

CHAPTER 49

PUBLIC ASSISTANCE

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GENERAL RELIEF

49.002 Legislative declaration. It is declared to be legislative policy that all recipients of general relief shall have maximum exposure to job training and job opportunities through the Wisconsin state employment service as well as other government agencies. Refusal of a bona fide offer of employment or training without good cause, or acceptance and subsequent inadequate performance through wilful neglect, shall necessitate that local, municipal or county welfare officials discontinue general relief payments to such individual. Any Wisconsin taxpayer shall have standing in the circuit court for the purpose of obtaining an injunction to enforce the policy set forth in this section. All personnel shall do their best to get individuals off general relief and into self-supporting productive jobs.

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. The relief furnished, whether by money or otherwise, shall be at such times and in such amounts, as will in the discretion of the relief official or agency meet the needs of the recipient and protect the public.

(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.

(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 30 days unless a medical emergency requires further extension. Notwithstanding the foregoing, whenever anyone leaves this state, and was at the time of his departure eligible as to residential requirements to receive general assistance under this section other than emergency aid, such person upon returning within one year to this state, shall be eligible to receive such general assistance in this state without limitation on the period of relief to be granted so long as the need continues.

Constitutional law: residency requirements 53 MLR 439.

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.

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).

49.04 State dependents. (1) From the appropriation under s. 20.435 (4) (e), 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, but expenses for medical care shall be paid only in those cases in which application for benefits under ss. 49.46 and 49.47 has been made during the first 30-day period and ineligibility for such benefits has been established.

(2) The department 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 department 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 department of administration 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. 20.435 (4) (e) 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: 1971 c. 125.

The state must continue to pay counties for 30 days' temporary assistance even though the one-year residency requirement is no longer constitutional. State ex rel. Milwaukee County v. Schmidt, 50 W (2d) 303, 184 NW (2d) 183.

49.046 Relief of needy Indians. From the appropriation made in s. 20.435 (4) (e) and (o) the department may grant relief to needy Indians not eligible for aid under ss. 49.18, 49.19, 49.20 to 49.37, 49.46 or 49.47, 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 administer 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.

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.

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.

49.08 Recovery of relief paid. (1) If any person at the time of receiving relief under this chapter 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; but except as hereinafter provided the 10-year statute of limitations may be pleaded in defense in any such action to recover relief. Where the relief recipient is deceased, a claim may be filed against his estate and the statute of limitations specified in s. 859.01 shall be exclusively applicable. 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.

49.085 No action against members of the Menominee Indian tribe in certain cases.

No action shall be commenced under s. 46.10, 49.08 or 49.25 or any other provision of law for the recovery from assets distributed to members of the Menominee Indian tribe and others by the United States pursuant to P.L. 83-399, as amended, for the value of relief or old-age assistance under this chapter and the value of maintenance in state institutions under ch. 46, furnished prior to termination date (as defined in s. 70.057 [Stats. 1967]) to any legally enrolled member of the Menominee Indian tribe, his or her dependents, or lawful distributees of such member under section 3, said P.L. 83-399, as amended. For purposes of this section, "legally enrolled members of the Menominee Indian tribe" shall include only those persons whose names appear on "Final Roll-Menominee Indian Tribe of Wisconsin" as proclaimed by the secretary of the interior November 26, 1957, and published at pages 9951 et seq. of the federal register, Thursday, December 12, 1957.

49.09 Removal of dependents. (1) When a dependent person, other than a recipient of old-age assistance, aid to blind, aid to families with 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 is there eligible for relief on the basis of residence, 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 30 days unless a medical emergency requires further extension. If the dependent person is a married woman the fact that the husband cannot be found shall be no bar to such married woman's right to receive relief. In the discretion of the department, however, she may be required to swear out a warrant for nonsupport against her husband before receiving relief.

Subs. (1) and (2) are constitutional. *Vanden Broek (Town of) v. Reitz*, 53 W (2d) 87, 191 NW (2d) 913.

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. A wife living separate from her husband shall, if criminal proceedings have been instituted under s. 52.05, or support proceedings commenced under s. 52.10, begin to acquire legal settlement in her own right as of the date of instituting the criminal proceedings or commencing the support proceedings.

(2) (a) Legitimate minor children have the settlement status of their father if living, or of the mother if their father is deceased, or if their mother has acquired settlement in her own right under sub. (1) and has actual custody of the children; if the parents are divorced, the children have the settlement status of the parent who has legal custody awarded by a court of competent jurisdiction. If no award of legal custody is made, the children have the settlement status of the parent having actual custody but if custody is awarded to other than a parent, such children have no settlement.

(b) Illegitimate children have the settlement of their mother; and if her settlement is lost, theirs is lost.

(c) If parental rights are terminated, notwithstanding any disposition of custody in the same or companion proceedings, the child has no settlement.

(3) (a) Any person, except as otherwise provided in this section, without a settlement in any municipality in a county (which is not operating on the county system), who voluntarily resides in that county one whole year without the receipt of aid, public or private, as a dependent person, gains a settlement in the county. That which interrupts residence toward the gaining or losing of settlement in a municipality likewise interrupts residence toward the gaining or losing of a county settlement. Every such settlement continues until it is lost by acquiring a new one in this state or by so residing for one whole year elsewhere than the county of settlement or by so residing one whole year in a municipality within the county of settlement, and the residence which went toward gaining the county settlement shall, if voluntarily in the municipality, be included toward the gaining of settlement in the municipality.

(b) Any person who has a settlement in any municipality in a county (which is not operating on the county system) who resides elsewhere than said municipality for one whole year so as to lose his settlement in the municipality, but does not gain a settlement in another municipality in the county, and does not reside outside the county for one whole year, so as to lose settlement, has a settlement in the county.

(c) Time spent by any person while residing on land owned, operated or controlled by another municipality or county, shall not be included as a part of the year necessary to acquire a settlement in the town, city, village or county, wherein such lands are located, but shall be included as a part of the year necessary to acquire a settlement in such other municipality or county.

(4) Every person (except as otherwise provided in this section) who voluntarily resides in any municipality or county operating on the county system one whole year without receiving aid, either public or private, as a dependent person, gains a legal settlement therein. Residence by a person within this state under the following circumstances shall not be considered as voluntary and shall be considered as interrupted, and no settlement status shall be changed:

(a) While supported as a dependent person by other than a spouse, parent or child.

(b) While employed on any governmental program as a needy person.

(c) While an inmate or under the control and supervision of any public institution or an inmate of a private institution.

(d) While residing or while employed on any Indian reservation land which is not subject to taxation by the municipality or county wherein such land is located.

(e) While under confinement or on probation or parole under the state or federal criminal statutes.

(f) While supported in whole or in part in any institution or foster home as a public charge.

(5) Time spent in the armed forces on active duty exceeding 30 days in the aggregate per annum shall not be included as part of the year necessary to change settlement status.

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

(7) Every settlement continues until it is lost by voluntarily acquiring a new one in this state or by voluntarily residing for one whole year elsewhere than the municipality or county in which such settlement exists; and upon voluntarily acquiring a new settlement or upon voluntarily residing one whole year elsewhere than the municipality or county 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 is the day on which the divorce is granted and not the termination of the period 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, has 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) 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 January 1, 1960.

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

(12) In addition to the definitions in s. 49.01, the following definitions apply to this section:

(a) "Settlement status" includes persons with or without a legal settlement in this state.

(b) "Legitimate child" includes children born or conceived in wedlock or legitimated pursuant to law or legally adopted.

(c) "Residence" is the voluntary concurrence of physical presence with intent to remain in a place of fixed habitation. Physical presence shall be prima facie evidence of intent to remain.

(d) "Voluntary" means according to a person's free choice, if competent, or by choice of a guardian if incompetent.

(e) "Confinement" means legal detention of a person after imposition of sentence in any prison, jail, house of correction, prison camp or similar correctional facility, and includes the provisions of s. 56.08.

(f) "Institution" means a facility within this state for congregate care or correction and includes the following:

1. Public. Wisconsin state prison; Wisconsin correctional institution; Wisconsin state reformatory; Wisconsin home for women; Wisconsin school for boys; Wisconsin school for girls; county jails or houses of correction; Wisconsin child center; northern Wisconsin, southern Wisconsin and central Wisconsin colonies and training schools; Mendota, Winnebago and Central state hospitals; Wisconsin school for visually handicapped; Wisconsin school for the deaf; federal, state, county or municipal hospitals, asylums, infirmaries, tuberculosis sanatoriums or homes for the aged; veterans' hospitals, domiciliarys and homes.

2. Private. Private or denominational centers, schools or homes for neglected, dependent or delinquent children; foster homes (licensed); nursing homes (licensed); lodge, society or benevolent homes; tuberculosis sanatoriums; mental hospitals.

49.105 Legal settlement in Menominee county. Every person who on termination date as defined in s. 70.057 [Stats. 1967] would have legal settlement in Menominee county as determined under s. 49.10 but for the exception contained in s. 49.10 (4) for time spent while residing or while employed on an Indian reservation, shall be deemed to have legal settlement in Menominee county on termination date.

