CHAPTER 49.

PUBLIC ASSISTANCE.

49.01 to 49.53 [*Repealed by 1945 c. 585*]

Chapt 364

GENERAL RELIEF

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.

(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.

(6) "Department" means the state department of public welfare. [*1945 c. 585; 1947 c. 121*]

Comment of Interim Committee, 1947: The amendment to 49.01 (1) adds optometrical and dental treatment in the definition of relief. (Bill 34-A)

49.02 Relief administration. (1) Every municipality shall furnish relief to all dependent persons therein and shall establish or designate an official or agency to administer the same.

(2) Every county may furnish relief to all 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 a 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) Except in counties having a population of 250,000 or more, 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 48 hours 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 section 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. [*1945 c. 585*]

Note: The law does not permit a private party to aid an indigent person at the expense of a town without a contract to that effect between him and the town. (Stats. 1931) St. Joseph's Hospital v. Withee, 209 W 424, 245 NW 128.

Under 49.03 and 49.18, Stats. 1939, persons furnishing aid have the burden of showing that the injured person had the status of a pauper in order to establish liability on the part of the county or municipality, in the absence of circumstances otherwise establishing such liability. Carthaus v. Ozaukee County, 236 W 438, 295 NW 678.

The duty to relieve and support all poor includes furnishing of insulin to indigent person affected with diabetes. (Stats. 1929) 20 Atty. Gen. 140.

It is duty of town under town system of poor relief to provide all medical relief for which person has not means to provide himself. (Stats. 1929) 20 Atty. Gen. 162.

Poor commissioner has right, in granting temporary relief, to take over automobile of applicant as security for repayment of money advanced. County board has power to stamp order issued for groceries directing at what store to cash such order; board may refuse to pay said order if such condition is not complied with. Poor commissioner may refuse to give additional aid to persons who violate such terms until reasonably assured that terms will be lived up to. (Stats. 1929) 20 Atty. Gen. 334.

Indian who has legal settlement in town although he is still member of Indian tribe, if indigent, is entitled to relief from said town. (Stats. 1929) 20 Atty. Gen. 534.

County may not require needy person, as condition of relief, to contract to reimburse county and to convey present and future property as security therefor. (Stats. 1931) 21 Atty. Gen. 596.

Poor relief officials are criminally liable for wilful failure to care for needy persons as required by law, and are liable in damages to any person damaged by neglect to provide care of needy persons required by law; unreasonable exercise of judgment in finding of fact and extent of need is neglect. (Stats. 1931) 21 Atty. Gen. 1141.

County may require applicants for poor relief to furnish labor on public projects and may fix wage scale on such projects. Applicants for poor relief cannot be compelled to sign agreement providing for pledging of property or reimbursement of amounts expended. (Stats. 1931) 22 Atty. Gen. 277.

All cases coming under provisions of chapter 142 are excepted from provisions of 49.01, Stats. 1933, and county will be liable for treatment under chapter 142 and cannot charge its portion of expense back to local municipality. 22 Atty. Gen. 875.

Patient may be treated in hospital as long as it is reasonably necessary or until he has recovered sufficiently to leave hospital. (Stats. 1933) 23 Atty. Gen. 847.

County is not liable for ambulance service rendered to injured transient pauper where there has been no prior authorization by proper authorities. (Stats. 1933) 24 Atty. Gen. 332.

Person having no legal settlement must be cared for at expense of county in which he resides. (Stats. 1933) 24 Atty. Gen. 416.

Members of family of person working on WPA project are entitled to county medical aid. (Stats. 1935) 24 Atty. Gen. 802.

Relief department may refuse relief to individual who will not accept reasonable offer of employment. He may be prosecuted for nonsupport under 351.30. Violence and attempted intimidation of relief workers do not of themselves justify cutting off relief, but subject guilty parties to criminal prosecution. Matter of publicity in answering relief complaints is one of policy, and rule of reason should govern in such matters. Relief may be refused applicant who fails to furnish information reasonably required. Applicant may be required to turn in license and title to car in proper cases before granting relief. (Stats. 1935) 25 Atty. Gen. 137.

Money earned by wife and another in family, which family was on relief, may not be credited by county to relief granted. (Stats. 1935) 25 Atty. Gen. 673.

Person injured while employed on WPA project in city is entitled to necessary medical attention and hospitalization therein, even though he has no legal settlement therein and place of his legal settlement is liable therefor under 49.18, Stats. 1937, even though prior to such employment order was entered pursuant to 49.03 (9). 26 Atty. Gen. 610.

County cannot charge against town expenses incurred by town officers for relief of transient who has no legal settlement anywhere, as county is liable for such relief. (Stats. 1937) 28 Atty. Gen. 1.

Sheriff is not officer charged with care of poor persons within meaning of 49.08, Stats. 1937. Failure to give written notice required by 49.18 defeats hospital's right to recover from municipality. 28 Atty. Gen. 16.

Estate of minor whose parents are on relief must be expended for his support and education before he is entitled to public relief. (Stats. 1937) 28 Atty. Gen. 401.

"Temporary medical relief" as used in 49.18 (1), Stats. 1943, includes only care given by a physician, surgeon or hospital, including necessary nursing care in such cases, and does not include Christian Science or chiropractic treatment or mental or spiritual healing. 25 Atty. Gen. 452 disapproved. 33 Atty. Gen. 133.

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 dependents therein and thereupon the county shall relieve all 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 county dependents and 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). [*1945 c. 585, 588; 1947 c. 121*]

Comment of Interim Committee, 1947: 49.03 (1) (b) is amended to harmonize it with change made in 49.01 (1). The repeal of 49.03 (1) (c) and the creation of 49.40 transfers the subject matter from relief to the social security aids for better integration. It relates to medical services for recipients of aid to the aged, the blind, and dependent children. (Bill 34-A)

Note: Section 49.15, Stats. 1933, permits only the complete abolition of all distinction between county poor and town, village and city poor, and the assumption of complete responsibility by the county for their relief and support. In a resolution providing that the county go on the county system of outdoor relief "without in any way affecting the present town system for hospitalization of poor relief," the exception was so clearly intended to qualify the balance of the resolution that it could not be isolated and the resolution was ineffective to establish the county system of relief so that a town in caring for its poor was only discharging its own duty and had no cause of action against the county. City of Washburn v. Bayfield County, 235 W 215, 292 NW 912.

A resolution of a county board that the county "go entirely on the county system of relief," adopted by a majority of the members of the board, satisfied the terms of the statute (sec. 49.15, Stats. 1937) and placed the county under the county system of poor relief. A city, in a county which has adopted the county system of poor relief, is not liable for emergency medical relief furnished to a poor person on the authorization of the mayor of the city. 49.18 merely authorizes the proper executive officer to act for the governmental unit he represents when that unit has a liability to discharge. (Washburn v. Bayfield County, 235 W 215, applied.) Legault v. Owen, 235 W 675, 293 NW 920.

County clerk can issue orders on general fund for outdoor relief when specific appropriation has been exhausted, since support of poor by county is mandatory when county system of relief has been adopted. Hospitalization is discussed. (Stats. 1933) 24 Atty. Gen. 384.

County board is not authorized to pay to towns balance of county relief funds upon changing from county to unit system of relief. (Stats. 1935) 25 Atty. Gen. 92.

When county changes from county to unit system of relief surplus moneys raised for county relief system may be appropriated for other purposes. (Stats. 1935) 25 Atty. Gen. 284.

Determination to adopt or abandon county system of poor relief rests with county board and is not subject to referendum, but board may make its decision contingent upon result of referendum vote. Notice of such referendum can be published in accordance with 10.43 so far as applicable. Provisions of 10.43 (6) are not applicable on question of revocation within two years. (Stats. 1935) 25 Atty. Gen. 533.

County on county system of poor relief has no general or necessarily implied power under any and all circumstances to acquire title to real estate by purchase for the purpose of housing relief clients in individual housing units. Such power, however, is necessarily implied where circumstances are such that the county can meet the problem in no other practicable or feasible manner. County may acquire property by tax deed and use property so acquired for such purpose. (Stats. 1937) 28 Atty. Gen. 372.

49.04 State dependents. (1) From the appropriation made in section 20.18 (10) the state shall reimburse the counties for the relief of 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.

(2) The state department of public welfare shall make suitable rules and regulations governing 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. 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 section 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. If the department is satisfied as to the correctness of the claim it shall certify the same to the director of budget and accounts for payment to the county entitled thereto. Any necessary audit adjustments for any month of the 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 goverened by chapter 227. [*1945 c. 585; 1947 c. 9*]

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. [*1945 c. 585*]

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. [*1945 c. 585; 1947 c. 282, 534*]

49.07 Liability of relatives; enforcement. (1) The father, mother, husband wife and children of any dependent person who is unable to maintain himself, shall maintain such dependent person, so far as able, in a manner approved by the authorities having charge of the dependent, or by the board in charge of the institution where such dependent person may be; but no child of school age shall be compelled to labor contrary to the child labor laws.

(2) Upon failure of relatives so to do said authorities or board may apply to the county judge of the county in which such dependent person resides for an order to compel such maintenance.

(3) At least 10 days prior to the hearing on said application notice thereof shall be served upon such relatives in the manner provided for the service of summons in courts of record.

(4) The county judge shall in a summary way hear the allegations and proofs of the parties and by order require maintenance from such relatives, if of sufficient ability (having due regard for their own future maintenance and making reasonable allowance for the protection of the property and investments from which they derive their living and their care and protection in old age) in the following order: First the husband or wife; then the father; then the children; and lastly the mother. Such order shall specify a sum which will be sufficient for the support of such dependent person, to be paid weekly or monthly, during a period fixed therein, or until the further order of the court. If satisfied that any such relative is unable wholly to maintain such dependent person, but is able to contribute to his support, the judge may direct 2 or more such relatives to main-

tain him and prescribe the proportion each shall contribute and if satisfied that such relatives are unable together wholly to maintain such dependent person, but are able to contribute something therefor, the judge shall direct a sum to be paid weekly or monthly by each such relative in proportion to his ability. Upon application of any party affected thereby and upon like notice and procedure, the said judge may modify such order. Obedience to such order may be enforced by proceedings as for a contempt.

(5) Any party aggrieved by such order may appeal therefrom to the circuit court pursuant to the provisions of chapter 324, so far as applicable and necessary, but when the appeal is taken by the authorities having charge of the dependent person an undertaking need not be filed.

(6) If any relative who has been ordered to maintain a dependent person neglects to do as ordered, the authorities or board may recover in an action on behalf of the municipality or institution for relief or support accorded the dependent person against such relative the sum prescribed for each week the order was disobeyed up to the time of judgment, with costs. [*1945 c. 585*]

Note: The liability of a child to support its parent is purely statutory. Where the statutory procedure for enforcing such liability was not followed in a proceeding against a son's estate, the order charging him with support of his mother was invalid. (49.11, Stats. 1935) Guardianship of Heck, 225 W 636, 275 NW 520.

49.124 (1), Stats. 1937, should be followed in the prosecution of persons who make false representations with the intent to secure relief for themselves or others. 49.124 (2) applies to all other acts intended to interfere with the proper administration of relief, regardless of whether or not the offender is a relief recipient. 28 Atty. Gen. 380.

49.08 Recovery from dependents. If any person at the time of receiving relief under sections 49.01 to 49.17 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 chapter 50 and section 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. In such action the statutes of limitation shall not be pleaded in defense, except that nothing herein shall eliminate the bar of section 313.08. 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 shall receive care for pulmonary tuberculosis as provided in section 50.03 (2a) and section 50.07 (2a). [*1945 c. 104, 459, 506, 585*]

Note: 49.10, Stats. 1931, eliminates the bar of the nonclaim statute, 313.08, as well as the general statute of limitations, 330.18, both operating to destroy the right as well as the remedy; the effect of the nonclaim statute is to limit the time within which an action must be begun and the filing of a claim against the estate of a deceased person is equivalent to the commencement of an action. Estate of Kuplen, 209 W 178, 244 NW 623.

Section 49.10, as amended in 1925 to provide that if an inmate of a state or municipal institution owns "or at any time thereafter" is the owner of property, the value of the relief received may be recovered from such person or his estate, imposed liability upon him if he acquires property subsequent to the time of receiving the relief, but does not apply to relief furnished prior to the enactment of the amendment. Estate of Pelishek, 216 W 176, 256 NW 700.

Estate of person held for criminal offense was not liable to state for care and maintenance furnished to accused while he was committed to hospital for observation as to his sanity, although he was subsequently adjudged insane. Amount of recovery from estate of insane person for care and maintenance furnished to him at central state hospital was governed by 49.10, Stats. 1933, and not by 51.08. Guardianship of Sprain, 219 W 591, 263 NW 648.

