximum age limit, was not nullified by the repetition of the deleted words by ch. 725, Laws 1951, where the failure to italicize the words as provided in 35.08 (2) and other circumstances indicate that the repetition of the words in the later law was due to inadvertence. 40 Atty. Gen. 268.

The provisions of 49.40, relating to medical care, do not apply to persons receiving aid under 49.61. 41 Atty. Gen. 126.

See note to 49.18, citing 43 Atty. Gen. 108.

Where the federal government has disallowed federal aid for payments by a county under 49.61 because federal regulations were not complied with, the department of public welfare is obligated to recoup any payments advanced to the county as federal aid; but if the payments made by the county complied with state regulations, the county is to be reimbursed in the prescribed percentage for state aid. 43 Atty. Gen. 125.