49.11 Legal settlement, collection from.

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

(2) **RIGHT TO COLLECT FROM PLACE OF SETTLEMENT.** The county or municipality in which the relief recipient has his settlement shall be chargeable with relief furnished. If the relief re-

ipient has no settlement in this state, then the county wherein the relief is furnished shall be chargeable with such relief; and the state shall reimburse for relief charges when the person has no settlement and until such person has had residence in this state for a period of one year, pursuant to s. 49.04. All notices of claims to the department or to counties or municipalities of legal settlement for reimbursement for general relief provided by other counties or municipalities, in or outside the county of legal settlement, shall be accompanied by a sworn statement of the relief granting agency. The statement shall certify that the relief recipient has been informed of the benefits and eligibility requirements under the federally funded medical and public assistance program and that such recipient has been determined to be ineligible by the relief granting agency if the recipient is clearly ineligible or, otherwise, by the appropriate county agency, along with an explanation of the reasons for such ineligibility, or that an application for medical or public assistance is pending or approved.

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

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

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

(c) *When county settlement or no settlement.* When the relief recipient claims to have county settlement or no settlement, the charges for the relief furnished may be recovered by the furnishing municipality directly from the county wherein the relief is furnished, and if such recipi-

ent has no settlement and has not resided in this state for at least one year, the county may, in turn, recover from the state under s. 49.04.

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

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

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

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

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

(4) **PROCEDURES FOR RECOVERY.** When the municipality furnishing relief is not the municipality of settlement, a nonresident notice shall be served upon the municipality of claimed settlement as hereinafter provided. Such nonresident notice shall be on a standard form prescribed by the department and shall contain the following: The name of the municipality or county furnishing relief; the name, residence and birth dates of the persons receiving relief and of all the members of his household; the name of the county or municipality in which settlement is claimed and the facts upon which such claim is based; the date on which relief was first furnished; a copy of the sworn statement as described in s. 49.11

(1) The effect of this nonresident notice shall lapse when there is no general relief furnished to the person or his family for a period of 6 months. The effect of the nonresident notice may be reinstated, at any time, by notice (on forms prescribed by the department) by certified mail by the furnishing municipality or county to the municipality or county chargeable, within 30 days after the new relief is furnished, after such lapse of 6 months, and forwarded in the same manner as the original nonresident notice.

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

(b) *Transmittal of notices, replies and claims.*

1. When settlement is claimed in a county or a municipality in other than the furnishing county, the nonresident notice shall be completed by the furnishing municipality or county, and transmitted to the county clerk of the county

wherein the relief was furnished (except in counties on the county system, wherein the county clerk is the initiating agent), who shall in turn, transmit said notice to the county clerk of the county in which settlement is claimed. In counties operating under the municipal system of relief, it is the duty of the county clerk to forward such nonresident notice to the clerk of the municipality of claimed settlement.

2. Denials or acknowledgments of responsibility shall be mailed directly to the municipality or county furnishing relief with copies being sent to all forwarding agencies.

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

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

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

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

ing municipality the transmittal shall be in the same manner as if such county of claimed settlement were operating under a county system of relief.

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

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

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

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

(f) *Penalty for failure to timely file.* 1. Failure to timely initiate or transmit a nonresident notice or an acknowledgment or denial shall be a bar to recovery or a right to deny recovery until such notices are received. If the furnishing municipality or county claims settlement of a relief recipient to be in a municipality in a county operating under a municipal system, and later discovers that settlement is in another municipality within the same county, an amended nonresident notice may be filed, and if done within 40 days of the date on which relief is furnished, the effect of such nonresident notice shall revert to the date on which such relief was first furnished.

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

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

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

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

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

(6) **WHO MAY SUE.** (a) *County.* Upon receipt

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

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

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

(b) *Pleadings and hearing.* Such proceedings shall be commenced by complaint which shall be entitled "Before the department of health and social services of Wisconsin". The complaint shall contain the names of the parties and matters and prayers as in complaints generally. It may be served, with sufficient copies, upon the department by registered or certified mail; the department shall then note such service upon the original complaint and so notify the claimant. The department shall immediately transmit a copy by registered or certified mail to the defendant county or municipality, which shall have 20 days from the time of the mailing of such copy by registered or certified mail to serve

an answer, with sufficient copies, upon the department. The department shall acknowledge such service and mail a copy of the answer to the claimant. When the department has determined that the matter is at issue, it shall notify the parties of the time and place of hearing thereon and in its discretion may continue or adjourn such hearing for a reasonable period. The department shall make its findings and order and transmit copies thereof to the parties by registered or certified mail as soon as possible after such hearing.

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

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

(e) *State special charge.* When a matter is finally determined on appeal, or if no appeal is taken within the prescribed time, the amount owing by a county or municipality shall be certified by the department to the department of administration 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 department of administration.

49.12 Penalties; evidence. (1) Any person who, with intent to secure public assistance under ch. 49, whether for himself or for some other person, wilfully makes any false representations may, 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 10 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, checks, vouchers or any other thing of value furnished him as relief for purposes other than as directed by the county or municipality furnishing such relief shall be punished as provided in sub. (2).

(8) Any person who makes any statement in a written application for aid under this chapter 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 10 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.

(10) Any person who accepts a relief voucher granted as relief and fails to tender the commodities authorized by the relief authorities to the relief recipient but in lieu thereof refunds to the relief recipient cash or substitutes any intoxicating liquor or malt beverage or cigarettes not authorized by the relief voucher shall be considered to have committed a fraud and the penalties provided in sub. (1) shall apply to said person.

History: 1971 c. 182.

49.13 General relief and public assistance applications; verifications and documentation. Any person who applies for either general relief or any other public assistance aid shall be required to execute the application or self-declaration if the latter is utilized in the presence of the welfare worker or other person processing the application.

History: 1971 c. 334.

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.

(5) The uniform accounting system established by s. 146.30 (14) shall be used by each county home and shall be subject to the conditions enumerated therein.

History: 1971 c. 125.

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 indefinite 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.

49.16 County hospital; establishment. (1) Each county may establish a county hospital for the treatment of dependent persons, pursuant to s. 46.17, and other persons authorized under s. 46.21 (2) (b).

(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.

(3) The uniform accounting system established by s. 146.30 (14) shall be used by each county hospital and shall be subject to the conditions enumerated therein.

History: 1971 c. 125.

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 department 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.

(4) The uniform accounting system established by s. 146.30 (14) shall be used by each county infirmary and shall be subject to the conditions enumerated therein.

History: 1971 c. 125.

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 department 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

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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.

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 department under s. 46.18 (8), (9) and (10):

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

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

(c) If a patient has a legal settlement in some other county of this state, 50% of such cost, by the county of his legal settlement. The procedure for making such reimbursement shall be as provided by s. 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 department 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 revenue as provided in s. 73.10 (5) and (6) as soon as practicable 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 s. 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 ss. 49.173 and 46.106 shall be carried into the next such settlement.

History: 1971 c. 108 ss. 5, 6; 1971 c. 125 s. 523

49.174 Fees and expenses of proceedings.

The fees of examining physicians, witness-

es and guardians ad litem and other expenses of proceedings under ss. 49.171 to 49.173 shall be governed by s. 51.07.

49.175 County residential care institution; establishment. Any county or combination of counties may establish and staff a county residential care institution for the reception and care of dependent persons. It shall be governed as provided by the county board. The institution shall be licensed under s. 146.32 by the department. State aid shall be paid as provided by the formula and rules under s. 49.173.

History: 1971 c. 216

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 the first \$85 plus one-half of the excess over \$85 of payments made to or on behalf of any person for or with respect to any month under Title I or II of the federal economic opportunity act of 1964 or such payment made to or in behalf of any person and any excess remaining after this exclusion shall be considered as income for any other individual only to the extent made available to or for the benefit of such other individual and except that as permitted or required for federal aid in making such determination of need, the first \$85 per month of earned income together with one-half of any earned income in excess of the first \$85 shall be disregarded in determining such amount. 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 families with dependent children or aid to totally and permanently disabled persons. Under a plan approved by the department a recipient may during a period not in excess of 12 months accumulate additional amounts of other income and resources for the purpose of achieving self-support through self-activity as set out in the approved plan.

(b) For the purposes of this section, "aid to the blind" means money payments, or vendor payments as prescribed by the department, to such blind person, to another individual when such individual has been appointed by a court of competent jurisdiction as a legal representative of the needy blind person or to another individual who

has been designated by the county welfare agency in cases approved by the state department to receive payment of the aid, or medical care in behalf of or any type of remedial care recognized under this section or s. 49.46 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 who is a patient in an institution for tuberculosis or mental diseases. 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. Aid to the blind shall also be granted to blind 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. The rate of payment for skilled nursing care provided under this section shall be determined by the county under guidelines established by the department pursuant to s. 49.45 (6m). Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed 80% of the applicable Title XIX skilled care rate.

(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 \$750 in cash and liquid assets for emergency use but such \$750 exemption shall not be subject to control by the county agency; and withdrawal for other than emergency purposes from such \$750 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.

6. Income or other resources in excess of the amount permitted under this paragraph held pursuant to par. (a) for the purpose of a plan for achieving self-support.

(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 \$300 shall be paid for such expenses as the county agency directs, exclusive of and in addition to the actual cemetery charges which shall also be paid by the county responsible for the burial of the recipient.

(2) To entitle an applicant to such aid:

(a) He must have allowed the county agency 15 to 30 days to process his application and, if not already a resident of the county, have notified the agency of his intent to establish residence in the county. Payments of aid to eligible individuals will not be retroactive beyond the

first of the month in which eligibility is established;

(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 an 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 prescribes.

