

1999 DRAFTING REQUEST

Bill

Received: **01/24/2000**

Received By: **nelsorpl**

Wanted: **As time permits**

Identical to LRB:

For: **Glenn Grothman (608) 264-8486**

By/Representing: **Ron Sklansky**

This file may be shown to any legislator: NO

Drafter: **nelsorpl**

May Contact:

Alt. Drafters:

Subject: **Administrative Law**

Extra Copies:

Pre Topic:

No specific pre topic given

Topic:

Discovery by medical assistance providers in class 3 administrative proceedings

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Reauired</u>
/?	nelsorp 1 02/07/2000	csicilia 02/07/2000		_____			
/1			martykr 02/08/2000	_____	lrb_docadmin 02/08/2000		
/2	nelsorp 1 02/11/2000	csicilia 02/11/2000	jfrantze 02/11/2000	_____	lrb_docadmin 02/11/2000	lrb_docadmin 02/25/2000	

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FE Sent For:

<END>



1999 BILL

1 AN ACT...; relating to: the right to discovery in class 3 administrative proceedings
2 regarding recoupment of medical assistance payments.

Analysis by the Legislative Reference Bureau

Under current law, in any class 1 or class 3 administrative proceeding, an agency may by rule permit the taking and preservation of evidence. In those proceedings the taking and preservation of evidence shall be permitted with respect to a witness who is beyond the reach of a subpoena of the agency, is about to leave the state or is so sick or aged as to make it probable that the witness will be unable to attend the hearing. Currently, the department of health and social services, family has promulgated an emergency rule regarding the taking and preserving of evidence in class 3 administrative proceedings involving recoupment of overpayments from medical assistance providers.

This bill allows the parties in class 3 administrative proceedings involving recoupment of overpayments from medical assistance providers to take and preserve evidence for the administrative proceeding. The bill allows the hearing examiner, for good cause, to make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense during discovery.

This bill is introduced as required by section 227.19 (5) (e), stats., in support of the suspension by the joint committee for review of administrative rules on January 20, 2000, of ~~106.12~~ 106.12 (9) and 108.02 (9) (e) and (f), the emergency rules promulgated by the department of health and family services that prohibit the parties in class 3 administrative proceedings involving recoupment of overpayments

HFS
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BILL

from medical assistance providers from taking and preserving evidence for the administrative proceeding.

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

1 **SECTION 1.** 227.45 (8) of the statutes is created to read:

2 227.45 (8) In a class 3 proceeding in which the department of health and family
3 services is attempting under s. 49.45 (2) (a) 10. to recover money improperly or
4 erroneously paid or overpayments made to a provider, each party shall have the
5 right, before the date set for hearing, to take and preserve evidence as provided in
6 ch. 804. Upon motion by a party or by the person from whom discovery is sought in
7 the proceeding, and for good cause shown, the hearing examiner may make any order
8 in accordance with s. 804.01 which justice requires to protect a party or person from
9 annoyance, embarrassment, oppression or undue burden or expense.

10 **SECTION 2. Initial applicability.**

11 (1) This act first applies to administrative proceedings begun on the effective
12 date of this subsection.

13 **(END)**



created by
State of Wisconsin
1999 - 2000 LEGISLATURE

MON

LRB-4299/1

RPN:cjs:km

D-Note

1999 BILL

1 **AN ACT to create** 227.45 (8) of the statutes; **relating to:** the right to discovery
2 in class 3 administrative proceedings regarding recoupment of medical
3 assistance payments.

Analysis by the Legislative Reference Bureau

Under current law, in any class 1 or class 3 administrative proceeding, an agency may by rule permit the taking and preservation of evidence. In those proceedings the taking and preservation of evidence shall be permitted with respect to a witness who is beyond the reach of a subpoena of the agency, is about to leave the state or is so sick or aged as to make it probable that the witness will be unable to attend the hearing. Currently, the department of health and family services has promulgated an emergency rule regarding the taking and preserving of evidence in class 3 administrative proceedings involving recoupment of overpayments from medical assistance providers.

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X

BILL

promulgated by the department of health and family services that prohibit the parties in class 3 administrative proceedings involving recoupment of overpayments from medical assistance providers from taking and preserving evidence for the administrative proceeding.

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

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9 annoyance, embarrassment, oppression or undue burden or expense.

10 **SECTION 2. Initial applicability.**

11 (1) This act applies to administrative proceedings begun on the effective
12 date of this subsection.

13 **(END)**

D-Note

A This draft corrects an inaccurate reference to a DHS administrative rule in the analysis.

*RPN
cjs*

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-4299/2dn
RPN:cjs:jf

February 11, 2000

This draft corrects an inaccurate reference to a DHFS administrative rule in the analysis.

Robert P. Nelson
Senior Legislative Attorney
Phone: (608) 267-7511

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and **sign** on the appropriate line(s) below.

Date: 02/11/2000

To: Representative Grothman

Relating to LRB drafting number: LRB-4299

Topic

Discovery by medical assistance providers in class 3 administrative proceedings

Subject(s)

Administrative Law

1. **JACKET** the draft for introduction Joint Committee for the Review of Administrative Rules
in the Senate ~~✓~~ or the Assembly (check only one). Only the requester under whose name the
drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please
allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____.
A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____
If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or
increases or decreases existing appropriations or state or general local government fiscal liability or
revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to
introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon
introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to
introduction retains your flexibility for possible redrafting of the proposal,

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions
relating to the attached draft, please feel free to call me.

Robert P. Nelson, Senior Legislative Attorney
Telephone: (608) 267-75 11