



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1320/P1
TJD:ahe

DOA:.....Dombrowski, BB0204 - Changes to Medical Assistance incorrect payment recovery statutes

FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

HEALTH AND HUMAN SERVICES

MEDICAL ASSISTANCE

This bill requires that DHS issue an order to compel payment from a recipient, or parent of a minor recipient, of Medical Assistance who is liable for repayment to the Medical Assistance program of an incorrect payment or an employer who owes a penalty under the BadgerCare Plus program personally or by a type of mail that requires a signature of acceptance. Under the bill, refusal or failure by the person or employer liable for a repayment to accept or receive the order to compel payment does not prevent DHS from enforcing the order. Under the bill, if the person or employer liable for repayment does not make a payment, if a contested case regarding the repayment is not pending, and if the time for contesting the repayment order has lapsed, DHS may submit a true and accurate, instead of certified, copy of the order to compel to the circuit court. Under the bill, an affidavit of the collections unit of DHS, instead of a sworn statement of the secretary of DHS, is considered evidence of the amount owed. Currently, as under the bill, a circuit court then renders a judgment against the person or employer liable for repayment.

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

SECTION 1. 49.497 (1m) (a) of the statutes is amended to read:

49.497 (1m) (a) If, after notice that an incorrect payment was made, a recipient, or parent of a minor recipient, who is liable for repayment of an incorrect payment fails to repay the incorrect payment or enter into, or comply with, an agreement for repayment, the department may bring an action to enforce the liability or may issue an order to compel payment of the liability. The department shall issue the order to compel payment personally or by any type of mail service that requires a signature of acceptance from the recipient at the address of the person who is liable for repayment as it appears on the records of the department. The refusal or failure to accept or receive the order to compel payment by the person who is liable for repayment does not prevent the department from enforcing the order to compel repayment. Any person aggrieved by an order issued by the department under this paragraph may appeal the order as a contested case under ch. 227 by filing with the department a request for a hearing within 30 days after the date of the order. The only issue at the hearing shall be the determination by the department that the person has not repaid the incorrect payment or entered into, or complied with, an agreement for repayment.

SECTION 2. 49.497 (1m) (b) of the statutes is amended to read:

49.497 (1m) (b) If any recipient, or parent of a minor recipient, named in an order to compel payment issued under par. (a) fails to pay the department any amount due under the terms of the order and no contested case to review the order is pending and the time for filing for a contested case review has expired, the department may present a ~~certified~~ true and accurate copy of the order to the circuit court for any county. ~~The sworn statement of the secretary~~ An affidavit from the collections unit of the department responsible for recoveries under this section shall

be evidence of the incorrect payment. The circuit court shall, without notice, render judgment in accordance with the order. A judgment rendered under this paragraph shall have the same effect and shall be entered in the judgment and lien docket and may be enforced in the same manner as if the judgment had been rendered in an action tried and determined by the circuit court.

SECTION 3. 49.497 (1r) (a) of the statutes is amended to read:

49.497 (1r) (a) The department may recover any penalty assessment not paid under s. 49.471 (9) (c) from the employer against which the penalty was assessed. If, after notice that payment of a penalty is overdue, the employer who is liable fails to pay the penalty amount, or enter into or comply with an agreement for payment, the department may bring an action to enforce the liability or may issue an order to compel payment of the liability. The department shall issue the order to compel payment personally or by any type of mail service that requires a signature of acceptance from the recipient at the address of the employer who is liable for repayment as it appears on the records of the department. The refusal or failure to accept or receive the order to compel payment by the employer who is liable for repayment does not prevent the department from enforcing the order to compel repayment. Any person aggrieved by an order issued by the department under this paragraph may appeal the order as a contested case under ch. 227 by filing with the department a request for a hearing within 30 days after the date of the order. The only issue at the hearing shall be the determination by the department that the person has not paid the penalty or entered into, or complied with, an agreement for payment.

SECTION 4. 49.497 (1r) (b) of the statutes is amended to read:

49.497 (1r) (b) If any employer named in an order to compel payment issued under par. (a) fails to pay the department any amount due under the terms of the order and no contested case to review the order is pending and the time for filing for a contested case review has expired, the department may present a ~~certified~~ true and accurate copy of the order to the circuit court for any county. ~~The sworn statement of the secretary~~ An affidavit from the collections unit of the department responsible for recoveries under this section shall be evidence of the failure to pay the penalty. The circuit court shall, without notice, render judgment in accordance with the order. A judgment rendered under this paragraph shall have the same effect and shall be entered in the judgment and lien docket and may be enforced in the same manner as if the judgment had been rendered in an action tried and determined by the circuit court.

(END)