(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 department, 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, except that the director of the county agency may, in his discretion for the purpose of protecting the public, direct that the monthly allowance be paid in 2 or more instalments.

(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 families with dependent children under s. 49.19, old-age assistance under ss. 49.20 to 49.37 or aid to totally and permanently disabled persons under s. 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.

(11) Persons who are members of the Grand Army home for veterans at King may be granted aid to the blind if they are otherwise eligible for such aid pursuant to this chapter. The provisions of s. 45.37 (9) shall not apply to money payments of aid to the blind paid to or in behalf of such members.

(12) In accordance with s. 20.435 (4) (d), any grants to persons under this section shall equal 92% of need beginning on December 1, 1971, and 95% of need beginning July 1, 1972. Need shall be based on standards updated to reflect November 1970 prices.

History: 1971 c. 125, 215, 217.

Cross Reference: See 49.54 for exclusion of certain social security benefits from income determinations under this section.

AID TO DEPENDENT CHILDREN

49.19 Aid to families with dependent children. (1) (a) In this section, "dependent child" 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, or the unemployment of his father, 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, or a child-caring institution licensed under s. 48 60 and placed in such home or institution by a county agency pursuant to ch. 48 or by the department.

(b) Any individual may apply for aid to families with dependent children and 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) "Aid to families with dependent children" means money payments with respect to, or vendor payments as prescribed by the department, or medical care in behalf of or any type of remedial care recognized under subs. (1) to (10) or s. 49.46 or necessary burial expenses as defined in sub. (5) in behalf of a dependent child or dependent children including such aid to meet the needs of the relative with whom any dependent child is living and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or payments made to another individual not a relative enumerated under par. (a), pursuant to federal regulations, when such individual has been appointed by a court of competent jurisdiction as a legal representative of the dependent child or when such individual who may be a caseworker has been designated by the county welfare department to receive payment of the aid or cash payments to recipients who are engaged in an approved work relief or training project. The rate of payment for skilled nursing care provided under this section shall be determined by the county under guidelines established by the department pursuant to s. 49.45 (6m). Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed 80% of the applicable Title XIX skilled care rate.

(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 and a finding of eligibility, aid as defined in sub. (1) shall be granted by the county welfare depart-

ment 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 department, 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, except that the director of the county agency may, in his discretion for the purpose of protecting the public, direct that the monthly allowance be paid in 2 or more instalments.

(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, but not for a child 18 years of age or older.

(b) The person applying for aid has allowed the county agent 15 to 30 days to process his application and, if not already a resident of the county, has notified the agency of his intent to establish residence in the county. Payments of aid to eligible individuals will not be retroactive beyond the first of the month in which eligibility is established.

(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) Aid may be granted to the mother or stepmother of a dependent child if she is without a husband unless she:

1. Is the wife of a husband who is incapacitated for gainful work by mental or physical disability; or

2. Is the wife of a husband who has been sentenced to a penal institution; or

3. Is the wife of a husband who has been committed to the department pursuant to ch. 975, irrespective of the probable period of such commitment; or

4. Is the wife of a husband who has continuously abandoned or failed to support her, if the

husband has been legally charged with abandonment under s. 52.05 or with failure to support under s. 52.055 or in proceedings commenced under s. 52.10; or

5. Has been divorced and is without a husband or legally separated from her husband and is unable through use of the provisions of law to compel her former husband to adequately support the child for whom aid is sought; or

6. Has commenced an action for divorce or legal separation and obtained a temporary order for support under s. 247.23 which order is either insufficient to adequately meet the needs of the child or cannot be enforced through the provisions of law; or

7. Has obtained an order under s. 247.08 from the court to compel support, which order is either insufficient to adequately meet the needs of the child or cannot be enforced through the provisions of law; or

8. Is incapacitated and the county agency believes she is the proper payee.

(dm) Aid may be paid to parents of a dependent child if the parents are unable to supply the needs of the child because of unemployment of the father who meets the federal requirements as to past employment and current unemployment. Aid to dependent children of unemployed parents may be granted only so long as federal aid for this purpose is available to the state. No aid shall be granted when the father: 1) refuses to register with the state employment service or to maintain a current registration with such service; or 2) is receiving unemployment compensation. No aid shall be granted to the father when the father: 1) refuses to participate in a training program; or 2) refuses suitable employment.

(e) The ownership of 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, 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 house trailer 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. Notwithstanding the foregoing a mother who has resided in this state for one year immediately preceding her departure from this state and has returned to this state within one year may be granted such aid if otherwise eligible. 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 excluded under s. 49.18 (1) (a) as well as expenses shall be considered, and except all income of each dependent child included in the grant who is a full-time student; a part-time student who is not a full-time employe attending a school, college, university or a course of vocational or technical training designed to fit him for gainful employment and except all the earned income of any other child or other individual living in the same home as the child and whose needs are taken into account in determining the budget the first \$30 of the total of such earned income for such month plus one-third of the remainder of such income shall not be counted in determining the family income, but this exclusion shall not apply to earned income derived from a training or retraining project or in the case of any person who terminates or reduces his income, terminates his employment or refuses employment without good cause, except that the department may adjust this earned income provision by rule to conform to changes made in federal regulations when such adjustment is approved by the joint committee on finance. 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. The aid allowed under this subsection may be given in the form of supplies or commodities or vouchers for the same, in lieu of money, as a type of remedial care authorized under sub (1) (c), whenever the giving of aid in such form is deemed advisable by the county welfare director dispensing such aid as a means either of attempting to rehabilitate a particular person having the care and custody of any such

children or of preventing the misuse or mismanagement by such person of aid in the form of money payments. Not to exceed \$300 shall be allowed to cover the funeral and burial expenses of a dependent child or its parents, exclusive of and in addition to the actual cemetery charges which shall also be paid by the county responsible for the burial of the recipient. 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.

(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) (a) 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 counties pursuant to the procedure and the percentage rate of participation set forth in s. 49.52 for aid granted under this subsection except that if the child does not have legal settlement in the granting county, state reimbursement shall be at 100%. The county agency shall determine the legal settlement of the child. 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.

(b) Aid under this section may also be granted on behalf of a child in the legal custody of a county agency providing child welfare services when such child is placed in a licensed child-caring institution by such county agency. Reimbursement shall be made by the state pursuant to par. (a).

(c) Reimbursement under par. (a) may also be paid to the county when the child is placed in a licensed foster home or child-caring institution by a licensed child welfare agency, if the child is in the legal custody of the county agency providing child welfare services and the placement is made pursuant to an agreement with the county agency.

(d) Aid may also be paid under this section to a foster home or to a child-care institution by the state when the child is in the custody or guardianship of the state. The county of legal settlement shall be liable for its pro rata share pursuant to s. 49.52 of any such aid paid, except that if the child is without legal settlement, there shall be no county liability.

(11) In accordance with s. 20.435 (4) (d), any grants to persons or to families with dependent children under this section shall equal 92% of need beginning on December 1, 1971, and 95% of need beginning July 1, 1972. Need shall be based on standards updated to reflect November 1970 prices.

History: 1971 c. 125, 215, 217.

Cross Reference: See 49.54 for exclusion of certain social security benefits from income determinations under this section.

See note to Art. I, sec. 1, citing *Alvarado v. Schmidt*, 317 F Supp. 1027.

Various provisions of sub (4) (d) are invalid as inconsistent with the Social Security Act *Doe v. Schmidt*, 330 F Supp. 159.

Unconstitutional conditions on welfare eligibility *Redlich*, 1970 WLR 450.

49.195 Recovery of aid to families with dependent children.

(1) If any parent at the time of receiving aid under s. 49.19 or at any time thereafter acquires property by gift, inheritance, sale of assets, court judgment or settlement of any damage claim, the county granting such aid may sue said parent to recover the value of that portion of the aid which does not exceed the amount of the property so acquired. During the life of said parent, the 10-year statute of limitations may be pleaded in defense against any suit for recovery under this section; and if such property is his homestead it shall be exempt from execution on the judgment of recovery until his death or sale of the property, whichever occurs first. Notwithstanding the foregoing restrictions and limitations, where the aid recipient is deceased a claim may be filed against any property in his estate and the statute of limitations specified in s. 859.01 shall be exclusively applicable. The court may refuse to render judgment or allow the claim in any case where a parent, spouse or child is dependent on such property for support, and the court in rendering judgment shall take into account the current family budget requirement as fixed by

the U.S. department of labor for the community or as fixed by the authorities of such community in charge of public assistance. The records kept by the county are prima facie evidence of the value of the aid furnished. Liability under this section shall extend to any stepfather whose family receives aid under s. 49.19 during the period he is a member of the same household, but his liability is limited to such period. This section does not apply to medical and health assistance payments for which recovery is prohibited or restricted by federal law or regulation.

(2) Amounts may be recovered pursuant to this section for aid granted both prior to and after August 31, 1969; and any amounts so recovered shall be paid to the United States, this state and its political subdivisions in the proportion in which they contributed to the payment of the aid granted, in the same manner as amounts recovered for old-age assistance are paid.

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 department. 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. 49.52.