The estate of an insane person, who was sentenced to state prison and subsequently ordered transferred to the central state hospital for the insane on a finding of insanity made by the state board of control, was not liable to the state for his maintenance while confined in such hospital, since he was confined therein pursuant to his sentence. (Stats. 1935) Guardianship of Gardner, 220 W 490, 264 NW 647.

The estate of a person charged with a criminal offense is liable to the state for his care and maintenance while confined in the central state hospital for the insane pursuant to an order of commitment which, although not containing an express finding of insanity, found in effect that the accused was presently insane, and disclosed that the commitment was for hospitalization and treatment; as against the contention that the order was one for commitment merely for purposes of observation, in which case there would have been no such liability. (Stats. 1935) Guardianship of Radoll, 222 W 539, 269 NW 305.

This statute does not give a lien to the state on an estate of an inmate supported or maintained in a state institution. Ch. 336, laws of 1935, does not give the state a preference against the estate of an incompetent for maintenance furnished prior to the enactment of said subsection, since the statute, if given a retroactive effect, would be unconstitutional as to other creditors as impairing the obligation of contracts. Guardianship of Banski, 226 W 361, 276 NW 626.

Ch. 345, laws of 1919, contains no indication of an intent to have the statute operate retrospectively and therefore 370.06 operates to preserve the old limitation as to all causes which had accrued prior to the enactment of the first named section. In re Tinker's Estate, 227 W 519, 279 NW 83.

49.10 and 46.10 (7) successively, imposed liability on an inmate or his estate for care and maintenance received by him in a state or county institution, from 1919 until 1943, as well as thereafter. Legislative amend-

ments of 1919, consolidating secs. 600, 604q and 1505a, covering liability, into 49.10, were merely for the purpose of consolidation and indicated no purpose to make a substantive change, although omitting the words "shall be liable" and providing only that the designated authorities "may sue for and collect" against such person or his estate. [State Department of Public Welfare v. Shirley, 243 W 276, overruled so far as inconsistent herewith; Estate of Hahto, 236 W 65, reinstated.] Estate of Cameron, 249 W 531, 25 NW (2d) 504.

Homestead of insane person may be subjected to claim of county for support and care of such person. (Stats. 1931) 20 Atty. Gen. 638.

County cannot bring action to recover from estate of recipient of blind relief furnished under 47.08, Stats. 1931. 21 Atty. Gen. 791.

Board of control is creditor of inmate of central state hospital for insane. (Stats. 1931) 22 Atty. Gen. 20.

See note to 51.08, citing 22 Atty. Gen. 164.

Although county has not yet paid expense of maintaining one in county tuberculosis sanatorium, it may file contingent claim against estate under 313.22. 49.10, Stats. 1933, applies to claims for maintenance in tuberculosis sanatoriums. 24 Atty. Gen. 125.

See note to 46.10, citing 24 Atty. Gen. 797.

49.08, Stats. 1945, does not authorize a county to make a claim against the estate of an incompetent for the expenses referred to in 51.07. 35 Atty. Gen. 320.

Homestead of decedent and proceeds from the sale thereof are not exempt from the claim of the county against the decedent's estate for direct relief furnished to her, but court may refuse to allow such claim where a parent or child of the decedent is dependent on such property for support. 36 Atty. Gen. 143.

49.09 Removal of dependents. (1) When a dependent person, other than a recipient of old-age assistance, aid to blind, or aid to dependent children, 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. [*1945 c. 585*]

Note: Proceeding on petition to county judge pursuant to 49.03 (9), Stats. 1933, for determination of municipality responsible for pauper's support being purely statutory, such judge's order, directing pauper's return to county determined to be her legal settlement, is not appealable; no appeal being provided for by statute. Chippewa County v. Outagamie County, 218 W 447, 261 NW 415.

49.03 (9), Stats. 1933, is construed as applying only where the place of legal settlement is not in dispute; and hence a decision of a county judge determining the place of legal settlement of a poor person in a proceeding brought by a county pursuant to the statute is not res adjudicata as to the place of legal settlement in actions between interested municipalities to determine liability for relief given to such poor person. Two Rivers v. Wabeno, 221 W 158, 266 NW 178.

Under 49.03 (9), Stats. 1941, when a person is given relief in a county or municipality other than that of his settlement, application may be made to the county judge for an order directing him to return to the place of his settlement, and on the issuance of such order no further relief shall be given to him unless he complies therewith. The town of Bayfield procured such an order and served it on the city of Ashland and on the poor person therein. Ashland county could not recover from the town of Bayfield for relief thereafter furnished by the county to the poor person although the order had not been served on the county. Ashland County v. Bayfield County, 246 W 315, 16 NW (2d) 809.

The proceeding for a removal order under 49.03 (9), Stats. 1941, being entirely before the county judge and not in court, the judge acts in an administrative rather

than in a judicial capacity, and his order is not a judgment or order of the court, but is a direction made by the county judge under the authority conferred on him by the statute. Ashland County v. Bayfield County, 246 W 315, 16 NW (2d) 809.

Poor and indigent person having no legal settlement in state cannot be transported to another state, even though he may have legal settlement in such state. (49.03 (9), Stats. 1931). 21 Atty. Gen. 979.

Order of county judge under 49.03 (9), Stats. 1933, that A and family, who require public relief, be removed from Milwaukee county to X county, place of their legal settlement, is valid. A cannot receive further public relief from Milwaukee county. A may be prosecuted for neglect and nonsupport of family for refusing to move to X county so as to obtain public relief if he does not otherwise support his family. One of A's children, under 18, may be held to be neglected child because of fault of his father in failing to abide by court's order, but said child cannot be placed in Milwaukee county institution; may be committed to state public school. 23 Atty. Gen. 730.

Under 49.03 (9), Stats. 1935, only question that can be decided by county judge is whether or not removal will be against best interests of poor person. 25 Atty Gen. 686.

Where there has been compliance with removal order issued under 49.03 (9), Stats. 1939, and relief recipient at some subsequent time again moves from place of legal settlement to county he had previously been ordered to leave, new removal order is necessary to bar receipt of further relief in such place and to discharge county of legal settlement from further liability. 29 Atty. Gen. 141.

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.

(2) Legitimate minor children have the settlement of their father if living, or of their mother if their father is deceased; but if the parents are divorced, the children have the settlement of the parent who has legal custody, and if such parent has no settlement, the children have none.

(3) Illegitimate minor children have the settlement of their mother unless her parental rights are terminated; and if her settlement is lost, theirs is lost.

(4) Every person (except as otherwise provided in this section) who resides in any municipality one whole year gains a legal settlement therein; but the time spent by a person in any municipality while supported therein as a dependent person or while residing in a transient camp or while employed on any municipal, county, state or federal work relief project or program or as an inmate of any home, asylum or institution for the care of aged, neglected or dependent persons, maintained by any lodge, society or corporation, or of any state or United States institution for the care of veterans of the military and naval services, or while residing or while employed on any Indian reservation over which the state has no jurisdiction, shall not be included as part of the year necessary to acquire or lose a settlement. No legal settlement shall be lost, acquired or changed while a person is supported in whole or in part in any institution or foster home as a public charge. The time spent by any person while residing on lands owned, operated or controlled by another municipality shall not be included as part of the year necessary to acquire a legal settlement in the town, city or village wherein such lands are located, but shall be included as part of the year necessary to acquire a legal settlement in such other municipality.

(5) After September 16, 1940, the time spent by any person in the service of the United States army, navy, marine corps, coast guard, or any branch thereof, shall not be included as part of the year necessary to acquire or lose a settlement in any municipality. The provisions of this subsection are retroactive, except that payments or determinations made before July 11, 1943 on the basis of legal settlement under this section before said date are not affected but any findings or determinations on settlement made before such effective date shall not be determinative of settlement in subsequent cases where the application of this subsection would result in a different finding or determination on settlement.

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

(7) Every settlement continues until it is lost by acquiring a new one in this state or by residing for one whole year elsewhere than the municipality in which such settlement exists; and upon acquiring a new settlement or upon residing for one whole year elsewhere than the municipality 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 shall be the day on which the divorce is granted and not the termination of the year period thereafter 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, had 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) The provisions of 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 the effective date of this section.

(11) When this section is applied to any county operating under the county system of administering public assistance the term "municipality" as used herein shall mean and include such county unless the context clearly requires otherwise. [*1945 c. 585; 1947 c. 343*]

Note: Person who lived in town 17 months without receiving public relief was not a "pauper" while there and hence acquired a settlement, even though his financial condition became progressively worse and he received most of his family's support from father-in-law. (Stats. 1935) Town of Ellington v. Industrial Commission, 225 W 169, 273 NW 530.

The expression "of full age" in statutes relating to legal settlement has generally been interpreted to mean "of age." (Stats. 1937) Grand Chute v. Milwaukee County, 230 W 213, 282 NW 127.

The emancipation of a minor does not enable him to gain a legal settlement other than that of his father's legal settlement. (Stats. 1937) Grand Chute v. Milwaukee County, 230 W 213, 282 NW 127.

Under 49.02 (2), (4) to (6), Stats. 1933, 1935, the legal settlement of a minor son for relief purposes continued to be during his minority, the same as the legal settlement of his father, notwithstanding his emancipation by reason of his marriage. La Crosse County v. Vernon County, 233 W 664, 290 NW 279.

Treatment and care rendered to a wife in a county tuberculosis sanatorium, at the expense of the county, on the application of the husband, he being a poor and indigent person who had shortly before received pauper relief from such county, constituted "pauper support," so that a full year's absence from that time by the husband, without pauper support, was necessary in order that his legal settlement in such county be lost so as to relieve the county from liability for poor relief. (Stats. 1937) Milwaukee County v. Oconto County, 235 W 601, 294 NW 11.

Under 49.02 (2), Stats. 1937, the legal settlement of a widowed mother determines the legal settlement of her minor children for whose support she is responsible. Under 48.33 the mother's pension can rightfully be granted only where the head of a family is indigent and dependent on the public for support, and a grant of such aid constitutes "public assistance" to the family and "public relief" to the parent responsible for the support of the minor children. Milwaukee County v. Waukesha County, 236 W 233, 294 NW 835.

Aid granted in the form of dependent children's aid under 48.33 to a father constituted "support as a pauper" to the father, within 49.02 (4), Stats. 1937, so that the father, while continuing to receive such aid, was prevented from acquiring a legal settlement in a different county from that in which he had his legal settlement when such aid was first granted. Jefferson County v. Dodge County, 236 W 238, 294 NW 838.

The fact that a husband remained voluntarily away from the village of his legal settlement more than a year without receiving poor relief would not defeat his legal settlement in the village, under 49.02 (4) and (7) Stats. 1939, if his "residence" away from the village, before returning there to live was less than a year. Waushara County v. Calumet County, 238 W 230, 298 NW 613.

In proceedings brought by O. county under 49.03 (8a), Stats. 1939, to recover for relief furnished to a person residing therein but allegedly having a legal settlement in another county, the evidence warranted a determination of the state department of public welfare that such person, removing to O. county with his mother and living there with her while he was a minor, and sharing in relief received by her, and continuing to live with her after attaining his majority and being married, and not being self-supporting but continuing to share in relief received by the mother, did not reside in O. county without being supported as a "pauper" for a year before receiving relief directly therefrom, and hence, under 49.02 (4), he did not acquire a legal settlement therein. Outagamie County v. Iola, 240 W 118, 2 (2d) NW 841.

49.02, Stats. 1941, rather than 6.015 (1), governs in determining which municipality or county is ultimately liable for relief furnished to a married woman living apart from her husband in a county other than that in which the husband has a legal settlement. Ashland County v. Bayfield County, 244 W 210, 12 NW (2d) 34.

Where a husband never lost his legal settlement in the defendant town his legal settlement continued to be in such town, so that it was liable for public aid furnished to his family while they were living apart from him in another town, their legal settlement following his. (Stats. 1939) Fox Lake v. Trenton, 244 W 412, 12 NW (2d) 679.

The employment of a person, as an enrollee in a CCC camp, during parts of the years 1935 and 1936, did not constitute "pauper support" so as to prevent the loss of his legal settlement. Milwaukee County v. Hurley, 245 W 77, 13 NW (2d) 520.

Where Z. had never received public relief before moving to Milwaukee county from Marathon county, but Z. and his family received relief from Milwaukee county to the amount of $48.02 and from a charitable organization to the amount of $54.88 during the first year of residence in Milwaukee county, and received relief from Milwaukee county in more substantial amounts immediately thereafter and continuously for several years, the department was justified in determining that Z. became and was supported as a "pauper" within 49.02 (4), Stats. 1943, within a year from the time he moved to Milwaukee county, so as to prevent his acquiring a settlement in that county, and that his settlement therefore remained in Marathon county. [Earlier cases analyzed.] Milwaukee v. Stratford, 245 W 505, 15 NW (2d) 812.

