

**SENATE SUBSTITUTE AMENDMENT 1,
TO 1999 SENATE BILL 123**

January 19, 2000 – Offered by COMMITTEE ON HUMAN SERVICES AND AGING.

1 **AN ACT** *to repeal* 49.152 (2) and 49.152 (3) (a); *to renumber* 49.152 (title) and
2 49.152 (3) (title); *to renumber and amend* 49.152 (1) and 49.152 (3) (b); *to*
3 *amend* 49.26 (1) (h) 1.; and *to create* 49.16 (2), (3), (4) and (6) of the statutes;
4 **relating to:** the fair hearing process under Wisconsin works.

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

5 **SECTION 1.** 49.152 (title) of the statutes is renumbered 49.16 (title).

6 **SECTION 2.** 49.152 (1) of the statutes is renumbered 49.16 (1) and amended to
7 read:

8 49.16 (1) PETITION FOR REVIEW. Any individual whose application for any
9 component of Wisconsin works is not acted upon by the Wisconsin works agency with
10 reasonable promptness after the filing of the application, as defined by the
11 department by rule, or is denied in whole or in part, whose benefit is modified or
12 canceled, or who believes that the benefit was calculated incorrectly or that the

1 employment position in which the individual was placed is inappropriate, may
2 petition the ~~Wisconsin works agency~~ department for a review of such action. Review
3 is unavailable if the action by the Wisconsin works agency occurred more than 45
4 days prior to submission of the petition for review.

5 **SECTION 3.** 49.152 (2) of the statutes is repealed.

6 **SECTION 4.** 49.152 (3) (title) of the statutes is renumbered 49.16 (5) (title).

7 **SECTION 5.** 49.152 (3) (a) of the statutes is repealed.

8 **SECTION 6.** 49.152 (3) (b) of the statutes is renumbered 49.16 (5) and amended
9 to read:

10 49.16 (5) If, following review under sub. (2), the ~~Wisconsin works agency or the~~
11 department determines that an individual's application was improperly delayed or
12 denied in whole or in part, that a participant was placed in an inappropriate
13 Wisconsin works employment position or that a participant's benefit was improperly
14 modified or canceled, or was calculated incorrectly, the Wisconsin works agency shall
15 grant the appropriate benefit, or restore the benefit to the level determined to be
16 appropriate by the ~~Wisconsin works agency or by the department,~~ retroactive to the
17 date on which the individual's application was first improperly delayed or denied in
18 whole or in part, the individual was first placed in an inappropriate Wisconsin works
19 position or the individual's benefit was first improperly modified or canceled or
20 incorrectly calculated.

21 **SECTION 7.** 49.16 (2), (3), (4) and (6) of the statutes are created to read:

22 49.16 (2) REVIEW. Upon receipt of a timely petition under sub. (1), the
23 department shall give the applicant or participant reasonable notice and
24 opportunity for a fair hearing. The department may make any additional
25 investigation that it considers necessary. Notice of the hearing shall be given to the

1 applicant or participant and, if appropriate, to the county clerk. The Wisconsin
2 works agency may be represented at the hearing. The department shall render its
3 decision as soon as possible after the hearing and shall send a certified copy of its
4 decision to the applicant or participant, the county clerk, if appropriate, and the
5 Wisconsin works agency. The decision of the department shall be final, but may be
6 revoked or modified as altered conditions may require. The department shall deny
7 a petition for a hearing or shall refuse to grant relief if any of the following applies:

8 (a) The applicant or participant withdraws the petition in writing.

9 (b) The sole issue in the petition concerns an automatic grant adjustment or
10 change for a class of participants as required by state or federal law.

11 (c) The applicant or participant abandons the petition. Abandonment occurs
12 if the applicant or participant fails to appear in person or by a representative at a
13 scheduled hearing without providing the department with good cause.

14 **(3) SUSPENSION OF BENEFITS.** If a participant requests a hearing prior to the
15 effective date of the action by the Wisconsin works agency or within 10 days after the
16 mailing of the notice of the action, whichever is later, benefits may not be suspended,
17 reduced or discontinued until a decision is rendered after the hearing but may be
18 recovered by the department if the contested decision or failure to act is upheld.
19 Until a decision is rendered after the hearing, the manner or form of benefit payment
20 to the participant may not change to a protective, vendor or 2-party payment.
21 Benefits shall be suspended, reduced or discontinued if any of the following applies:

22 (a) The participant is contesting a state or federal law or a change in state or
23 federal law and not the participant's benefit computation.

24 (b) The participant is notified of a change in his or her benefit while the hearing
25 decision is pending but the participant fails to request a hearing on the change.