(2) The term "old-age assistance" means money payments, or vendor payments as prescribed by the department, to such aged, dependent person, to another individual when such individual has been appointed by a court of competent jurisdiction as a legal representative of such needy aged person or to another individual who has been designated by the county welfare agency in cases approved by the state department to receive payment of aid or medical care in behalf of or any type of remedial care recognized under ss. 49.20 to 49.37 or 49.46 or 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 who is a patient in an institution for tuberculosis. 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. The rate of payment for skilled nursing care provided under this section shall be determined by the county, under guidelines established by the department pursuant to s. 49.45 (6m). Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed 80% of the applicable Title XIX skilled care rate.

(3) In accordance with s. 20.435 (4) (d), any grants to persons under this section shall equal 92% of need beginning on December 1, 1971, and 95% of need beginning July 1, 1972. Need shall be based on standards updated to reflect November 1970 prices.

History: 1971 c. 125, 215, 217.

49.22 Persons eligible. (1) Any needy person who complies with ss. 49.20 to 49.37 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 that the first \$85 plus one-half of the excess over \$85 of payments made to or on behalf of any person for or with respect to any month under Title I or II of the federal economic opportunity act of 1964 or such payment made to or in behalf of any person and any excess remaining after this exclusion shall be considered as income for any other individual only to the extent made available to or for the benefit of such other individual and except in making such determination, of the first \$80 per month of income which is earned there shall be disregarded not more than the first \$20 thereof plus one-half of the remainder and except as provided by s. 49.18 (1)(a), as well as expenses shall be considered, the payment of the aid to be made monthly, except that the director of the county agency may, for the purpose of protecting the public, direct that the monthly allowance be paid in 2 or more instalments. 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 allowed the county agency 15 to 30 days to process his application and, if not al-

ready a resident of the county, has notified the agency of his intent to establish residence in the county. Payments of aid to eligible individuals will not be retroactive beyond the first of the month in which eligibility is established.

(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. \$750 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 cannot 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 \$400. 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 49.37 or 49.46 furnished by such agency or other county agencies (on a prorata 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.

Cross Reference: See 49.54 for exclusion of certain social security benefits from income determinations under this section.

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.

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 ss. 49.30 and 49.40 [Stats. 1963] as old-age assistance) shall be a claim against his estate, but such claim shall not take precedence over the allowances under ss. 861.31, 861.33 and 861.35 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 s. 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.

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.

(c) After probate or administration proceedings have been initiated and notice to creditors is given, as required by s. 859.07, and it appears from the inventory filed in said estate that the county claim for old-age assistance exceeds the value of estate assets, after deducting such expenses as provided in sub. (5) (b) and (c), the court may order summary closing proceedings under s. 867.01 and assign the real estate, if any, to the county agency which has the claim against the estate.

(4) **CERTIFICATE OF LIEN, FILING.** All old-age assistance paid to any beneficiary (including aid paid under ss. 49.30 and 49.40 [Stats. 1963] 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 49.37 and 49.40 [Stats. 1963] 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, cost of terminating joint tenancies, or cost of proceedings to establish descent of real estate or to establish heirship, and for hospitalization, nursing and professional medical care furnished such decedent during his last sickness, not to exceed \$400 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 \$400 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.

(5m) **SALE BY BENEFICIARY; EXPENSES OF SALE.** Where the agency is satisfied that the sale of property other than the homestead, subject to the county's lien, is necessary and to the interest of the county, it may permit the beneficiary to sell the property pursuant to a duly executed contract approved by the agency, between the beneficiary and a broker; and from the proceeds of any sale thereunder, the broker's commission and attorney's fees in connection with the sale, and any taxes, shall be paid prior to the application of any proceeds on the county's lien.

(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.

History: 1971 c. 211 s. 126.

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

(2) If a person eligible for or receiving old-age assistance, aid to the totally and permanently disabled or aid to the blind goes to another county to reside in a private tax-exempt, charitable, benevolent or fraternal institution or home for the aged, or a county home, or a municipal home, or a private nursing or convalescent home, and continues to be eligible for old-age assistance, aid to the totally and permanently disabled or aid to the blind as defined in this chapter while therein residing, he shall receive such assistance, including care given under s. 49.46, 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 the 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 the totally and permanently disabled or aid to the blind as defined in this chapter while therein residing, he shall receive such assistance, including care given under s. 49.46, 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.

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 assis-

tance is allowed stating the date upon which payments shall commence and the amount allowed for each month.

(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, if the estate of the deceased is insufficient to defray the funeral and burial expenses, such reasonable funeral and burial expenses shall be paid to such persons as the county agency directs; provided, that these expenses do not exceed \$300, exclusive of and in addition to the actual cemetery charges which shall also be paid by the county responsible for the burial of the recipient.

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 49.37, 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. (1) The county board shall annually appropriate a sum of money sufficient to carry out the provisions of ss. 49.20 to 49.37, 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.

49.41 Assistance grants exempt from levy. All grants of old-age assistance, aid to families with 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.

MEDICAL ASSISTANCE

49.45 Medical assistance; administration. (1) **PURPOSE.** To provide appropriate health care for eligible persons and obtain the most benefits available under Title XIX of the federal social security act, the department shall administer medical assistance, rehabilitative and other services to help eligible individuals and families attain or retain capability for independence or self-care as hereinafter provided.

(2) **DUTIES.** (a) The department shall:

1. Exercise responsibility relating to fiscal matters, the eligibility for benefits under standards set forth in ss. 49.46 and 49.47 and general supervision of the medical assistance program;

2. Employ necessary personnel under the classified service for the efficient and economical performance of the program and shall supply residents of this state with information concerning the program and procedures;

3. Determine the eligibility of persons for medical assistance, rehabilitative and social services pursuant to ss. 49.46 and 49.47 and rules and policies adopted by the department and may designate this function to the county agency administering the social security aid program;

4. Certify all proper charges and claims for administrative services to the department of administration for payment and the department of administration shall draw its warrant forthwith;

5. Cooperate with the division for handicapped children of the department of public instruction to carry out the provisions of Title XIX;

6. Appoint such advisory committees as are necessary and proper; and

7. Co-operate with the federal authorities for the purpose of providing the assistance and ser-

vices available under Title XIX to obtain the best financial reimbursement available to the state from federal funds.

(b) The department may:

1. Designate other functions, responsibilities and services as may be appropriate to be performed by the county welfare agency in each county;

2. Contract with nonprofit organizations incorporated or existing under and by virtue of s. 148.03, 182.032 or 447.13 or with insurance companies licensed and authorized to do business in this state, to administer the benefits under the medical assistance program in full or in part for and in behalf of the department and may accept the contract deemed most advantageous to the department for such administrative services;

3. Audit all claims filed by any contractor making the payment of benefits paid under ss. 49.46 and 49.47 and make proper fiscal adjustments.

(3) REIMBURSEMENT. (a) Reimbursement shall be made to each county agency for the administrative services performed in the medical assistance program on the basis of s. 49.52(1)(b) and (2).

(b) The contractor, if any, making payment of benefits under s. 49.46 or 49.47 shall be entitled to reimbursement from the department for benefits so paid when a certification of eligibility is properly on file with the contractor in addition to the payment of administrative expense incurred pursuant to the contract and as provided in sub. (2)(a) 4, but the contractor shall not be reimbursed for benefits erroneously paid where no certification is on file.

(4) INFORMATION RESTRICTED. The use or disclosure of any information concerning applicants and recipients of medical assistance not connected with the administration of this section is prohibited.

(5) APPEAL. Any person whose application for medical assistance is denied or is not acted upon promptly or who believes that the payments made in his behalf have not been properly determined may file an appeal with the department pursuant to s. 49.50(8).

(6) PAYMENTS. Payment for services provided under this section shall be made directly to the hospital, skilled nursing home, other organization or individual providing such services and no additional charge shall be made to the beneficiary of such service by such hospital, skilled nursing home, other organization or individual who provided such service except for or to the extent that benefits are not provided pursuant to this section.

(6m) PAYMENT TO NURSING HOMES. (a) Reimbursement for skilled nursing home care provided to nursing home patients under s. 20.435 (4) (c) and (o) shall be made according to the following schedule:

1. A state-wide daily rate.

2. A regional adjustment not to exceed a certain dollar amount above or below the state-wide rate.

3. A supplement to a facility that has a remaining debt retirement cost in excess of \$10,000 per bed and based on the actual interest costs up to a rate of 8% annually. Public and private gifts and grants shall not be included in determining the per bed cost. Per bed per day debt retirement costs shall be based on actual debt retirement payments less principal plus allowable straight-line depreciation. Construction costs exceeding cost standards under the Hill-Burton Act, or not related to nursing care shall not be included in the determination of eligibility under this provision. An adjustment shall be granted only for that remaining debt retirement in excess of \$10,000 per bed. This provision is applicable only to facilities in operation as of July 1, 1972, except that facilities commencing operation after that date may be granted this supplement by the department. These supplements shall be reviewed and adjusted annually.

4. A financial supplement for patients needing maximum care as determined by the department.

5. Upon the approval of the program medical director, an additional daily supplement of not to exceed 40% of the daily rate can be made on his evaluation of exceptional care needs for not more than 75 patients state-wide at any time.

6. A reduction not to exceed a specified amount for any home which is exempt from the payment of property taxes.

7. A financial supplement not to exceed a designated percentage of the state-wide base rate for homes providing nursing care in quality and quantity above state standards but limited to maximum standards, or a rate reduction not to exceed a designated percentage of the state-wide base rate for homes providing nursing care in quality and quantity below average state standards.