The state department of public welfare properly determined that a man, having no legal settlement in this state, coming to Dane county to reside in 1931, there marrying a woman with 2 children, and continuing to reside there, but having no financial resources, working intermittently with small average earnings, and applying for and receiving public assistance for his family, was in need of assistance and did not reside in Madison for one year without being supported as a pauper, hence, under 49.02 (4), Stats. 1943, did not acquire a legal settlement. Dane County v. Barron County, 249 W 618, 26 NW (2d) 249.

One placed on probation with the board of control and put to work in certain municipality cannot acquire legal settlement therein, as his act is not voluntary in locating in that locality. (Stats. 1929) 19 Atty. Gen. 41.

Absence of wife from husband when not legally separated from him does not defeat wife's settlement at place of legal settlement of her husband. (Stats. 1929) 20 Atty. Gen. 231.

Mother who was abandoned by her husband in Minnesota and thereafter moved to Fond du Lac, where she has resided with her children for 15 months acquired legal settlement under 49.02 (4), Stats. 1929. 20 Atty. Gen. 244.

One who had legal settlement in Oneida county but moved into Forest county, living in one town about six months, then moved into another town in Forest county and all together has lived one year in Forest county, has not acquired legal settlement in Forest county. (Stats. 1931) 20 Atty. Gen. 622.

Person loses his legal settlement when he voluntarily absents himself from municipality for more than one year and does not ask or receive aid during such period. Municipality to which it is sought to remove poor person is entitled to notice of proceedings.

(Stats. 1931) 20 Atty. Gen. 1103.

Minors who have no living parents may acquire settlement; they may lose their legal settlement by voluntary and uninterrupted absence from town, village or city in which such legal settlement shall have been gained for one whole year. If said children have no legal settlement then county where they reside is required to support them. (Stats. 1931) 20 Atty. Gen. 1109.

Guardianship of property does not incapacitate person to change his residence and settlement, but actual incompetency to have necessary intent must be shown. (Stats. 1931) 20 Atty. Gen. 1230.

Minor having mother with legal settlement in this state cannot acquire legal settlement of his own under 49.02 (5), Stats. 1931. 21 Atty. Gen. 547.

Time spent in prison by person who has residence in certain county will be counted in establishing his legal settlement and that of his wife and children, although his wife and children may live in another locality. (Stats. 1931) 21 Atty. Gen. 780.

Legal settlement of two minor children living with their mother, who has legal settlement different from that of father, follows that of father instead of mother under 49.02 (2), Stats. 1931. 21 Atty. Gen. 1095.

Where husband has abandoned his wife and lives in another county for one year without receiving aid from such county, he establishes legal settlement there for himself and family (Monroe County v. Jackson County, 72 W 449) even though his family was receiving support from county where husband formerly had legal settlement. (Stats. 1931) 22 Atty. Gen. 128.

Ex-service man receiving aid under provisions of 45.10 cannot gain legal settlement. (Stats. 1931) 22 Atty. Gen. 147.

Where one is sentenced but sentence is suspended and he is placed on probation, time on probation cannot be counted in determining his legal settlement in town where he has been placed by board of control. (Stats. 1931) 22 Atty. Gen. 155.

Advancement by town of groceries and rent with requirement that recipient perform work to value of such advancements constitutes poor relief. (Spl. S. 1931 c. 29 s. 2) 22 Atty. Gen. 198.

Indigent person who receives employment from village operating under Reconstruction Finance Corporation and industrial commission outdoor relief plan receives poor relief within meaning of ch. 49, Stats. 1931. 22 Atty. Gen. 218.

Minor child of mother, who lives in Beloit and who has placed child in orphanage in Illinois, has a legal settlement in Beloit. (Stats. 1931) 22 Atty. Gen. 225.

Minor child cannot acquire legal settlement in county where she stays so long as her parents have legal settlement in another county. (Stats. 1931) 22 Atty. Gen. 279.

Husband who has resided in town for more than one year, although his wife has been treated during said year in Wisconsin general hospital at county expense, has acquired legal settlement in such town. (Stats. 1933) 22 Atty. Gen. 665.

One who had legal settlement in Wisconsin but went into Iowa, where he was imprisoned for two years and then returned to place of legal settlement, has not lost his legal settlement as he was not voluntarily absent. (Stats. 1933) 22 Atty. Gen. 786. See 22 Atty. Gen. 45, 75.

Legal settlement of minor and her illegitimate child is that of parent having legal settlement in this state. Fact that minor is emancipated is not material in determining legal settlement. (Stats. 1933) 22 Atty. Gen. 977.

Receipt of mother's pension does not prevent mother from gaining legal settlement. (Stats. 1933) 22 Atty. Gen. 1041.

Upon marriage wife acquires settlement where her husband has settlement and her children follow her settlement. (Stats. 1933) 23 Atty. Gen. 113.

Indigent person who receives work from municipality and is paid in cash is not supported as pauper and may acquire legal settlement. (Stats. 1931, 1933) 22 Atty. Gen. 145; 23 Atty. Gen. 382.

Person committed to state public school and thereafter committed to northern colony for feeble-minded has not lost her legal settlement, as she was not voluntarily absent. (Stats. 1933) 23 Atty. Gen. 580.

Mother living on twenty-five dollars per month paid to her by government as part of remuneration of her son working in Civilian Conservation Corps camp is not thereby prevented from gaining legal settlement. (Stats. 1933) 23 Atty. Gen. 617.

Mere application for aid without receiving it does not prevent establishing legal settlement. (Stats. 1933, 1935) 23 Atty. Gen. 702; 25 Atty. Gen. 243.

Minor orphans may acquire legal settlement in their own right despite fact that they had derivative settlement from that of their deceased parents. (Stats. 1933) 24 Atty. Gen. 5.

Person employed by Wisconsin Veterans' Home, compensated with money plus board and lodging on institution grounds, has gained legal settlement in town in which institution is located by staying at institution for year. (Stats. 1933) 24 Atty. Gen. 9.

Receipt of old-age assistance prevents gaining of legal settlement in accordance with 49.02 (4), Stats. 1933. 24 Atty. Gen. 163; 27 Atty. Gen. 576.

Man under parole to private citizen and allowed to choose his own residence is not prevented from gaining legal settlement by being on parole. 19 Atty. Gen. 41, distinguished. (Stats. 1933) 24 Atty. Gen. 221.

Man who maintains his home in one county while working in another and who returns to his family week ends acquires legal settlement in former county at end of year. (Stats. 1933) 24 Atty. Gen. 251.

There is no such thing as legal settlement in county; settlements are acquired in town, city or village even though county is on county system of poor relief. (Stats. 1933) 24 Atty. Gen. 416.

Legal settlement of minor child follows that of father and after he becomes of age it will take one full year to change this settlement by minor. (Stats. 1933) 24 Atty. Gen. 583.

Family must be self-supporting for one year in order to gain legal settlement under 49.02 (7), Stats. 1935. 24 Atty. Gen. 719.

Minor daughter of divorced husband living with him has same legal settlement as her father. After his death her legal settlement immediately becomes that of mother. (Stats. 1935) 25 Atty. Gen. 430.

Settlement of minor child of divorced parents follows settlement of father in this state, although custody of child has been given to mother. (Stats. 1935) 25 Atty. Gen. 686.

Receipt of books worth approximately $5 from municipality by children of man who is above level of subsistence does not constitute "support as a pauper" within meaning of 49.02 (4), Stats. 1935, so as to prevent gaining of legal settlement. 25 Atty. Gen. 718.

Under facts stated where A has his family in one place and works in another but supports his family and visits them, he must be held to have legal settlement in village where his family lives. (Stats. 1935) 26 Atty. Gen. 28.

Mere fact that children receive aid under 48.33, Stats. 1937, does not prevent father from gaining legal settlement in another municipality. 26 Atty. Gen. 472.

Under 49.03 (2), Stats. 1937, municipality furnishing relief to transient poor person sends bill to county in which such municipality is located and must look entirely to county for payment. 26 Atty. Gen. 538.

Where county changes from county system to township system of poor relief, municipalities are not liable to reimburse county for relief to poor persons receiving relief in outside counties until county clerk notifies municipality in accordance with 49.03 (4), Stats. 1937. 26 Atty. Gen. 538.

Homeless person or transient supported in transient camp as such does not gain legal settlement in municipality in which camp is located. (Stats. 1937) 26 Atty. Gen. 574.

Receipt of assistance under 47.08, Stats. 1937, prevents gaining of legal settlement. 27 Atty. Gen. 51.

One employed on federal works progress administration project can neither gain nor lose legal settlement while so employed. (Stats. 1937) 27 Atty. Gen. 177.

Support given family of man legally responsible for same constitutes support to husband so as to prevent gaining of legal settlement, even though such husband may be residing apart from his family. 22 Atty. Gen. 128 is modified. (Stats. 1937) 27 Atty. Gen. 183.

Treatment at Wisconsin general hospital at public expense of person or his family does not interfere with loss of legal settlement under 49.02 (7), Stats. 1937. Person having no legal settlement must be cared for at expense of county in which he resides under 49.04. 27 Atty. Gen. 198.

Under 49.02 (1), Stats. 1937, husband may receive direct relief from place of his wife's legal settlement, but this section does not authorize granting of relief in some other community with charge back to place of wife's legal settlement. 27 Atty. Gen. 214.

Under 49.02 (3), Stats. 1937, illegitimate child has and retains legal settlement of his mother at time of his birth, even though mother may have changed her legal settlement. 27 Atty. Gen. 469.

Infant whose father and mother are dead and who is of sufficient age and mental capacity to form intent to change her place of residence may lose legal settlement by voluntarily and uninterruptedly absenting herself from place of her legal settlement for period of one year or more. County's liability under 49.04 (1), Stats. 1937, for care of poor persons includes infants whose parents are dead and who have no legal settlement. 27 Atty. Gen. 574.

Various farm aids administered by rural rehabilitation division of FSA analyzed from standpoint of nature of specific form of aid and whether it is essentially pauper aid and evidentiary value of such aids appraised as bearing upon question of legal settlement under 49.02 (4), Stats. 1937. 27 Atty. Gen. 777.

Minor girl takes and follows legal settlement of her husband and retains that settlement during year immediately following granting of absolute divorce from bonds of matrimony. (Stats. 1937) 28 Atty. Gen. 65.

A minor enjoying a derivative settlement in the city of Waupaca does not lose that settlement by marriage to a person not settled in Wisconsin, nor by acquiring a legal settlement in another state. (Stats. 1937) 28 Atty. Gen. 584.

Husband does not obtain derivative settlement from his wife's settlement. Children of such husband and wife derive their settlements from that of their mother. (Stats. 1939) 28 Atty. Gen. 675.

Person living in automobile trailer with his family within limits of town may acquire legal settlement there if during period of his residence he carries on his usual vocation and does not receive poor relief. (Stats. 1939) 28 Atty. Gen. 696.

49.02 (5), Stats. 1939, applies to illegitimate as well as to legitimate minors. Settlement of minor will not be lost under (7) if he is supported as pauper at any time during year of absence, and voluntary character of absence of young children will be serious question of fact. 29 Atty. Gen. 80.

At least prior to enactment of ch. 16, Laws 1937, person uninterruptedly absent from his place of legal settlement for one year lost his settlement, under 49.02 (7), even though enrolled in CCC during that time. 29 Atty. Gen. 165.

Poor relief granted to wife of minor is not constructively pauper support to minor's father, there being no obligation on father to support his daughter-in-law, and will not prevent father from losing his legal settlement by year's absence under 49.02 (7), Stats. 1939, nor from gaining new one by year's residence under (4). 29 Atty. Gen. 293.

For discussion of gaining or losing settlement under 49.02 (4) and (7), Stats. 1939, because of absence for purpose of hospitalization at tuberculosis sanatorium or camp, see 29 Atty. Gen. 395 and 428.

Under 49.02 (1), (5) and (7), Stats. 1941, if husband and wife have legal settlement in particular municipality and husband deserts wife, losing his legal settlement there and failing to acquire new one elsewhere, wife who continues to live in same municipality does not thereby lose her settlement so as to become county-at-large charge. 32 Atty. Gen. 219.

Applicant for old-age assistance has not been supported as a pauper within the meaning of 49.02 (4), Stats. 1943, until he has received such support. 33 Atty. Gen. 28.

