



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-0132/2
PJK:wlj:jm

DOA:.....Major, BB0055 – Authority to collect overpayments of emergency assistance

FOR 2015-2017 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

PUBLIC ASSISTANCE

Under current law, DCF provides emergency assistance to needy persons in cases of fire, flood, natural disaster, homelessness or impending homelessness, or energy crisis. The assistance is provided with federal Temporary Assistance to Needy Families (TANF) funds. This bill authorizes DCF to recover overpayments of emergency assistance resulting from a misrepresentation by an individual applying for the assistance with respect to a fact affecting the individual's eligibility for or the amount of the assistance granted. If an overpayment of emergency assistance results from an error by a Wisconsin Works (W-2) agency, DCF must recover the overpayment from the W-2 agency. Overpayments may be recovered by any legal means, including by a certification of the amount to DOR for collection through intercepting a state income tax refund or by levying against property of the individual to whom the overpayment was made.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

SECTION 1. 49.138 (5) of the statutes is created to read:

49.138 (5) (a) The department shall recover from an individual receiving emergency assistance under this section an overpayment of the emergency assistance if the overpayment resulted from a misrepresentation by the individual applying for the assistance with respect to any fact having an effect on the individual's eligibility for, or the amount of, the assistance granted.

(b) If an overpayment of emergency assistance provided under this section resulted from an error made by a Wisconsin Works agency, the department shall recover the overpayment from the Wisconsin Works agency and may do so by offsetting the amount from amounts otherwise due the agency under a contract under s. 49.143.

(c) The department may recover overpayments of emergency assistance under par. (a) or (b) in the manners provided in ss. 49.195 (3m) and 49.85. Nothing in this paragraph or par. (b) precludes the department from recovering emergency assistance overpayments through any other legal means.

SECTION 2. 49.195 (title) of the statutes is amended to read:

49.195 (title) Recovery of aid to families with dependent children and, Wisconsin works Works benefits, and overpayments of emergency assistance.

SECTION 3. 49.195 (3) of the statutes is amended to read:

49.195 (3) A county, tribal governing body, Wisconsin works Works agency, or the department shall determine whether an overpayment has been made under s. ~~49.19~~ 49.138, 49.148, 49.155 ~~or~~, 49.157, or 49.19 and, if so, the amount of the overpayment. The county, tribal governing body, Wisconsin works Works agency, or department shall provide notice of the overpayment to the liable person. The

department shall give that person an opportunity for a review following the procedure specified under s. 49.152, if the person received the overpayment under s. 49.141 to 49.161, and for a hearing under ch. 227. Notwithstanding s. 49.96, the department shall promptly recover all overpayments made under s. ~~49.19~~ 49.138, 49.148, 49.155 ~~or~~, 49.157, or 49.19 that have not already been received under s. 49.138 (5), 49.161, or 49.19 (17) or received as a setoff under s. 71.93 and shall promulgate rules establishing policies and procedures to administer this subsection. The rules shall include notification procedures similar to those established for child support collections.

SECTION 4. 49.85 (1) of the statutes is amended to read:

49.85 (1) DEPARTMENT NOTIFICATION REQUIREMENT. If a county department under s. 46.215, 46.22, or 46.23 or a governing body of a federally recognized American Indian tribe or band determines that the department of health services may recover an amount under s. 49.497, 49.793, or 49.847, or that the department of children and families may recover an amount under s. 49.138 (5), 49.161, or 49.195 (3) or collect an amount under s. 49.147 (6) (cm), the county department or governing body shall notify the affected department of the determination. If a Wisconsin Works agency determines that the department of children and families may recover an amount under s. 49.138 (5), 49.161, or 49.195 (3), or collect an amount under s. 49.147 (6) (cm), the Wisconsin Works agency shall notify the department of children and families of the determination.

SECTION 5. 49.85 (2) (b) of the statutes is amended to read:

49.85 (2) (b) At least annually, the department of children and families shall certify to the department of revenue the amounts that, based on the notifications received under sub. (1) and on other information received by the department of

children and families, the department of children and families has determined that it may recover under ss. 49.138 (5), 49.161, and 49.195 (3) and collect under s. 49.147 (6) (cm), except that the department of children and families may not certify an amount under this subsection unless it has met the notice requirements under sub. (3) and unless its determination has either not been appealed or is no longer under appeal.

SECTION 6. 49.85 (3) (b) 1. of the statutes is amended to read:

49.85 (3) (b) 1. Inform the person that the department of children and families intends to certify to the department of revenue an amount that the department of children and families has determined to be due under s. 49.138 (5), 49.161, or 49.195 (3) or to be delinquent under a repayment agreement for a loan under s. 49.147 (6), for setoff from any state tax refund that may be due the person.

SECTION 7. 71.93 (1) (a) 4. of the statutes is amended to read:

71.93 (1) (a) 4. An amount that the department of children and families may recover under s. 49.138 (5), 49.161, or 49.195 (3) or collect under s. 49.147 (6) (cm), if the department of children and families has certified the amount under s. 49.85.

(END)