8. The specific dollar amounts for each component set forth above in subs. 1, 2, 4 and 6, and the designated percentage for the component set forth in subd. 7 shall be established in the biennial budget, except that the joint committee on finance shall adjust the state-wide rate annually. The department of health and social services shall report such figures to the joint committee on finance no later than March 1 of each odd-numbered year.

(b) No payments may be made to skilled nursing homes which hold only provisional licenses.

(c) Ancillary services shall be an allowable cost if not billed for as a separate item, but the facility's established practice of billing for ancillary charges as of July 1, 1971, shall not be changed without approval of the department.

(d) The department shall take into account all pertinent federal regulations in establishing reimbursement under this section.

(e) Counties may make payments for skilled nursing care provided under ss. 49.18, 49.19, 49.20 and 49.61 at 100% of the reimbursement rate provided in this subsection if the following conditions are met:

1. The nursing home is certified by the department to meet all the physical and operational requirements for reimbursement under the medical assistance (Title XIX) program and this subsection and will continue to meet all of such requirements;

2. The department will review or has a written agreement with the county agency to review the status and care needs of the patients in accordance with federal and state regulations and requirements;

4. The department shall make the final determinations in regard to establishing all the adjustments and supplements to the base rate that are provided for in this subsection. The county shall obtain the department's approval prior to any final agreement for reimbursement with a facility for care. Counties may make payments for skilled nursing care at 95% of reimbursement rate provided in this subsection if the home meets all the state requirements for providing such care and all the conditions of this paragraph except subd. 1.

(g) The applicable Title XIX skilled care rate as used in ss. 49.18 (1) (b), 49.19 (1) (c), 49.20 (2) and 49.61 (1m) shall mean the rate determined by the department for each county in accordance with par. (a) 1 and 2.

(h) The governor shall appoint an appeal board, consisting of 7 members for 2-year terms. Members shall include 2 representatives of the nursing home industry, which shall be rotated among the representatives of the different types of homes in the industry, individuals who through their experience and training are knowledgeable in the determination of wage rates and labor markets, the nursing care and needs of individuals, and the interest of the general public. The appeal board shall review petitions from nursing homes providing Title XIX, state skilled, limited and personal care, for modifications to any reimbursement rate under this subsection for such homes. Upon the findings and

recommendations of the appeal board, the secretary of health and social services shall grant such modifications, which may exceed maximums under this section but may not exceed any applicable federal maximums. The board may, upon the presentation of facts, recommend modifications of a home's care rate where demonstrated substantial inequities exist including those resulting from the following, without limitation because of enumeration:

1. Wages, salaries and related benefit costs.

2. Historical capital construction costs.

3. Exceptional care factors.

(i) For the purposes of this subsection and as a condition of reimbursement under this subsection, every skilled nursing home shall:

1. Adopt the uniform accounting system prescribed by the department;

2. Provide the department with a certified annual audit report at the home's expense; and

3. Cooperate with the department in establishing costs for reimbursement purposes.

(7) PENALTY. Any person who receives or assists another in receiving assistance under this section, to which he is not entitled, shall be subject to the penalties under s. 49.12.

(8) RECOVERY OF PAYMENT. (a) If any person at the time of receiving aid under s. 49.46 or 49.47 or at any time thereafter is the owner of property, the county granting such aid may sue such person or his estate for the value of the aid received and recover such aids. Except as hereinafter provided, the 10-year statute of limitations may be pleaded in defense in any such action. Any benefits paid incorrectly may be collected from the beneficiary or from his estate. Where the aid recipient is deceased, a claim may be filed against his estate and the statute of limitations specified in s. 859.01 shall be exclusively applicable. The records kept by the county are prima facie evidence of the value of the aid furnished. While an aid recipient is living, only his property and resources in excess of his eligibility is subject to recovery under this section. As to medical assistance, this section applies only to an estate of an individual who was aged 65 or older when he received such assistance and then only after his surviving spouse, if any, is deceased and if he left no surviving child under age 18 or is blind or permanently and totally disabled.

(b) All amounts recovered pursuant to this section shall be deposited in the state treasury and the net amount recovered shall be prorated among the federal government, the state and the county on the basis of the proportionate amount which each contributed.

(9) FREE CHOICE. Any person eligible for

medical assistance under ss. 49.46 and 49.47 may be entitled to use the physician, podiatrist, dentist, pharmacist, hospital, skilled nursing home or other provider of care of his choice, except that free choice of skilled nursing home shall be limited by the department so as to provide only care which is necessary to meet the medical and nursing needs of the patient. Nothing herein shall vitiate the legal responsibility of the physician, podiatrist or dentist or hospital to patients and all contract and tort relationships with patients shall remain as though dealings are direct between the physician, podiatrist, dentist or hospital and the patient. No physician, podiatrist or dentist shall be required to practice exclusively in the medical assistance program.

(10) **RULE-MAKING POWERS.** The department is authorized to make such rules as are consistent with its duties in administering medical assistance.

(11) **DEFINITIONS.** As used in this section, unless the context indicates otherwise:

(a) 1. "Charge" means the customary, usual and reasonable demand for payment as established by the department for services, care or commodities which does not exceed the general level of charges by others who render such service or care, or provide such commodities, under similar or comparable circumstances within the community in which the charge is incurred.

(b) "Hospital" means an institution, approved by the appropriate state agency, providing 24-hour continuous nursing service to patients confined therein; which provides standard dietary, nursing, diagnostic and therapeutic facilities; and whose professional staff is composed only of physicians and surgeons, or of physicians and surgeons and doctors of dental surgery.

(c) "Physician" means a person licensed to practice medicine and surgery, and includes graduates of osteopathic colleges holding an unlimited license to practice medicine and surgery.

(d) "Dentist" means a person licensed to practice dentistry.

(e) "Skilled nursing home" means a facility licensed or approved by the department for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care and which employs sufficient registered nursing practitioners for supervision of those giving nursing care to patients.

(f) "Podiatrist" means a person licensed to practice podiatry as defined in s. 448.10(1).

(g) "Intermediate care facility" means:

1. An institution which is licensed under state law to provide, on a regular basis, health related care and services to individuals who do not re-

quire the degree of care and treatment which a hospital or skilled nursing home is designated to provide but who because of their mental or physical condition require care and services above the level of room and board, which can be made available to them only through institutional facilities; or

2. A public institution, or distinct part thereof, for the mentally retarded or persons with related conditions, the primary purpose of which is to provide health or rehabilitative services for mentally retarded individuals according to rules promulgated by the department.

History: 1971 c. 40 s. 93; 1971 c. 42, 125; 1971 c. 213 s. 5; 1971 c. 215, 217, 307.

Note: See section 7 of ch. 217, laws of 1971, for provisions as to nursing home reimbursement under sub. (6m).

A contract between the trustees of a nursing home and a medical clinic for exclusive medical services under the medical assistance act for residents of such home violates public policy of this state. 59 Atty. Gen. 68.

49.46 Medical assistance; recipients of social security aids.

(1) **ELIGIBILITY.** (a) All persons included in the grant of old-age assistance, aid to families with dependent children, aid to the blind or aid to totally and permanently disabled shall be furnished medical assistance pursuant to this section.

(b) Any person shall be considered a recipient of aid for 2 months prior to the month of application if the proper agency determines eligibility existed during such prior month.

(c) Medical assistance shall be paid to any person currently not receiving old-age assistance, aid to the blind, aid to families with dependent children or aid to totally and permanently disabled persons if the only reason that such person is not eligible for such aid is the lack of the required period of residence within the state.

(d) For the purposes of this section:

1. Children placed in licensed foster homes by the department and which children would be eligible for payment of aid to families with dependent children in foster homes except that such placement is not made by a county agency will be considered as recipients of aid to families with dependent children.

2. Any person who would be eligible for aid to the blind, old-age assistance or aid to totally and permanently disabled except that his income and resources are sufficient to meet his budgetary needs as computed pursuant to s. 49.18(1)(a), 49.22(1) or 49.61(6) but who is living in an approved medical facility and does not have sufficient income and resources to meet his expenses while living in such facility shall be considered a recipient for purposes of this section.

(e) If an application under s. 49.47 (3) shows that the income and resources are within the limitations of the old-age assistance, aid to the blind, aid to families with dependent children, or aid to totally and permanently disabled persons programs, the person shall be granted the benefits enumerated under sub. (2) whether or not such person requests or receives a grant of any of such aids.

(2) **BENEFITS.** The department shall audit and pay charges made in accordance with s. 49.45(11)(a) for medical assistance to recipients for inpatient hospital services other than services in an institution for tuberculosis or mental diseases (except as hereinafter provided); hospital outpatient services; physicians', dentists', podiatrists', optometrists' and nurses' services; laboratory and X-ray services; eye glasses prescribed by a physician skilled in the diseases of the eye or by an optometrist; transportation to obtain medical care; the following services when prescribed by a physician: skilled nursing home services excluding services in an institution for tuberculosis or mental diseases (except as hereinafter provided); intermediate care facility services, home health care, physical and occupational therapy and related services, medical supplies and equipment, including rental of durable equipment, drugs, prosthetic devices and other diagnostic, screening, preventive and rehabilitative and other medical services, and inpatient hospital and skilled nursing home services for individuals 65 years of age and over when a patient in an institution for mental diseases. Nursing services rendered in connection with treatment by prayer or spiritual means alone and in accordance with the tenets and practice of any recognized church or religious denomination and given by a duly accredited practitioner thereof may be furnished such individuals by any visiting nurse service, sanatorium, nursing home and private duty nursing services given in conformity with the tenets and practices of such church or religious denomination upon referral by and certification of said accredited practitioner that in his or her opinion such services are necessary for the health and well-being of the said individual. Medical assistance shall also include payment of any of the deductible and coinsurance portions of the above services which are not paid under Title XVIII and the monthly premiums payable under section 1839 of the social security act.