A person settled in a Wisconsin municipality, who enlists in the army and thereafter deserts and remains without the state voluntarily for a period of over one year, loses his settlement in the Wisconsin municipality. (Stats. 1943) 34 Atty. Gen. 32.

Attendance of adult blind person at Wisconsin workshop for the blind does not of itself constitute support as a pauper or prevent such person from acquiring a legal settlement. (Stats. 1943) 34 Atty. Gen. 52.

A grant of $3.95 as relief may or may not prevent a person from obtaining legal settlement in the town where the relief is granted, depending upon the circumstances. 35 Atty. Gen. 10.

Fact that minor child receives free care in tuberculosis sanatorium under 50.03 (2a) and (2b) and 50.07 (2a) does not prevent his parent from gaining or losing legal settlement under 49.10 (4). But the child is being supported "as a public charge" and therefore his settlement status cannot change so long as he is in the institution. Upon his discharge he acquires the settlement of his parent, if any, under 49.10 (2). 35 Atty. Gen. 222.

Under 49.10 (1) and (6) a minor female, resident of Wisconsin, who marries a nonresident of this state, loses her legal settlement in Wisconsin even though she continues to reside in Wisconsin and there is no conflict with the provisions of 49.10 (7). If she has resided in the state for less than one year after her marriage, she may be treated as a state dependent under 49.04. 35 Atty. Gen. 294.

Under 49.10 (2), State. 1945, legal settlement of a minor child of divorced parents is that of the parent having its legal custody, and if such parent has no settlement within this state, the child has none. 36 Atty. Gen. 147.

Illegitimate child born before September 15, 1945, and who has gained a legal settlement under 49.02 (3), Stats. 1943, may now under the provisions of 49.10 (3), Stats. 1945, lose such settlement if its mother loses hers. 36 Atty. Gen. 190.

49.11 Legal settlement, collection from. (1) SWORN STATEMENT OF SETTLEMENT. When relief is granted to a dependent person he shall be required to make a sworn statement of facts relating to his legal settlement; but if he is unable to make a sworn statement it may be made by any person having knowledge of the facts.

(2) RIGHT TO COLLECT FROM PLACE OF SETTLEMENT. When the person so relieved claims a settlement outside the county where the relief is granted or claims to have no settlement, the expenses shall be a charge against the county. The charge shall be audited by the county board, and may be recovered by such county from the county of his settlement, and such county in turn, (except when operating under the county system of relief), may recover from the municipality of his settlement. If the county wherein the aid is granted fails to pay the charge to the granting municipality within 8 months after

it is filed with its clerk, the municipality may proceed against said county under this section to recover for the relief granted. In such proceedings the county may set up the defenses that the settlement of the recipient is in the municipality which granted the aid or that he was not in need of the aid furnished or that the notices required to be served were defective to the prejudice of the county. If a county is unable to recover due to the negligence of the municipality in ascertaining the facts relating to the recipient's settlement or in giving the notices required or in ascertaining the need for the aid or because his settlement is in the municipality, the department may order the municipality to reimburse the county. When the person relieved has his settlement in the county where relieved, and the county system of relief is not in operation, the municipality furnishing the relief may recover therefor from the municipality of his settlement.

(3) NOTICE OF CLAIMED SETTLEMENT. (a) *County system.* When a county grants relief to a person claiming settlement in another county, its clerk shall within 20 days after he becomes a public charge file with the clerk of the other county a notice as provided in paragraph (f).

(b) *Municipal system.* If a municipality grants relief to a person claiming settlement in another county the municipal clerk shall within 20 days after he becomes a public charge file with the clerk of his county a notice as provided in paragraph (f) and that county clerk shall within 20 days after the receipt thereof file a copy of said notice with the clerk of the county in which such person claims a settlement.

(c) *Filing and transmitting.* When a county clerk receives notice from another county clerk as provided for in paragraphs (a) and (b) and his county is not operating under the county system of maintaining its dependents, he shall within 20 days after such receipt file a copy of the notice with the clerk of the municipality in which the dependent claims a settlement. If the county is operating under such county system, its clerk need not file notice with the municipal clerk until the county ceases to operate under the county system and operates on the municipal system.

(d) *Settled in county.* If a municipality grants relief to a person claiming settlement in the same county, the municipal clerk shall within 20 days after such person becomes a public charge file with the clerk of the municipality in which the dependent claims a settlement a notice as provided for in paragraph (f).

(e) *Nonsettled.* If a municipality grants relief to a person who appears to be without a settlement in Wisconsin, a copy of his sworn statement and a notice as provided for in paragraph (f) shall be filed with the clerk of the county within 20 days after such person becomes a public charge.

(f) *Content of notice.* The nonresident notice filed under paragraphs (a), (b), (c), (d) and (e) shall be on a standard form prescribed by the department and shall state the name of the municipality granting the relief, the name of the person and members of his household who have received public aid, the name of the municipality where he claims his settlement, or, if such place could not after due diligence be ascertained, a statement of such fact, and the date on which the relief was furnished. Along with the nonresident notice the clerk shall also file a copy of the sworn statement taken as provided in section 49.11 (1).

(g) *Late filing.* If the required nonresident notices are not given within 20 days after the person becomes a public charge but are given later the municipality or county notified shall be liable only for the expense incurred for support from the time such notices are given.

(h) *Notice denying settlement.* Unless the municipality (or county when on the county system) upon which such nonresident notice is filed shall within 20 days deny that the dependent's settlement is as claimed, it shall be liable for his support until said denial is made. The denial shall state the facts upon which settlement is disputed, and copies shall be filed with all municipal and county clerks involved in the giving or transmission of the nonresident notice.

(i) *Lapse of nonresidence notice.* The effect of a nonresident notice is terminated by voluntary absence of the relief recipient for one year from the municipality or county originating such notice.

(4) VERIFIED CLAIMS TO BE FILED. Verified claims for relief granted shall be filed with the same parties and the procedure for the filing of claims shall be the same as is provided in section 49.11 (3) for the filing of nonresident notices. When a defendant county operates on the municipal system of relief, a copy of the verified claim shall be filed by the clerk of the defendant county within 30 days after such claim has been filed with him and failure to so file shall bar recovery by a defendant county from the municipality.

(5) STATUTE OF LIMITATIONS. (a) *Accounts against county.* When relief is administered by municipalities, claims therefor against the county are barred unless they are filed within one year from the date the relief is granted.

(b) *Intracounty claims.* When the dependent's settlement is claimed to be within the county wherein the relief is granted, claims not filed with the municipality of alleged settlement within one year after granting the relief are barred.

(c) *Intercounty claims.* When the settlement is alleged to be within another county claims not filed within 2 years from the date the relief is granted are barred.

(d) *Notice of disallowance.* When a claim for relief is disallowed (either by action or lapse of time) the clerk shall within 30 days file notice of disallowance with the clerk of the claimant who shall promptly notify his relief official or agency, and action on the claim must be commenced within 6 months after such filing and within 6 years after the relief was granted.

(e) *Old claims.* A claim for relief granted prior to July 1, 1943, which was valid on said date shall be subject to the provisions of this subsection in like manner as if such relief had been granted on said date, except that filing of a claim for such relief prior to said date in the manner then prescribed shall for all purposes satisfy the filing requirements of this section; but nothing in this subsection shall toll the 6-year statute of limitations on any such claims.

(f) *Six-year limitation.* Any right growing out of a relief claim, (not barred by the 6-year statute of limitations) which a county or municipality had against another county or municipality prior to July 1, 1943, may be enforced in a proceeding before the department as provided in section 49.03 of the 1943 statutes.

(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 an action in the name of the county for the recovery of so much of said 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 subsection (7).

(7) PROCEEDINGS. (a) *Jurisdiction and practice.* All relief claims by one municipality or county against another municipality or county, which have been disallowed or which have not been acted upon as required by statute, may be prosecuted before the department which is hereby given the exclusive power and duty to try and determine such controversies. In any such proceeding all municipalities or counties liable presently or ultimately, or connected with the controversy are necessary parties to the proceeding. The parties have the 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 may 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 chapter 227 as will enable it to effectually perform its duties hereunder. The department may grant to the prevailing party and against the losing party actual expenses incurred for witnesses but not to exceed $2 per day for witness fees nor 5 cents per mile for travel.

(b) *Pleadings and hearing.* Such proceedings shall be commenced by complaint which shall be entitled "Before the state department of public welfare 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 mail; the department shall thereupon note such service upon the original complaint and so notify the claimant. The department shall immediately transmit a copy by registered mail to the defendant county or municipality, which shall have 20 days from the time of the mailing of such copy to serve by registered mail 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 mail as soon as possible after such hearing.

(c) *Judicial review.* Such order shall be subject to review in the manner provided in chapter 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, 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 for shall be by registered 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 director of budget and accounts 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 secretary of state. [*1945 c. 511, 585, 588; 1947 c. 9, 121*]

Comment of Interim Committee, 1947: The amendment to 49.11 (3) (c) is essentially a routine matter of giving notice to the government unit to be charged. New 49.11 (3) (i) is meant to solve a problem which seldom arises but which is suggested by two decisions of the Dane County Circuit Court. (Bill 34-A)

Note: In determining the liability of municipalities for poor relief under 49.03 (8a) (a), Stats. 1937, the commission is vested with a purely judicial function and has no interest in maintaining its decision upon review, and is not a proper party to such a proceeding. The fundamental difference between an appeal and an action to review is that in the case of appeal the tribunal by which the first determination was made is not a party to the proceeding, but in an action to review the tribunal which made the determination is a party to the proceeding. Milwaukee County v. Industrial Commission, 228 W 94, 279 NW 655.

Subsection (8a), Stats. 1937, is constitutional. A town may appeal to the supreme court from the circuit court judgment affirming industrial commission's determination which affects a town's liability for poor relief. The liability of towns, cities, villages and counties for poor relief and the remedies for enforcing such liabilities and furnishing such relief are discussed at great length, pro and con, in this case. Town of Holland v. Cedar Grove, 230 W 177, 282 NW 111.

Proceedings before the industrial commission by a city against the county to recover relief furnished by the city to paupers were void as 49.03, Stats. 1937, makes no provision for action by anybody except the county. Greenbush v. Plymouth, 230 W 210, 282 NW 126.

In a proceeding before the industrial commission under 49.03, Stats. 1939, to determine which of two counties was liable for poor relief furnished, a finding that the recipient of the relief had lost his legal settlement in the one county by absence therefrom for more than one year in the other county without receiving pauper support is a conclusion of law which may and should be disturbed if grounded on an erroneous view of the law. Milwaukee County v. Oconto County, 235 W 601, 294 NW 11.

Where a county in proceedings instituted by it under 49.03 (8a), Stats. 1939, against a town, brought an "action to review" the determination of the industrial commission by service of a summons and complaint on the commission and the town, instead of taking the "appeal" authorized by paragraph (c), the circuit court properly dismissed the action for want of jurisdiction on the town's motion on its special appearance solely for such purpose after the expiration of the period for taking the statutory appeal. [Milwaukee County v. Industrial Comm., 228 W 94, and Holland v. Cedar Grove, 230 W 177, distinguished.] Milwaukee County v. Industrial Comm., 236 W 252, 294 NW 809.

In proceedings before the state department of public welfare under 49.03 (8a), Stats. 1939, findings of the department as to residence of the person involved, taken as relating to residence affecting legal settlement, were "conclusions of law" from undisputed evidence, which must give way to the conclusions of law reached by the court on review, and were not "findings of fact," which must be sustained if there is evidence to support them. Waushara County v. Calumet County, 238 W 230, 298 NW 613.

In a proceeding before the state department of public welfare to determine controversies between municipalities and counties as to liability for poor relief furnished, as provided in 49.03 (8a), Stats. 1939, the department is but an administrative body authorized to find the facts; and in such a proceeding rules which might govern in court trials do not necessarily apply. Where the stipulation of the parties made the question of legal settlement of the relief recipient the sole issue, and where the department properly confined its determination to a decision of such question, the circuit court, on appeal could not disregard the stipulation and decide on the record that the relief recipient was not entitled to relief. Fox Lake v. Trenton, 244 W 412, 12 NW (2d) 679.

Where Milwaukee county in 1928 filed with Marathon county a timely notice, conforming in all respects to 49.03 (3) (f), Stats. 1943, as to public relief furnished to a person claiming a legal settlement in Marathon county, the fact that the relief recipient's affidavit accompanying the notice stated that the relief necessary was temporary aid on account of an arm injury did not make it necessary for Milwaukee county to file a new notice as basis for recovery under the statute for further relief furnished to such person continuously from 1928 to 1939. That the notice of 1928 included a statement indicating a need merely for temporary relief, and that Milwaukee county furnished further relief continuously from 1928 to 1939 without filing further claims as they accrued, did not estop Milwaukee county from recovering from Marathon county for the total relief furnished, since estoppel is an equitable doctrine, and there are no equities between municipalities in respect to liability for supporting paupers, in that the whole matter is purely statutory. Milwaukee v. Stratford, 245 W 505, 15 NW (2d) 812.

Applying provisions in 49.03 (3), Stats. 1935, that the clerk of the municipality furnishing public relief to a nonresident shall "within 10 days after such person becomes a public charge" serve on the county clerk of the county of the person's legal settlement a notice stating the name of the person who "has received" aid and the date on which the first aid "was furnished," it is held, that a notice served 8 days before the first aid was actually furnished, but within 10 days after application for aid had been approved, was not misleading or prejudicial to the county of legal settlement under the facts, and was not fatally defective for failing to comply strictly with the statute. Brown County v. Green Bay, 245 W 558, 15 NW (2d) 830.

A transient person in a certain county, who was totally without financial means of her own, was a "poor person" entitled to relief if in need thereof, within 49.03, Stats. 1943, although she had relatives liable for her support under 49.11, Stats. 1943, and such county was within 49.03 in furnishing needed medical care and treatment to her, without first invoking 49.11 against her relatives, and hence was entitled to reimbursement from the county of her legal settlement. Milwaukee County v. Green Bay, 249 W 90, 23 NW (2d) 487.

49.03 (8a), as amended by ch. 242, laws of 1939, giving to the industrial commission (later to the state department of public welfare) the exclusive power and duty to hear, try and determine controversies re-

lating to relief claims by one municipality or county against another municipality or county, was not void as an unconstitutional delegation of judicial power to an administrative board. [Holland v. Cedar Grove, 230 W 177, followed.] In the absence of fraud, a finding by the state department of public welfare as to the need of a family for support as poor and indigent persons was not open to question on appeal. Support furnished under poor-relief statutes to a member of a family is deemed to be furnished to the person who is under a duty to support the family. Dane County v. Barron County, 249 W 618, 26 NW (2d) 249.

Expense of medical aid and burial of indigent person who, while passing through town or city other than city of his residence, but within same county, becomes ill, dies and is buried by such town or city, is paid in first instance by that municipality and then is collected from county and by county charged to municipality where indigent had legal settlement. (Stats. 1929) 19 Atty. Gen. 312.

Procedure must be strictly followed to enable county paying for care of transient pauper to collect same from town of legal settlement of such pauper. (Stats. 1931) 20 Atty. Gen. 1034.

County of Fond du Lac, where person has legal settlement, cannot be charged with hospitalization and doctor bill incurred in another county when no affidavit has been filed and no notice has been sent to Fond du Lac county until some six months after expense has been incurred. (49.03, Stats. 1933) 23 Atty. Gen. 321.

Relief under 49.03, Stats. 1937, may be given by town, city or village or directly by county. If proper notice is given, place of legal settlement is liable for such care whether relief is given by municipality or county. 28 Atty. Gen. 27.

As repealed and recreated by ch. 242, laws of 1939, 49.03 (8a) confers jurisdiction upon industrial commission over relief claims by town, city or village against county in which it is situated, for relief furnished to transient pauper. Industrial commission does not make orders under 49.03 (8a). Its duties are restricted to making findings and certification dealt with in Town of Holland v. Village of Cedar Grove, 230 W 177. Consequently where more than one party is before commission in proceeding no question arises as to form of order imposing liability nor as to proper party against whom order should be drawn. Law provides that certain liability shall exist upon basis of said findings. When commission makes its findings and certification its function has ceased. Secretary of state is thereupon required to exercise certain functions which are dependent upon application of law to facts as found by commission. Under ch. 435, laws of 1939 all powers, duties and functions of industrial commission under 49.03 (8a) were transferred to state department of public welfare. 29 Atty. Gen. 184.

Failure or neglect of county clerk to forward nonresident relief notice, as required by 49.03 (4), Stats. 1941, to county wherein nonresident relief recipient claims legal settlement renders clerk and his bondsmen liable to county for damage resulting to it. 30 Atty. Gen. 440.

Hospitalization in Milwaukee county hospital may under certain circumstances constitute "poor relief," and cost thereof may be recovered from county in which recipient has legal settlement in proceeding under 49.03 (8a), Stats. 1943. Question of whether such hospitalization constitutes "poor relief" is one of fact dependent upon circumstances of each case. 34 Atty. Gen. 108.

49.12 Penalties. (1) Any person who, with intent to secure public assistance under any provision of chapter 49, whether for himself or for some other person, wilfully makes any false representations shall, if the value of such assistance so secured does not exceed $50, be punished by imprisonment not more than 6 months or by a fine not to exceed $100, and, if the value of the assistance does exceed $50, by imprisonment not more than 5 years nor less than one year, or by a fine not exceeding $100.

(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.

(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 section 348.28.

(6) Where a person is originally eligible for assistance and later receives assets which would make him ineligible for such relief and he fails to notify the proper officer or agency of the receipt of such assets and continues to receive aid, same shall be considered a fraud and the penalties as set forth in subsection (1) hereof shall apply. [*1945 c. 585*]

49.13 Abandonment of wife and child. (1) When the father, or mother, being a widow or living separate from her husband, absconds or is about to abscond from his or her children, or a husband from his wife, or when such father, mother or husband is about to remove permanently from the municipality in which he or she resides, leaving a wife or children, or both, chargeable or likely to become chargeable upon the public for support, or neglects or refuses to support or provide for such wife or children, the county or municipality where such wife or children may be, by the official or agency designated to administer public assistance, may apply to the county judge or any justice of

the peace of any county in which any property, real or personal, of said father, mother or husband is situated for a warrant to seize the property.

(2) Upon due proof of the facts aforesaid such judge or justice shall issue his warrant authorizing such county or municipality to seize the property of such person, wherever found in said county; and they shall, respectively, be vested with all the rights and title, as limited in this section, to such property which such person had at the time of his departure. They shall immediately make an inventory thereof and return the same with said warrant and their proceedings thereon to the county court. All sales and transfers of any real or personal property left in such county, made by him after the issuing of such warrant, shall be absolutely void.

(3) Upon such return the county court may inquire into the facts and circumstances and may confirm such seizure or discharge the same; and if the same be confirmed shall from time to time direct what part of the personal property shall be sold and how much of the proceeds of such sales and the rents and profits of the real estate shall be applied toward the maintenance of the wife or children of such person. All such sales shall be at public auction in accordance with the laws relating to execution sales of personalty and realty as provided in sections 272.29 and 272.31.

(4) The county or municipality, respectively, shall receive the proceeds of all property so sold and the rents and profits of the real estate of such person and apply the same to the maintenance and support of the wife or children of such person; and they shall account to the court for the moneys so received and for the application thereof from time to time.

(5) If the person whose property has been so seized shall return and support the wife or children so abandoned or give security to the county or municipality, respectively, (to be approved by them) that such wife or children shall not thereafter be chargeable to such municipality, the court shall discharge such warrant and order the restoration of the property seized by virtue thereof and remaining unappropriated, or the unappropriated proceeds thereof, after deducting the expenses of such proceedings. [*1945 c. 585*]

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. [*1945 c. 585*]

Note: See note to 46.18, citing 24 Atty. Gen. 75.

County relief director appointed under (2), Stats. 1933, may be discharged by county board at its pleasure by majority vote. 24 Atty. Gen. 633.

County home is not authorized to house paying guests. **(Stats. 1935) 25 Atty. Gen. 433.**

Where person has been committed to and is inmate of county home contract by county providing for support and maintenance of such person in private institution in another county is void under (4), Stats. 1937. 26 Atty. Gen. 483.

49.15 County home; commitments; admissions. (1) When it appears to the satisfaction of any judge of a 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, such judge, 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 such judge 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. [*1945 c. 585; 1947 c. 121*]

Comment of Interim Committee, 1947: New 49.15 (4) permits counties to bear the cost of county home care without charge-back to towns, cities and villages. (Bill 34-A)

Note: A municipality which is liable for support of poor person has not power to remove such person and family from some other town, city or village to its own town, city or village. Such person may be committed to county home and children taken care of by juvenile court. (49.07, Stats. 1929) 19 Atty. Gen. 84.

49.15 (1), as amended in 1945 does not require person otherwise qualified to be committed to county home to be a pauper. Admission to county home under 49.15 (2) is governed by board of trustees, and commitment by a court is unnecessary. 36 Atty. Gen. 166.

49.16 County hospital; establishment. (1) Each county may establish a county hospital for the treatment of dependent persons, pursuant to section 46.17.

(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. [*1945 c. 585*]

Note: Under 49.145 (2), Stats. 1943, insane patients having property are made liable for maintenance furnished to them in county hospitals for the insane. Guardianship of Brennan, 245 W 235, 14 NW (2d) 28.

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. [*1945 c. 585; 1947 c. 121*]

Comment of Interim Committee, 1947: New 49.17 (3) permits counties to bear the cost of county hospital care without charge-back to towns, cities and villages. (Bill 34-A)

AID TO THE BLIND

49.18 Aid to the blind. (1) Any needy person 18 years of age or more 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. The maximum aid per month shall not exceed twice the maximum amount of federal reimbursement for such aid.

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(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 $100 shall be paid for such expenses as the county judge directs.

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(2) To entitle an applicant to such aid:

(a) He must have resided in this state at the time he lost his sight, or for one year preceding his application. An applicant who has resided less than one year in Wisconsin may be granted aid to the blind if the state from which he removed his residence to Wisconsin grants such aid to any resident of Wisconsin who has moved to such state and lived there less than one year; provided that aid to the blind may not be continued to exceed one year to any recipient who removes his residence to another state;

(b) He must not be an inmate of any state, county or municipally owned charitable, reformatory or penal institution, nor 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 section 49.07.

(4) All applicants for aid to the blind shall be examined by a physician skilled in eye diseases who shall keep such records and render such reports as the department prescribes. Reexamination shall also be made when necessary. The fee for each examination shall be $2 but the county board may by resolution establish a larger fee. 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) An applicant for blind aid shall file his sworn application 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 agency shall promptly make or cause to be made such further investigation of the condition and circumstances of the applicant as may be necessary or as is required by rules and regulations of the department. The county agency shall decide whether the applicant is entitled to blind aid and fix the amount thereof. Such aid shall be paid monthly.

(b) The decision of the agency shall be final unless a proceeding for review by the department is taken under section 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 blind aid shall be payable under this section to any person for any period with respect to which he is receiving old-age assistance under sections 49.20 to 49.39.

(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.

(10) 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 it, it shall certify to the director of budget and accounts for reimbursement to the county 30 per cent of the approved amount paid by the county for blind aid pursuant to this section, plus federal aid received for such expenditures. If the total amount due all counties exceeds the sum appropriated by section 20.18 (4), the appropriation shall be prorated by the department among the counties according to the amounts due them. To facilitate prompt reimbursement, the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of current or prior fiscal years may be made and included in subsequent certifications. The director of budget and accounts shall draw his warrant forthwith for reimbursement to the respective counties in accordance with the certification of the department. [*1945 c. 193, 585; 1947 c. 9, 121, 286*]

Comment of Interim Committee, 1947: The repeal of 49.18 (3) eliminates the one year charge-back in aid to the blind and places it on a current residence basis like old-age assistance. (Bill 34-A)

Note: Person committed to county home is not entitled to blind pension for that reason, although he may otherwise be qualified to receive such aid. (47.08, Stats. 1929) 19 Atty. Gen. 8.

Granting of pensions to blind and deaf persons is mandatory, but amount thereof is within discretion of county board within limitations prescribed. (47.08, Stats. 1931) 21 Atty. Gen. 300.

Expenditure of money received by blind or deaf person under 47.08, Stats. 1933, may not be supervised by county relief authorities. 24 Atty. Gen. 109.

Husband and wife, both blind and having no separate income, may each receive same blind pension as if single. (Stats. 1933) 24 Atty. Gen. 445.

Person who is not committed to but who is living at county home and paying for his keep is not inmate within meaning of 47.08 (2) (b), Stats. 1935. 25 Atty. Gen. 433.

County board, under 59.15 (1) (e), may allow examiner of blind and deaf more than fee fixed by 47.08 (4). (Stats. 1935) 25 Atty. Gen. 671.

Under 47.08 (2) (a), Stats. 1937, person losing his sight while resident of this state need not reside in this state continuously for one year before making application for blind pension. 27 Atty. Gen. 828.

See note to 49.50, citing 30 Atty. Gen. 71.