History: 1971 c. 125, 211, 215.

49.47 Medical assistance; medically indigent. (1) **PURPOSE.** Medical assistance as set forth herein shall be provided to persons over 65, all children under 18 and, if the child is "de-

pendent" pursuant to s. 49.19, the relatives enumerated in s. 49.19 with whom the child is living, or blind or disabled if eligible under this section.

(2) **DEFINITIONS.** As used in this section, unless the context indicates otherwise:

(a) "Beneficiary" means a person eligible for, and a recipient of, medical assistance under this section.

(b) "Illness" means a bodily disorder, bodily injury, disease or mental disease. All illnesses existing simultaneously which are due to the same or related causes shall be considered "one illness." Successive periods of illness less than 6 months apart, which are due to the same or related causes, shall also be considered "one illness."

(c) "Spouse" means the legal husband or wife of the beneficiary, whether or not eligible for benefits under this chapter.

(3) **APPLICATION.** (a) At any time any resident of this state who believes himself medically indigent and qualified for aid under this section may make application, on forms prescribed by the department. If eligibility is questionable by reason of the information contained on the application or is incomplete, further investigation shall be made to determine eligibility.

(b) The agency shall promptly review the application and shall issue a certificate to the individual showing eligibility when eligibility has been established.

(4) **ELIGIBILITY.** (a) Any person who meets the limitations on income and resources under pars. (b) and (c) and is 65 years of age or older, blind pursuant to s. 49.18, 18 years or older and totally and permanently disabled pursuant to s. 49.61, or a child under the age of 18 living in the family group dependent pursuant to s. 49.19 and the enumerated relatives of such child with whom the child is living and any medically indigent child under 18.

(b) Eligibility exists if his property does not exceed the following: a home and the land used and operated in connection therewith or in lieu thereof a mobile home if such home or mobile home is used as the person's or his family's place of abode; household and personal possessions, including one automobile or one truck; liquid assets not exceeding \$1,750, if single, \$3,500 for a family of 2, plus \$300 for each additional legal dependent; and additional tangible personal property of reasonable value, considering the number of members in the family group, used in the production of income.

(c) 1. If single, eligibility exists if his income does not exceed the maximum standard of need used in determining eligibility for aid to the

blind, aid to the permanently and totally disabled or old-age assistance. For a family of 2 or more, eligibility exists if income does not exceed the maximum standard of need used in determining eligibility for aid to families with dependent children. In this subdivision "maximum standard of need" shall be based on the combined allowance standard for that single person or family plus, if a single person, the maximum shelter allowance established by the department or plus, if a family of 2 or more, the maximum shelter allowance established by the department for that county under aid to families with dependent children. In this subdivision "income" includes, without limitation because of enumeration, all pensions from state, federal or private sources, annuities, social security payments and recurrent insurance payments from state, federal and private sources, wages, and salaries less employment expenses, alimony, returns on investments, net rents and net profits from business or professional enterprises. "Income" does not include earned income which would be excluded in determining income in computing the budget pursuant to s. 49.18 (1) (a), 49.19 (5), 49.22 (1) or 49.61 (6) (a).

2. Whenever an applicant has excess income, no certification shall be issued until such time as the excess income above the applicable limits has been expended for medical care or for any other type of remedial care recognized under state law or for personal health insurance premiums or both.

(d) Any person who has conveyed, transferred or disposed of any property within 2 years prior to the date of making application for benefits under this section without receiving adequate and full consideration in money or money's worth shall, unless shown to the contrary, be presumed to have made such transfer, conveyance or disposition in contemplation of receiving benefits under this section and shall be ineligible to receive such benefits thereafter until the value of such property shall have been expended by or in behalf of such person for his maintenance need, including needs for medical care.

(e) Temporary absence of a resident from the state shall not be grounds for denying the certificate or for the cancellation of an existing certificate.

(5) INVESTIGATION BY DEPARTMENT. The department may make additional investigation of eligibility when there is reasonable ground for belief that an applicant may not be eligible, that the beneficiary may have received benefits to which he is not entitled, or upon the request of the secretary of the U.S. department of health, education and welfare.

(6) BENEFITS; EXCLUSIONS. (a) The department shall audit and pay charges made in accordance with s. 49.45 (11)(a) for medical assistance to beneficiaries for the following:

1. Inpatient hospital services in a semiprivate room (other than services in an institution for tuberculosis or mental diseases);

2. Outpatient hospital services;

3. Diagnostic laboratory and X-ray procedures;

4. Skilled nursing home services directly following hospitalization (other than services in an institution for tuberculosis or mental diseases) for individuals 18 years of age or older when authorized by a physician;

5. Physicians' services whether furnished in the office, the patients' home, a hospital or a skilled nursing home or elsewhere;

6. Dental services;

7. Inpatient hospital services and skilled nursing home services following hospitalization for individuals 65 years of age or over in an institution for mental diseases not exceeding 45 days per illness.

8. The deductible portion and coinsurance of any health care benefits paid under Title XVIII of the social security act reduced by the amount of available excess income and conforming to the scope, amount and duration of benefits payable under the state plan;

9. The following services when prescribed by a physician, physical or occupational therapy when rendered by a licensed or registered therapist, home health care, nurse's services, and pharmaceutical services;

10. Podiatrists' services;

11. Intermediate care facility services;

12. Transportation to obtain medical care; and

13. Early and periodic screening and diagnosis of individuals under 21 years of age, and all medically necessary treatment of conditions found, regardless of exclusions or limitations imposed by this section for other age groups.

(b) Benefits shall not include any payments with respect to care or services for an individual who is an inmate of a public institution, except as a patient in a medical institution, or who is a patient in an institution for tuberculosis; care or services in any other private or public institution unless it has been approved by a standard-setting authority responsible by law for establishing and maintaining standards for such institution or that part of any services otherwise authorized under this section which are payable through insurance, 3rd party liability, or any federal, state, county, municipal or private benefit sys-

tems to which the beneficiary may otherwise be entitled.

(c) Payments shall not include care for services rendered earlier than 2 months preceding the month of application, but in no event may payments be made for medical assistance rendered during a period when the beneficiary would not have been eligible for benefits under this section.

(d) The maximum combined liability for payment for care in a hospital and skilled nursing home under this section shall not exceed 45 days per illness and skilled nursing home care will be paid only for beneficiaries transferring directly to such facility from a hospital.

(7) **REDUCTION OF BENEFITS.** If the funds appropriated become or are estimated to be insufficient to make full payment of benefits provided under this section, all charges for service so authorized shall be prorated on the basis of funds available or by limiting the benefits provided.

History: 1971 c. 125; 1971 c. 213 s. 5; 1971 c. 215.

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 families with 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; but 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 families with dependent children, aid to the blind or aid to totally and permanently disabled persons shall be given by the director of personnel as defined in s. 16.02 (6). The department of administration shall be reimbursed for actual expenditures incurred in the performance of its functions under this section from the appropriations available to the department of health and social services 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.** Pursuant to rules established under sub. (2), the department where requested by the county shall delegate to that county, without restriction because of enumeration, any or all of the department's authority under sub. (2) to establish and maintain personnel standards including salary levels.

(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.

(7) **WORK INCENTIVE PROGRAM AND RELATED SOCIAL AND VOCATIONAL REHABILITATION SERVICES.** (a) The department shall ensure that all appropriate individuals so required by federal law and regulations as a condition of eligibility for aid to families with dependent children shall register for manpower services, training and employment under the work incentive program. The department shall administer or purchase directly, or where the services would be more effectively performed through contracts with county welfare departments, the health, vocational rehabilitation, counseling, child care, social and other supportive services related to individuals' preparation for, and participation in, the work incentive program and related to individuals' continuation in employment. Allowances for costs incurred by an individual participating in the program shall be paid to such individual by the department of industry, labor and human relations.

(b) The department shall pay the nonfederal share for such services enumerated in par. (a).

(c) The department shall reimburse county welfare departments under s. 49.52 (1) and (2) for payments advanced by such county welfare departments to or in behalf of recipients of aid and potential aid recipients.

(8) **FAIR HEARING AND REVIEW.** Any person whose application for aid to the blind, old-age assistance, aid to families with 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 ac-

tion. 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 deems 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. Whenever any municipality or county receives a nonresident notice pursuant to s. 49.11 and there is reasonable basis for belief that the recipient of such relief may be eligible for assistance under s. 49.18, 49.19, 49.20 to 49.37 or 49.61, such municipality or county may after 60 days request the county department of public welfare of the county wherein the recipient of relief is residing to investigate the possible eligibility of such relief recipient for assistance under one of said sections and if the latter county refuses to grant such assistance, the municipality or county wherein liability for paying the relief ultimately rests may petition the department for a hearing hereunder to determine eligibility of the relief recipient for such assistance. Copies of the petition shall be sent to the county wherein the dependent person may be residing or receiving relief by the county or municipality liable for ultimately paying said relief. The aforesaid procedure or any subsequent decision of the department shall not bar recovery of any claim under s. 49.11 to the date of the final decision.