AID TO DEPENDENT CHILDREN

49.19 Aid to dependent children. (1) (a) A "dependent child" as this term is used in this section is a child under the age of 16, or under the age of 18 if found by the department to be regularly attending school, who has been deprived of parental support or care by reason of the death, continued absence from the home, or incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle or aunt in a residence maintained by one or more such relatives as his or their own home, or who is living in a foster home having a permit under section 48.38 and placed in such home by a county agency pursuant to chapter 48.

(b) 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 a judge of a juvenile court or of a county court of the county in which the child resides.

(2) An 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.

(3) After the investigation and report, aid may be granted to the person having the care and custody of the child as the best interest of the child requires.

(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 16 years (or under the age of 18 if found by the department to be regularly attending school). Aid may also be granted for minors other than to those specified.

(d) The person having such care and custody must be fit and proper to have the same, and the period of aid must be likely to continue for at least 3 months. Aid may not be granted to the mother or stepmother of a dependent child unless such mother or stepmother is without a husband, or the wife of a husband who is incapacitated for gainful work by mental or physical disability, likely to continue for at least 3 months in the opinion of a competent physician, or the wife of a husband who has been sentenced to a penal institution for a period of at least 3 months, or the wife of a husband who has continuously abandoned her for at least 3 months, if the husband has been legally charged with abandonment under section 351.30, or if the mother or stepmother has been divorced from her husband for a period of at least 3 months, dating from the interlocutory order, and unable through use of the provisions of law to compel her former husband to support the child for whom aid is sought.

(e) The ownership of a homestead 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 homestead 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.

(g) Aid shall be granted to a mother during the period extending from 6 months before to 6 months after the birth of her child, if her financial circumstances are such as to deprive either the mother or child of proper care. 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 as well as expenses shall be considered. 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 subsection (1) (a), which budget shall be worked out periodically by the judge or agency administering such aid and the county board or a committee of the board. If the county board does not act, the standard budget shall be worked out by the judge or agency alone. Medical and dental aid may be granted to minor children, the mother and the incapacitated father, as necessary. Not to exceed $100 shall be allowed to cover the burial expenses of a dependent child or its parents. Aid pursuant to this section shall be the only form of public assistance granted to the family for the benefit of such child; and 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 judge may require the mother to do such remunerative work as in his 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.

(8) (a) The county treasurer and the county agency administrator shall certify monthly under oath to the department in such manner as the department prescribes, the claim of the county for state and federal reimbursement for aid under this section, setting forth separately the amount paid in cases for which no federal aid is recoverable, and the amount paid in all other cases.

(b) If the department is satisfied that the amount claimed is correct and that the aid allowed has been granted in compliance with the requirements of this section it shall certify

to the director of budget and accounts one-third of the amount paid by the county plus federal aid received for such expenditures. If the total amount due to counties from the state under this section is more than the amount appropriated from state funds for aid to dependent children, the department shall prorate among the various counties according to the amounts due them. To facilitate prompt reimbursement the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of current or prior years may be included in subsequent certifications. The director of budget and accounts shall draw his warrant forthwith for reimbursement to the respective counties in accordance with the certification of the department. In determining the amount available for distribution to the counties, one-half of the annual appropriation from state funds shall be allotted to each half year.

(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) Aid under this section may also be granted to a nonrelative who cares for a child dependent upon the public for proper support in a foster home having a permit under section 48.38, regardless of the cause or prospective period of dependency. The state shall reimburse any county for one-third of the amount of aid granted under this subsection. The county treasurer and the county agency administrator shall certify monthly in the manner provided in subsection (8) to the state department of public welfare the claim of the county for state reimbursement under this subsection, setting forth the entire amount granted by the county under this subsection. If the state department of public welfare is satisfied that the aid was granted under this subsection it shall certify to the director of budget and accounts for payment to the county one-third of such entire amount from the appropriation for state aid made under section 20.18 (1) and in the event that there shall be federal reimbursement for such aid then such certification shall also include for payment to the county the amount allowed as federal aid to be paid out of the appropriation made by section 20.18 (1). [*1945 c. 585; 1947 c. 9, 121, 526, 614*]

Comment of Interim Committee, 1947: The legal settlement mentioned in old 49.19 (1) (b) is not legal settlement as generally understood. See 27 Atty. Gen. 285 and 30 Atty. Gen. 9. It stems from 48.33 (5) (b), Stats. 1929. It does not provide for charge-back but does present an administrative difficulty which is obviated by change to a residence basis as in old-age assistance. The amendments in (4) (d) are minor but result in uniformity, plus a reference to the appropriate abandonment provision, 351.30. See 29 Atty. Gen. 89. The portions stricken from (8) (a) and (b) relate to 49.19 (4) (c) which is repealed by this bill. The repeal of 49.19 (4) (b) and (c) places aid to dependent children on a current residence basis as in old-age assistance. (Bill 34-A)

Note: Aid may be granted under 48.33 (5) (c), Stats. 1929, where family has moved from another state into this state and has not yet gained a legal settlement. 19 Atty. Gen. 3.

Aid may be granted under 48.33 (5) (b), Stats. 1929, if family has resided one year in county, although it has received public aid during said year. 19 Atty. Gen. 4.

Claims for state aid on account of payments made by counties under 48.33 (5) (c), Stats. 1929, have priority. After payment of such claims in full any sum remaining in appropriation is prorated among counties in proportion to state aid due them for amounts paid by them in all other cases. 19 Atty. Gen. 47.

Juvenile court may grant relief where mother having custody of children is unable to support them upon amount awarded for such support in divorce action, husband being financially unable to pay more. (Stats. 1929) 19 Atty. Gen. 184.

Aid may be given to illegitimate child after marriage of mother to one other than father of child if such child is in custody of grandmother and all conditions of statute are present. (Stats. 1929) 20 Atty. Gen. 62.

Pension of mother or stepmother of children receiving aid may continue after she remarries if her husband is incapacitated for gainful work. (Stats. 1929) 20 Atty. Gen. 80.

Mother may receive aid when her husband is legally charged with year's abandonment. (Stats. 1929) 20 Atty. Gen. 237.

Blind pension granted under 47.08 is form of "public assistance" within meaning of 48.33 (6), Stats. 1931. 20 Atty. Gen. 552.

Woman receiving mothers' pension from one municipality may gain legal settlement in another municipality. (Stats. 1931) 22 Atty. Gen. 140.

County board has no authority to appoint or compensate committee to investigate claims made by those seeking aid for dependent children under this section. (Stats. 1931) 22 Atty. Gen. 336.

Woman residing in county for period of one year while receiving mothers' pension acquires legal settlement. (Stats. 1931) 22 Atty. Gen. 593.

Where custody of children is granted to mother by divorce decree their legal settlement is still that of father if he has one within state for purposes of mothers' pension. (Stats. 1931) 22 Atty. Gen. 680.

Aid may be granted to woman for support of her children if she is divorced for a period of at least one year; if divorce was granted in Wisconsin she must have availed herself of provisions of law and divorce judgment to compel husband to support her and must have failed. (Stats. 1931) 22 Atty. Gen. 769.

Fact that veteran receives $30 each month from federal government and is committed to sanatorium does not disqualify his wife from receiving mothers' pension if she is otherwise qualified to receive it. (Stats. 1931) 22 Atty. Gen. 772.

Children may obtain legal settlement although during the year they were receiving aid for dependent children. (Stats. 1933) 23 Atty. Gen. 796.

Aid to dependent children may be granted for support of minor child over 16. (Stats. 1935) 25 Atty. Gen. 68.

Application for aid to dependent child must be filed in county in which child has legal settlement. 48.33 (5) (c), Stats. 1935, applies only where child has no legal settlement in this state. Child cannot gain settlement for aid purposes if parent has settlement in this state. If parent has no

settlement in this state child may gain settlement for aid purposes in accordance with 49.02, excepting that receipt of public aid by parent does not bar child from gaining such settlement. Such aid may be granted although incapacitated father is living with family, but allowance for care of father cannot be included. For aid purposes settlement of child follows that of father although he is in prison or institution, and although divorced and custody of child given to mother. 25 Atty. Gen. 470.

State pension board may review denial of aid to minor child over 16, but reviewing power in such case is very limited. (Stats. 1935) 25 Atty. Gen. 505.

Term "dependent children" as used in 48.33 (12), Stats. 1935, includes children under sixteen who attend boarding school while mother works and who return home only when school is not in session. This statute includes also children who are left with certain specified relatives while mother is at work. 26 Atty. Gen. 133.

Under 48.33 (5) (b), Stats. 1935, county agency administering aid to dependent children has discretion to determine whether child may receive aid when living in county other than county of legal settlement. Such determination is reviewable to limited extent by state pension department under 49.50 (4). 26 Atty. Gen. 180.

To qualify for aid for dependent children under 48.33 (5) (d), Stats. 1937, it is not necessary that mother's husband be totally incapacitated, but it is sufficient if his incapacity affects his ability properly to support child. Under (7) child living with collateral female relative is qualified to receive aid regardless of whether such relative meets requirements of (5) (d); and child living with collateral male relative is qualified to receive aid regardless of whether such relative is incapacitated. 26 Atty. Gen. 289.

Mothers' pension is for aid of children and not for relatives described in 48.33 (12), Stats. 1937, and if child is living with any of such relatives and meets all other conditions, such pension may be granted. 26 Atty. Gen. 304.

To legally charge abandonment so as to entitle wife to aid under 48.33 (5) (b), Stats. 1937, warrant should be issued for arrest of husband in accordance with 361.02. 26 Atty. Gen. 490.

Maternity aid may be granted, even though such aid is not likely to continue for period of one year. (Stats. 1937) 27 Atty. Gen. 256.

Commencement of bastardy proceedings is not condition precedent to granting aid to unwed mother under 48.331, Stats. 1937. 27 Atty. Gen. 258.

Construction of term "legal settlement" in 23 Atty. Gen. 796 is adhered to. Construction placed thereon in 25 Atty. Gen. 470 is overruled. (Stats. 1937) 27 Atty. Gen. 285.

County pension agency may not require as condition precedent to granting of aid to dependent children under 48.33, Stats. 1937, that applicant contract to reimburse county or convey or pledge present or future property for such reimbursement. This does not preclude placing of funds in escrow or joint account to be used for future needs of beneficiary where county pension agency is otherwise free to deny aid until such funds are exhausted. 28 Atty. Gen. 135.

Aid to dependent children may be granted under 48.33 (5) (d), Stats. 1937, where the father, who has been sentenced to a penal institution for a period of at least one year is either placed on probation or paroled. To qualify for aid in such cases the children must also be dependent upon the public for proper support. 28 Atty. Gen. 419.

Defendant in action under 247.095 is not "legally charged with abandonment" in meaning of 48.33 (5) (d), Stats. 1939, since term "charged with crime" applies only to criminal proceedings. 29 Atty. Gen. 89.

48.33 (13), Stats. 1939, does not create liability for aid to dependent children of veterans not otherwise eligible for aid under (5). 29 Atty. Gen. 417.

For purposes of mothers' pension law, receipt of public aid by family of child in whose behalf application is made during year preceding application does not bar child from having legal settlement in county in which application is made, notwithstanding provisions of 49.02. 48.33 controls. 49.03 does not apply in administration of aid to dependent children. (Stats. 1939) 30 Atty. Gen. 9.

See note to 49.50, citing 30 Atty. Gen. 71.

Aid for dependent child cannot be granted to mother whose husband is absent from home in armed forces of United States unless such absence is coupled with one of circumstances enumerated in 48.33 (5) (d), Stats. 1939. 30 Atty. Gen. 153.

Under 48.33 (5) (d), Stats. 1941, applicant is eligible for pension if husband has in fact abandoned his wife for period of one year and is legally charged with such abandonment, regardless of date of making criminal charge. 20 Atty. Gen. 237 and 24 Atty. Gen. 158 clarified and approved. 30 Atty. Gen. 413.

Where county board has by ordinance created a county pension department to administer within the county all laws relating to aid to dependent children as well as those pertaining to other subjects, said county pension department is, by reason of the definition contained in 49.51 (5), the agency which in that particular situation is referred to by the word "judge" as it appears in 49.19 (6). 36 Atty. Gen. 53.

Aid for dependent children need not be denied because of the applicant's possession of proceeds from the sale of a homestead (within the limitations of (4) (e), Stats. 1945) when such proceeds are being held for the purchase of a home. An agreement providing security for reimbursement of aid granted for dependent children under this section is unenforceable. 36 Atty. Gen. 187.

OLD-AGE ASSISTANCE

49.20 County old-age assistance. 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 judge, under the supervision of the state department of public welfare. 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 section 49.38. [*1945 c. 585*]

49.21 Recipients, who may be. (1) Any person who complies with the provisions of sections 49.20 to 49.38 shall be entitled to financial assistance in old age. The amount granted shall be determined by a budget in which all income and resources as well as expense shall be considered, and the aid per month shall not exceed the maximum amount the federal government will take into account in making reimbursement.

(2) Any income or resources of any individual arising from agricultural labor performed by him as an employe, or from labor otherwise performed by him in connection with the raising or harvesting of agricultural commodities, shall not be taken into account in determining need in the manner and to the extent such income and resources are exempted by the federal social security act. [*1945 c. 585; 1947 c. 155*]

Note: Word "income" as used here means "means of support". It means gross as distinguished from net income. 49.21 and 49.24, Stats. 1935, are parts of same act and are to be so construed. 24 Atty. Gen. 461; 25 Atty. Gen. 250.

49.21, Stats. 1937, provides that old-age assistance shall be fixed with due regard to conditions in each case within maximum allowance of $1 a day, and it contemplates that such maximum allowance shall be made when condition of applicant warrants it. Pensioner may receive, in addition to maximum old-age assistance allowance, medical and surgical care through regular relief channels. 26 Atty. Gen. 306.

Term "income" is used in 49.21, Stats. 1941, in sense of "means of support". It includes veterans' pensions, income from rental of part of one's home, and money furnished by relatives for support. 31 Atty. Gen. 339.

49.22 Persons eligible. Old-age assistance may be granted only to a dependent person who:

(1) 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.

(2) Has resided in the state continuously during the year immediately preceding the date of application. An applicant who has resided less than one year in Wisconsin may be granted old-age assistance if the state from which he removed his residence to Wisconsin grants assistance to any resident of Wisconsin who has moved to such state and lived there less than one year; provided that old-age assistance may not be continued to exceed one year to any recipient who removes his residence to another state.

(3) Has no person responsible for his support and able to support him as provided in section 49.07. [*1945 c. 585*]

Note: Indians living on reservations can qualify for old-age pensions. (Stats. 1933) 24 Atty. Gen. 591.

Words "resides," "residence" and "residents" as used in old-age assistance law (Stats. 1935) are defined. Payments may be made only to persons having actual residence in this state. 24 Atty. Gen. 711.

Membership on county board does not preclude person from receiving old-age assistance. (Stats. 1935) 25 Atty. Gen. 171.

One convicted of felony but placed on probation and not imprisoned is not barred from receiving old-age assistance under (5), Stats. 1935. 25 Atty. Gen. 204.

Woman citizen who married alien prior to March 2, 1907, is citizen within meaning of (2), Stats. 1935. 25 Atty. Gen. 736.

Sentence of two weeks in county jail for nonsupport of wife constitutes imprisonment for felony within meaning of 353.31, so as to render husband ineligible for old-age assistance under 49.22 (5), Stats. 1937. 26 Atty. Gen. 379.

Unconditional pardon of person imprisoned for felony removes disability to receive old-age assistance. (Stats. 1937) 26 Atty. Gen. 381.

Under (8), Stats. 1937, old-age assistance may not be granted to person having children who have been ordered by county judge to support such person and have failed to do so although no steps were taken to enforce such support. 26 Atty. Gen. 382.

Under (6), Stats. 1937, pension department should deny old-age assistance to husband where it has been judicially determined in divorce action that he failed to support his wife, and it makes no difference that divorce was uncontested. 26 Atty. Gen. 383.

49.23 Persons ineligible. Old-age assistance shall not be granted or paid to a person:

(1) While or during the time he is an inmate of and receives the necessities of life from any public institution maintained by the state or any of its political subdivisions, or is an inmate of a private charitable, benevolent or fraternal institution or home for the aged to which no admission charge as a life tenant has been made; provided that application for old-age assistance may be made while the applicant is an inmate of a county home, but if assistance is granted it shall not begin until he ceases to be an inmate of such home.

(2) If the value of his property or the value of the combined property of husband and wife living together exceeds $5,000.

(3) Who has deprived himself, directly or indirectly, of any property for the purpose of qualifying for assistance or to avoid the provisions of chapter 49.

(4) When and if federal aid for old-age assistance becomes available to persons who are now rendered ineligible for such aid by subsection (1), the effect of said subsection shall thereupon cease; and eligibility for such aid shall thereafter be determined as though subsection (1) had never been enacted. The purpose of this subsection is to enable the state to match federal old-age assistance at all times and to the fullest extent. [*1945 c. 585; 1947 c. 121*]

Note: The old-age pension law (Stats. 1929) subjects a decedent's homestead to liability for advances thereunder to decedent by a county, notwithstanding the act does not refer to 237.02, providing for the descent of the homestead, and 272.20, providing for exemption thereof from liability for the owner's debts, "except as otherwise provided in these statutes." Estate of Wickesberg, 209 W 92, 244 NW 561.

Allowing pension to person whose property is valued at $5,500, on which there is mortgage of $3,000, is discretionary with court. (49.23, Stats. 1929). 19 Atty. Gen. 290.

Value of applicant's real property is value of his equity. (Stats. 1933) 24 Atty. Gen. 624.

Old-age assistance beneficiary, under proper circumstances, may be cared for in institution outside state. (Stats. 1935) 25 Atty. Gen. 165.

Intent of old-age assistance laws is to assist not only those absolutely destitute but also those having property not readily convertible into cash without undue hardship and loss. Discretion of administrative agency is limited by provisions of law and must be reasonably used so as to carry out intent of law. Such agency may not grant assistance without securing public if there

is danger that applicant's property will be placed without reach of public's claim for reimbursement. (Stats. 1935) 25 Atty. Gen. 205.

For consideration of problems arising under (3), Stats. 1937, see 28 Atty. Gen. 234.

Combined property of husband and wife must be considered in determining eligibility for relief under 49.23, Stats. 1941, even though they may be living separately. 32 Atty. Gen. 25.

A county institution leased to a private individual under an agreement whereby he is to receive into the institution and care for those who would otherwise be cared for as county charges, is a public institution within this section. 35 Atty. Gen. 110.

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 sections 49.30 and 49.40 as old-age assistance) shall be a claim against his estate, but such claim shall not take precedence over the allowances under section 313.15 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 section 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. [*1945 c. 585; 1947 c. 121*]

Comment of Interim Committee, 1947: Medical and funeral expenses are referred to by section numbers and included in the old-age assistance claim, but without preference over other public claims. (Bill 34-A)

Note: It is duty of agency administering old-age assistance to file claim against estate of deceased assistance beneficiary. (Stats. 1935) 25 Atty. Gen. 187.

Three per cent interest deducted under this section shall be computed from date of payment of assistance to date of repayment from beneficiary's estate. (Stats. 1935) 25 Atty. Gen. 381.

Under 49.25, Stats. 1937, money recovered from estate of one who received old-age pension shall be divided as follows: (a) Retain sufficient funds to reimburse state and county in full for payments made before approval of Wisconsin law; (b) pay fifty per cent of balance, if any, to United States; (c) add remainder to first amount and divide total between state and counties in proportion in which they respectively contributed over whole period. 26 Atty. Gen. 322.

Where county has taken title to personalty under 49.26 (1), or taken lien on real estate under 49.26 (4), either or both of which are sufficient to satisfy claim for old-age assistance, claim filed pursuant to 49.25, Stats. 1937, has priority even as to claims having priority under 313.16, except administration expenses and allowances made from personal property under 313.15. Court has full power to waive any such claim or part thereof or release real estate lien as provided by 49.25 and 49.26 (4). Where claim for old-age assistance cannot be satisfied out of personalty or realty to which county has title or lien or where no such title or lien has been taken as permitted by 49.26 (1) and (4), such claim or excess not covered by lien is treated as unsecured claim, except claims for funeral expenses paid pursuant to 49.30 and expenses of last sickness. As to funeral and last sickness county has priority by reason of 313.16 (1) under doctrine of equitable subrogation. 27 Atty. Gen. 751.

County board may not compromise claim for old-age assistance existing under 49.25 and 49.26, Stats. 1941. District attorney may not compromise such claim except under direction of county judge, pension director or other officer designated to administer old-age assistance in accordance with 49.51. Such claim may be released by county officer charged with administration of old-age assistance only upon full payment thereof unless there is honest dispute and reasonable doubt as to its validity, amount due thereon, or other questions affecting its enforceability. In such cases county judge or other officer designated under 49.51 may release claim upon partial payment under compromise settlement, provided settlement is made in good faith. 30 Atty. Gen. 480.

Amounts collected by county from property transferred to county by recipient of old-age assistance, or from proceeds of sale of real estate subject to lien for old-age assistance, must be first applied by county officials as specified in 49.25, Stats. 1941, to full extent of old-age assistance claim before being used to reimburse county for other forms of public assistance. This is true regardless of whether amounts are recovered through proceedings in county court or otherwise. Obligation is not affected by fact that old-age assistance beneficiary may have signed agreement purporting to subordinate old-age assistance claim to claims of county for other forms of assistance. 31 Atty. Gen. 40.

49.25, Stats. 1941 does not permit assistance furnished wife to be recovered from separate estate of her husband, though both were pensioners. 31 Atty. Gen. 151.

Property acquired by wife upon death of her husband, through assignment of her dower and homestead rights, is subject upon her death to claim under 49.25, Stats. 1941, for old-age assistance given her, except for her homestead rights when such rights are limited to life estate. 32 Atty. Gen. 10.

County judge, or director of county pension department, acts as agent for county in administration of old-age assistance under 49.20 to 49.51, Stats. 1943. Where property is recovered by such county judge, or pension director, under 49.25 or 49.26, appropriate percentages must be paid by county to state and federal governments even though property is appropriated by said county judge, or pension director. County judge, or pension director, is authorized under 49.26 to receive money from beneficiaries of old-age assistance and under 49.25 to receive payment of claims filed against their estates. Transfer of property may be required under 49.26 without formal written finding as to necessity therefor. 32 Atty. Gen. 313.

Funds recovered by a county in satisfaction of, or for the release of, its old-age assistance lien, may not be applied by the state department of public welfare in payment of subsequently accruing claims to the exclusion of claims existing at the time of the recovery and secured by the lien. 34 Atty. Gen. 213.

Under 49.25 and 49.26, Stats. 1943, only counties which have filed a claim in the estate or a lien in the county where the real estate of the old-age recipient is found, may share in the recovery. 35 Atty. Gen. 41.

Old-age assistance liens are cut off by tax deeds taken by county. County taking tax deed to premises on which it also has old-age assistance lien must account for surplus over taxes to the United States and the state under 49.25. 35 Atty. Gen. 429.

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 section 272.18 (6), and cash or loan value not in excess of $1,000 in a policy of insurance) 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 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. No person shall be denied old-age assistance on the ground that he has cash or loan value not in excess of $1,000 in a policy of insurance.

(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. 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 which fee shall be paid into the county treasury but any part-time district attorney acting as the attorney for the administrator shall be entitled to retain any fee allowed to him by the court as attorney for the administrator. No fee shall be allowed to any county employe for services as estate administrator. The county agency and the district attorney shall report to the county board at its November meeting concerning collections made 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, and claims for hospitalization, institutional care and general poor relief. It may authorize him to compromise the payment of any 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. Any compromise made before July 5, 1943 which would be valid if made pursuant to these provisions for compromise of claim is hereby validated.

(4) CERTIFICATE OF LIEN, FILING. All old-age assistance paid to any beneficiary (including aid paid under sections 49.30 and 49.40 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. Upon such filing the lien herein imposed attaches to all real property of the beneficiary 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 sections 49.20 to 49.38, 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. All judgments, certificates or decrees of courts of competent jurisdiction heretofore entered terminating joint tenancies or assigning such property under a will or an administration of the estate of any such beneficiary shall be binding upon all interested parties 2 years after August 22, 1945, unless within said 2-year period application is made to such court to set aside or modify such judgment, certificate or decree. 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 incumbrances and the costs of the sale have been deducted. 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 and funeral expense, for hospitalization, nursing and professional medical care furnished such decedent during his last sickness, not to exceed $300 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.

(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. 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, 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 section 59.67. In the event the county acquires such property, payment as provided by section 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 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, 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 section 49.25.