(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 families with 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.

History: 1971 c. 125, 145, 215, 307.

Pursuant to 49.50 (2), Stats. 1969, the department has authority to prescribe state-wide compensation standards applicable to county welfare department employees. Under 46.22 (3) and 59.15 (2) (c), any fixing of salaries of such employees by county boards of supervisors must be within the limits of the state-wide prescribed standards. 59 Atty. Gen. 126

49.51 County administration. (2) **COUNTY DEPARTMENTS OF PUBLIC WELFARE.** (a) *Administration in counties having a population of 500,000 and others.* In counties having a population of 500,000 or more or in counties electing to be under s. 46.21, 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 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 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 department.
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 families with dependent children under s. 49.19.

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

9. The administration of old-age assistance under ss. 49.20 to 49.37.

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.

13. To make payments in such manner as the department may determine for training of recipients, former recipients and potential recipients of aid in programs established under s. 49.50 (7).

(3) **PURCHASE OF CARE AND SERVICES.** (a) In order to insure the availability of a full range of care and services, the county welfare department may contract, either directly or through the state department, with public or voluntary agencies or others to purchase, in full or in part, care and services which county welfare departments are authorized by any statute to furnish in any manner. Such services may be purchased from the department where the department has staff to furnish such services. If the agency has adequate staff, it may sell such care and services directly to another county or state agency.

(b) A county agency may purchase development and training services from the department or from other county agencies when such services are available. A county agency may sell such development and staff training services to another county or state agency when it has adequate staff to provide such services.

History: 1971 c. 218.

49.52 Reimbursement to counties. (1) **FEDERAL AID.** (a) From the federal funds received by the state for grants of aid, excluding medical aid issued under s. 49.46, in the aid to the blind, aid to families with dependent children, old-age assistance and aid to totally and permanently disabled persons there shall be determined in each of said programs the percentage of the federal fund in relation to the total amount expended for such purpose and the state

shall reimburse from these moneys to each county the percentage as computed of the total amount expended by such county in each program.

(b) From the federal funds received by the state for the administration by counties of aid to the blind, aid to families with dependent children, old-age assistance and aid to totally and permanently disabled persons and including administration expenses in the medical assistance and work incentive programs, the state shall reimburse the counties the amount earned by each county for such administration, the amount earned to be computed as determined by the department.

(2) **STATE AID.** (a) The state aid to which any county shall be entitled shall be determined according to the amount expended by the county for aid to the blind, aid to families with dependent children, old-age assistance and aid to totally and permanently disabled persons including services and medical administration and child welfare services, mental hygiene services and other welfare services performed or purchased by the county agency administering such aids in cooperation with or at the request of the state department, pursuant to express authorization, but excluding general relief, after deducting the reimbursement received from federal funds pursuant to sub. (1). Aid to the county for salaries to the professional staff of its agency shall be no greater than to support the minimum number of professional staff required to meet federal minimum standards. State aid shall be paid as follows:

1. For all months prior to January 1, 1968, the following counties shall receive 80% of such nonfederally reimbursed expenditures: Ashland, Bayfield, Burnett, Douglas, Florence, Forest, Iron, Jackson, Menominee, Pepin, Rusk, Sawyer, Trempealeau, Vernon and Washburn; the following counties shall receive 70% of such nonfederally reimbursed expenditures: Buffalo, Crawford, Langlade, Taylor; the following counties shall receive 65% of such nonfederally reimbursed expenditures: Barron, Juneau, Polk and Richland; the following counties shall receive 60% of such nonfederally reimbursed expenditures: Adams, Clark, Dunn, Monroe, Price and Waushara; the following counties shall receive 55% of such nonfederally reimbursed expenditures: Chippewa, Eau Claire, Grant, Marinette, Marquette, Oconto, Shawano and Waupaca; the following counties shall receive 50% of such nonfederally reimbursed expenditures: Columbia, Dane, Dodge, Fond du Lac, Iowa, Kenosha, La Crosse, Lafayette, Lincoln, Milwaukee, Oneida, Pierce, Portage, Racine, St. Croix, Sauk and Wood; and the following coun-

ties shall receive 45% of such nonfederally reimbursed expenditures: Brown, Calumet, Door, Green, Green Lake, Jefferson, Kewaunee, Manitowoc, Marathon, Outagamie, Ozaukee, Rock, Sheboygan, Vilas, Walworth, Washington, Waukesha and Winnebago.

2. Beginning January 1, 1968, and for each year thereafter, the amount of state aid to be received by each county shall be determined as follows: The department shall determine a state-wide mill rate by dividing the total of expenditures remaining after deduction of the federal reimbursement for 1) approved expenditures under this paragraph together with 2) expenditures under ss. 49.46 and 49.47 for the fiscal year ending June 30, by the state full value of all general taxable property as determined by the department of revenue the following September 15 in accordance with s. 70.57. The mill rate for each county shall be computed in the same manner by dividing the total of expenditures remaining after deduction of the federal reimbursement for 1) approved expenditures by such county under this paragraph together with 2) expenditures under ss. 49.46 and 49.47 for residents of such county for the fiscal year ending June 30, by the state full value of all general property in the county as determined by the department of revenue the following September 15 in accordance with s. 70.57. The state aid to be paid to each county shall be determined by the percentage relationship between the mill rate for each county and the state-wide mill rate in accordance with the following schedule: [See Figure 49.52 following]

4. If the cost for any county as determined under this section for 1966-67 exceeds the cost of the 1964-65 base year the county shall be reimbursed for the full amount of that excess. In fiscal years after 1966-67 such counties shall receive additional reimbursement only to the extent that the state's total participation is less

than the state's total participation in 1966-67, but never more than necessary to reduce the county's participation to the 1964-65 level. At the point where the state's reimbursement to the county equals the state's percentage of the nonfederal share under the formula, no additional reimbursement shall be provided.

5. The department may, subject to review by the joint committee on finance, establish the assistance and service allowances in the aid to families with dependent children program which may be met by the county welfare department and claimed for federal reimbursement even though state reimbursement under sub. (2) of this section is not available. Such funds claimed shall be returned to the counties in accordance with s. 49.52 (1) (a) and (b).

6. Notwithstanding subs. 2 and 4, the percentage rate of reimbursement to any county by the state as determined under this subsection shall neither increase nor decrease by more than 5% from one year to the next succeeding year. This section shall be retroactive to January 1, 1969.

(3) REIMBURSEMENT PROCEDURE, CLAIM AND AUDIT. (a) 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 such claim, it shall certify to the department of administration for reimbursement to the county the amounts due under subs. (1) and (2) and payment claimed shall be made to the counties monthly.

(b) Each county shall be liable for its pro rata share of the medical expenses paid by the state under ss. 49.46 and 49.47 and its pro rata share of payments made by the state under s. 49.19 (10) (d) as the department determines to be

Figure 49.52:

Mill rate necessary to meet the total nonfederal share of expenditures (exclusive of general relief) as a per cent of the state-wide mill rate

Under 75%
75% but less than 125
125% but less than 150
150% but less than 175
175% but less than 200
200% but less than 225
225% and over

Percentage rate of participation by:

State	County
45	55
50	50
55	45
60	40
65	35
70	30
80	20

properly chargeable to each county, and shall reimburse the state for such pro rata share. For the purpose of administration the state may deduct the amount of such payments owing to the state from the claim submitted under par (a) and pay the remaining balance to the county pursuant to par. (c)

(c) To facilitate prompt reimbursement the certification of the department may be based on the certified statements of the county officers filed pursuant to par. (a) Any necessary audit adjustments for any month of current or prior fiscal years may be included in subsequent certifications.

(5) **DISTRESSED COUNTIES, APPLICATION FOR AID.** Any county which is financially unable to fully perform its duties under ss. 49.18 to 49.37, 49.46, 49.47 and 49.61, including the administration and services specified in sub. (2), after having received payments under subs. (1) and (2) and s. 20.435 (4) (d) 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 department of administration for payment to the applicant out of the appropriations provided by s. 20.435 (4) (d) 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 board on government operations. 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: 1971 c. 125; 1971 c. 164 s. 92; 1971 c. 215.

Note: Sub. (5) is printed as amended by Chapters 166 and 291 s. 14, laws of 1967. These acts did not reflect an earlier amendment by Chapter 43, laws of 1967. See the Preface, paragraph 6 (c), for the printing rule followed in such cases.

49.53 Limitation on giving information.

(1) The use or disclosure of information concerning applicants and recipients of aid to families with dependent children, aid to the blind,

old-age assistance and aid to totally and permanently disabled persons for any purpose not connected with the administration of the programs, except as provided under sub. (2), is prohibited. Any person violating this section may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail not less than 10 days nor more than one year or both.

(2) (a) Each county agency administering aid to the blind, aid to families with dependent children, old-age assistance or aid to totally and permanently disabled persons shall maintain a monthly report at its office showing the names and addresses of all persons receiving such aids together with the amount paid during the preceding month, but 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 open to public inspection at all times during regular office hours and may be destroyed after the next succeeding report becomes available. Any person except any public officer, seeking permission to inspect such book shall prove his identity and shall be required to sign a statement setting forth his address and his reasons for making such request and indicating that he understands the provisions of par. (c) with respect to the use of the information obtained. The use of a fictitious name is a violation of this section. Within 72 hours after any such record has been inspected, the agency shall mail to each person whose record was inspected a notification of that fact and the name and address of the person making such inspection. 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).

Function of county agency in furnishing information to public regarding social security aid recipients is nondiscretionary and limited under 49.53 (2), Stats. 1969. County welfare boards are an integral part of county administration and entitled to full access to case records. Advisory committees are not. Access to information concerning individual social security aid recipients by county board of supervisors is limited by its limited role in administration of the aid programs. 59 Atty. Gen. 240.

49.54 Exclusions from income for aid determination.

In determining the income of any needy person who is blind and the amount of aid to be granted such person under s. 49.18;

the income of, the budget for the family of and the amount of aid to be granted a person applying for aid to dependent children under s. 49.19; the income and resources of, the budget for and the amount of assistance to be granted a person applying for old-age assistance under ss. 49.20 to 49.37 and 49.41; and the income and resources of, the budget for and the amount of aid to be granted to a totally and permanently disabled person under s. 49.61; the amounts of social security payments received by or for any such person by reason of increases in social security payments provided by amendments to or changes in the federal social security laws taking effect in January 1970 or thereafter shall be disregarded and not considered or taken into account to the extent that federal regulations allow.

History: 1971 c. 87.

49.61 Aid to totally and permanently disabled persons. (1) **DEFINITION.** As used in this section a totally and permanently disabled person is a person who has a medically demonstrable impairment which is permanent and which substantially prevents such person from engaging in a useful occupation within his competence.

(1m) **DEFINITION OF AID; INSTITUTION INMATES.** In this section, "aid to the totally and permanently disabled" means money payments, or vendor payments as prescribed by the department, to such totally and permanently disabled person, to another individual when such individual has been appointed by a court of competent jurisdiction as a legal representative of such needy disabled person or to another individual who has been designated by the county welfare agency in cases approved by the department to receive payment of the aid, or medical care in behalf of, or any type of remedial care recognized under this section or s. 49.46 in behalf of, needy individuals more than 18 and less than 65 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 who is a patient in an institution for tuberculosis or mental diseases. 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 is 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. Aid to the totally and permanently disabled shall be granted to totally and permanently disabled dependent persons re-

siding 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. The rate of payment for skilled nursing care provided under this section shall be determined by the county under guidelines established by the department pursuant to s. 49.45 (6m). Payment for limited care shall not exceed 90% of the applicable Title XIX skilled care rate. Payment for personal care shall not exceed 80% of the applicable Title XIX skilled care rate.

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

(a) Who is more than 18 and less than 65 years of age;

(b) Who has allowed the county agency 15 to 30 days to process his application and, if not already a resident of the county, has notified the agency of his intent to establish residence in the county. Payments of aid to eligible individuals will not be retroactive beyond the first of the month in which eligibility is established;

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

(f) 1. Whose property does not exceed a home of reasonable value;

2. Whose property does not exceed \$750 in cash and liquid assets;

3. Whose property does not exceed an insurance policy with a cash or loan value not to exceed \$1,000.

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

(h) Persons who are members of the Grand Army home for veterans at King may be granted aid to the permanently and totally disabled if they are otherwise eligible for such aid pursuant to this chapter. The provisions of s. 45.37 (9) shall not apply to money payments of aid to the permanently and totally disabled paid to or in behalf of such members.

(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 department 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. The agency shall, in determining need, take into consideration any other income and resources, but when permitted by federal regulation the first \$50 of earned income shall be disregarded but in making such determination, of the first \$80 per month of income which is earned there shall be disregarded the first \$20 thereof plus one-half of the remaining \$60 in determining the amount of the grant and the earned income exemption provided in s. 49.18 (1) (a) shall not be considered in computing a grant of disabled aid when the disabled person is a member of the family of a recipient of blind aid and except that the first \$85 plus one-half of the excess over \$85 of payments made to or on behalf of any person for or with respect to any month under Title I or II of the federal economic opportunity act of 1964 or such payment made to or in behalf of any person and any excess remaining after this exclusion shall be considered as income for any other individual only to the extent made available to or for the benefit of such other individual. Any person receiving aid under this section shall not be eligible for old-age assistance, aid to the blind or aid to families with 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 \$300 shall be paid for funeral and burial expenses to such persons as the county agency directs, exclusive of and in addition to the actual cemetery charges which shall also be paid by the county responsible for the burial of the recipient.

(7) **ORDER DIRECTING PAYMENT.** If the county agency finds a person eligible for aid under this section, such agency shall, on a form

prescribed by the department, 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, except that the director of the county agency may, in his discretion for the purpose of protecting the public, direct that the monthly allowance be paid in 2 or more instalments.

(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) **GRANTS.** In accordance with s. 20.435 (4) (d), any grants to persons under this section shall equal 92% of need beginning on December 1, 1971, and 95% of need beginning July 1, 1972. Need shall be based on standards updated to reflect November 1970 prices.

(10) **HOMESTEAD RELIEF CLAIMANTS.** At the request of the claimant or the department of revenue, the department shall make a determination as to whether a claimant under s. 71.09 (7) (a) 5 is a totally and permanently disabled person and certify its determination to the department of revenue and the claimant.

History: 1971 c. 125, 215, 217.

Cross Reference: See 49.54 for exclusion of certain social security benefits from income determinations under this section.

49.65 Assignment of personal injury claims. (1) The authorities in charge of a dependent or the department may require an applicant for, or recipient of public assistance, as a condition for receiving assistance after the occurrence of an injury which results in a possible recovery from a 3rd party, to execute an assignment to the state, county or municipality of any claim, demand or cause of action resulting from the injury. The assignment shall be for the total amount of assistance granted under this chapter to the recipient and his dependents, including the reasonable value of medical and hospital care provided in a facility operated by the state, county or municipality, from the time of injury until the end of hospitalization resulting from such injury. An assignment may include any assistance granted during the 60-day period prior to the date of the application for public assistance but shall not include any assistance granted prior to the date of the injury. If the recipient dies without making such assignment, it may be executed by his personal representative. This assignment shall not divest any such recipient of his right to control the cause of action and any litigation in connection therewith that he may elect to assert. The unit of government

extending public assistance shall in no way represent said recipient in this matter.

(2) Any assignment of such claims, demands or causes of action resulting from an injury shall be valid and binding upon the 3rd party tortfeasor and his insurer only after receipt of notice by them of such assignment by certified mail prior to the date of payment for such injury and any resulting treatment.

49.70 Menominee Enterprises, Inc., bonds, acquisition. (1) The department is authorized to exercise options to purchase securities assigned to the state of Wisconsin under s. 710.05 at par value, or to accept an assignment of such securities, for the purpose of providing relief, public assistance or welfare aid under this section.

(2) The department shall exercise the options to purchase such securities or accept an assignment of such securities when it finds that the owner of the securities is a resident of this state as provided in s. 49.01 (7) and is in need of relief, public assistance or welfare aid, or who but for the ownership of such securities would qualify for relief, public assistance or other welfare aid. If the department exercises an option to purchase such security, the purchase price shall be paid out, at par value, as relief, as defined in s. 49.01 (1). Where the department accepts an assignment of such security as provided in this section it shall pay out as relief, as defined in s. 49.01 (1), an amount equal to the par value of the security assigned. The relief furnished, whether by money or otherwise, shall be at such times and in such amounts as will in the discretion of the department meet the needs of the recipient and protect the public. The department is authorized to exercise the options to purchase assigned to it in whole or in part, or to accept an assignment of such securities in whole or in part. The department is granted such authority as may be necessary and convenient to enable it to exercise the functions and perform the duties required of it by this section, including without limitation because of enumeration the authority to adopt and publish suitable rules governing

eligibility and the furnishing and paying of relief under this section, the authority to enter into suitable agreements with the owner of the security or other appropriate persons for the purpose of carrying out this section, and the authority to sell or transfer the securities 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 securities.

(3) If the relief, public assistance, or other welfare aid provided pursuant to this section is discontinued during the life of the person receiving such aid and the value of the securities transferred to the department exceed the total amount of assistance paid under this section, the excess of such property shall be returned to such person; and in the event of his death such excess shall be considered the property of such person for administration proceedings.

(4) The department may make loans to the owner of such securities for relief and welfare purposes which loans shall be secured by pledges of the securities to the state. The department may by rule establish the purposes for which loans may be made, permissible interest rates and fees, time and manner in which the loan is paid out, time and manner of repayment, general procedures to be followed in making loans, the action which shall be taken if a borrower defaults on a loan, maximum amount which may be loaned to any one borrower, and any other rules necessary to carry out the purposes of this section.

(5) Nothing in s. 49.70 of the statutes as created by chapter 2, laws of Special Session of 1963, is in derogation of other rights and remedies provided by law.

(6) On and after May 20, 1972, where the owner of such security is otherwise eligible for welfare assistance, such security shall be an exempt asset under the welfare law and shall not disqualify such person from receiving welfare assistance.

History: 1971 c. 302.