(11) CHECKS NOT CASHED BEFORE DEATH; SPECIAL ADMINISTRATION. (a) When a person receiving such assistance shall die not having cashed his old-age assistance checks issued immediately prior to death, the director or employe of the pension department shall have authority to do so upon being appointed special administrator for the sole purpose to disburse the proceeds of such checks without bond as herein provided upon order of the county court of his county. Such money shall be used to pay for expenses incurred by such old-age recipient for his room, board, lodging, care, medical service, nursing home care, hospitalization or necessities during the period for which such checks were issued. All persons having such claims shall file same, upon the usual claim form, with such county court within 2 months of the date of the order for the hereinafter provided notice of the date or forfeit any claim to the proceeds of such checks. Such notice shall contain the name of the recipient as shown on such old-age assistance checks, and require all persons having such claims to file same within 2 months of the date of the order therefor. Such notice may be published once in some newspaper published or circulated in such county or be posted in 2 public places in such county as the court shall direct, within 15 days of the date of such order. From the proceeds of such checks the cost of such publication, if any, shall first be paid; if the remainder is not sufficient to pay all of the above

enumerated claims then nursing home care shall next be paid and the balance prorated among the other claimants. Any such unpaid claimant shall have the right otherwise provided by law to file a claim for any unpaid balance against the estate of such deceased person. The unclaimed portion of the proceeds of such checks shall be refunded to such county, except that where there is probate, general or special administration proceedings pending then such balance shall be paid to the administrator or executor. Such notice shall be in substantially the following form:

STATE OF WISCONSIN
County Court: ..... County.

All persons having claims for room, board, lodging, care, medical service, nursing home care, hospitalization, or necessities furnished to ...., an old-age assistance recipient of .... county, which were incurred from and after .... shall be presented to said court, at the court house, in the city of ...., in said county, on or before the .... day of ...., A. D. 19.., or be forever barred from making any claim to the proceeds of certain old-age assistance checks of said deceased.

All said claims will be heard and adjusted by said court, at said court house, on the first Tuesday of ...., A. D. 19...

Dated ...., 19... By the court:

....
Judge

(b) If such special administrator is not satisfied with the justness of any such claim he may object thereto and the matter shall be heard before the court upon proper notice. No money shall be disbursed hereunder without court order. If any such recipient was under guardianship such guardian as such shall have the authority to disburse the proceeds of such checks as provided in paragraph (a). If probate, or administration (whether general or special) shall be granted of such recipient's will or estate, the proceeds of such checks shall be disbursed by such administrator or executor upon the above claims pursuant to general probate or administration practice except that in the case of special administration the notice provided for in paragraph (a) shall be given.

(c) In the event that probate, general or special administration is granted prior to the time of the disbursement of the proceeds of such checks then the special administrator appointed under paragraph (a) shall, upon order of the county court, pay the amount of such pension checks unpaid, less the cost of publication, to such personal representative of such deceased person.

(d) When any old-age assistance recipient shall die during the month, the county may issue a check to such director, employe, guardian, executor or administrator, for the prorated amount of his grant computed on his last monthly grant subject to rules and regulations of the state department of public welfare, provided such prorated amount is $10 or more, so as to pay the claims in the manner provided in this section. Counties shall be reimbursed by the state for grants made pursuant to this paragraph in the manner provided by section 49.38 from the appropriation provided by section 20.18 (5a). [*1945 c. 496, 549, 562, 585, 588; 1947 c. 121, 143, 282*]

Comment of Interim Committee, 1947: 49.26 (3) is amended to permit payment of attorney fees to part-time district attorneys who serve as administrators of estates involving old-age assistance claims. The collection of claims is the district attorney's duty. The probating the estate is not. The amount of work in these cases has greatly increased. It is felt that the work will be expedited by allowing the part-time district attorney to retain such attorney fee for this probate work as the court allows him. In (4) medical and funeral expenses are referred to by section numbers as included in the old-age assistance lien. (6) is amended as to fee for filing release or satisfaction of the lien. New 49.26 (7a) provides that public claims shall share pro rata. (Bill 34-A)

Note: Under the provisions in (4), Stats. 1939, that all old-age assistance paid to any beneficiary shall constitute a lien, and that from the time of filing claim the lien shall attach to all real property of the beneficiary, "including joint-tenancy interests," and shall remain such lien until satisfied, and shall be enforceable after transfer of the real property by sale, "succession," inheritance or will in the manner provided for the enforcement of mechanics' liens, a lien against the joint tenancy interest of a recipient of old-age assistance continues effective so as to be enforceable by the foreclosure thereof on his death. Goff v. Yauman, 237 W 643, 298 NW 179.

Cost of recording conveyance is to be paid by grantee. Wife should join in conveyance under (1), Stats. 1933, and in case of homestead conveyance is void without her consent. Property so conveyed does not become tax exempt. Judge may require conveyance of homestead as well as other property. 24 Atty. Gen. 461.

Claim for lien is not effective as against property owned by surviving joint tenant for old-age assistance furnished to deceased joint tenant. (Stats. 1937) 26 Atty. Gen. 419.

Ch. 7, Spl. S. 1937, relating to old-age assistance, requires return to beneficiaries of all real property previously conveyed to county, regardless of form of conveyance. Certificate of lien filed with register of deeds under ch. 7, Spl. S. 1937, should cover all assistance previously rendered. 26 Atty. Gen. 564.

Personal notice need not be given old-age assistance beneficiary when lien required by (4), Stats. 1937, is filed against real estate owned by him. 27 Atty. Gen. 69.

Register of deeds is not entitled to fee for filing release or satisfaction of lien acquired by filing certificate of old-age assistance. (Stats. 1937) 27 Atty. Gen. 353.

Rule of state pension board requiring counties to return to prior applicants all life insurance policies transferred, assigned or pledged to county prior to passage of ch. 7, Spl. S. 1937, not within rule-making power of board. 27 Atty. Gen. 830.

County does not have authority to purchase mortgage or real estate for purpose of protecting old-age assistance lien filed subsequently to recording of mortgage against same real estate. (Stats. 1937) 27 Atty. Gen. 664.

Judgment rendered and docketed in court of record in county in which real property of A is located prior to filing of old-age pension certificate has priority over old-age pension lien as to all property of A except homestead. As to homestead, old-age pension lien by virtue of certificate filed prior to improvements made and with respect to which mechanic's lien is subsequently filed, old-age pension lien has priority. While old-age pension lien may not be at present enforceable it nevertheless exists as lien, and foreclosure of mechanic's lien must be subject to old-age pension lien. (Stats. 1939) 28 Atty. Gen. 230.

Under 49.26 (4), Stats. 1939, old-age assistance administrator has power to release pension lien where facts are such or where he imposes such conditions upon administrator that collection of lien will not be jeopardized. Such lien is not and may not be subordinated to administration expenses. 29 Atty. Gen. 221.

Where heirs refuse to probate estate of old-age pensioner and county pension director is appointed administrator and is represented by district attorney as attorney and there is surplus in excess of county's claim under 49.26, Stats. 1941, these officers may be allowed fees for performance of their probate services, but such fees in case of full-time pension director or full-time district attorney must be turned over to county. 30 Atty. Gen. 275; 31 Atty. Gen. 57.

Attorney-general does not express opinion as to priority of purchase money mortgage executed by pensioner subsequent to filing of old-age pension liens where question is academic and of no present practical importance to department of public welfare in administration of law. Where daughter and son-in-law agree to support and maintain old-age pensioner for balance of his life if pension department will release property owned by pensioner from existing old-age pension lien, county pension administrative officers may release from such lien but are not obliged to do so even though municipality having financial burden by virtue of county charge back under 49.37 (2), Stats. 1941, desires and requests release of existing lien and handling of future support and maintenance of pensioner in such manner. 31 Atty. Gen. 97.

Lien held by county under 49.26 (4), Stats. 1941, does not of itself give county lien upon proceeds of fire insurance policy issued to owner of property. County's lien may be protected by means of loss payable clause in insurance policy. 31 Atty. Gen. 308.

Lien given by 49.26 (4), Stats. 1941, attaches to consummate dower right of widow but not to inchoate dower right of wife during her husband's life. The lien is not enforceable against husband's curtesy right in realty unless he attempts to transfer such right during his lifetime. 32 Atty. Gen. 10.

Liens to secure repayment of old-age assistance grants provided by amendments to 49.26, by ch. 7, Spl. S. 1937, are not applicable to Wisconsin real estate of old-age assistance beneficiaries for aid theretofore granted where there had been no transfer of such real estate, prior to amendments, to secure repayment of such assistance. Lien was intended to cover prior assistance only in cases where there had been transfer of Wisconsin real estate. It was intended as substitute for security theretofore required and was not intended to require security where none had been required, as related to assistance rendered prior to amendments. 32 Atty. Gen. 76.

Old-age assistance paid to wife or widow constitutes lien on her consummate dower right even though she dies before dower is assigned. (Stats. 1941) 32 Atty. Gen. 165.

See note to 49.25, citing 32 Atty. Gen. 313.

49.26 (7), Stats. 1943, contemplates payment of fee to district attorney to be deducted from county's claim and to be paid over by district attorney to county treasury. Expenditures made by county for repairs and for purchase of tax certificates are not reimbursable by state under 49.38. Expenditure for repairs cannot be recovered by county in any event, but tax certificate constitutes prior lien and county is entitled to subrogation in amount of prior lien. It may deduct amount in distribution to state and federal governments upon liquidation of old-age assistance lien. County pension department under 49.26 (7) may make expenditures for repairs and may purchase outstanding tax certificates without authorization of any other county authority. 32 Atty. Gen. 431.

(4), Stats. 1943, limits only the amount which may be appropriated for payment of other claims out of the proceeds of real estate subject to an old-age assistance lien. If the estate of beneficiary is no more than sufficient to pay the claim, neither the county pension administrator nor the district attorney may receive from the estate greater remuneration for services in its administration than provided in (7). The claim provided by this section does not include payments by a county to doctors or hospitals for services rendered to a beneficiary. 33 Atty. Gen. 102.

49.26 (7), Stats. 1943, does not cover attorney fees in securing certificates of heirship. It is proper to pay such fees either to part-time district attorney or private attorney only where the value of the property exceeds the county's old-age assistance claim. If the purchaser of property against which there is an old-age assistance lien insists upon merchantable title in administrator's or foreclosure sale, district attorney should take reasonably necessary steps to perfect title in order to complete sale and secure payment of county's claim without charge, and county is entitled to no extra compensation out of the claim on division with state and federal governments by reason of the fact that it furnished the legal services of the district attorney in clearing up title defects. 34 Atty. Gen. 172.

Where an old-age assistance recipient has a life estate in real property with power to sell or incumber but does not exercise such power during his lifetime, the old-age assistance lien in 49.26 (4), Stats. 1943, is not enforceable after the death of the beneficiary. The same result follows where the real property is held in trust for the life tenant with power in the trustees to sell or incumber for the benefit of the life tenant, but attention is called to the possible application of 232.23. 34 Atty. Gen. 222.

49.26 (10), as amended by ch. 588, laws of 1945, leaves to the discretion of county authorities the question whether tax certificates shall be purchased on property on which the county has an old-age assistance lien. The state welfare department may not require county authorities to purchase such certificates. 34 Atty. Gen. 333.

49.27 Application for assistance; continued eligibility; county liability. An applicant for old-age assistance shall file his sworn application in writing with the county in which he resides, in such manner and form as shall be prescribed by the department. If a person receiving old-age assistance goes to another county to reside in a private tax-exempt, charitable, benevolent or fraternal institution or home for the aged and continues to be eligible for old-age assistance under section 49.23 (1) while therein residing, he shall continue to receive his assistance from the county paying the same at the time

he moved unless he has a settlement in the county in which the institution or home is located. [*1945 c. 585; 1947 c. 121*]

Comment of Interim Committee, 1947: 49.27 is amended to clarify what is believed to have been the original legislative intent —that the exception in the second sentence was to apply only to nonprofit institutions or homes for the aged, and tax exemption is a test of their nonprofit character. (Bill 34-A)

Note: Applicants for old-age assistance shall file their applications in counties where they actually reside. They need not have legal settlement there. Term "residence" does not always mean actual physical presence. Those receiving assistance from one county lose right to same by removal to another county. Application must be made in county to which such persons move. (Stats. 1935) 24 Atty. Gen. 711.

State pension department may prescribe rules for making application for old-age assistance on behalf of person who is mentally or physically incapacitated to make such application personally. (Stats. 1935) 25 Atty. Gen. 119.

One receiving old-age assistance from one county loses right to same by removal to another county. Application for assistance must be made in county to which such person moves. (Stats. 1935) 25 Atty. Gen. 165.

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. [*1945 c. 585*]

Note: If case demands, county judge may refuse application for old-age pension and commit applicant to county home. (Stats. 1933) 24 Atty. Gen. 280.

Proviso clause in this section which gave county board power to reduce and discontinue old-age assistance grants, was impliedly repealed by chapter 554, Laws 1935. 25 Atty. Gen. 386.

49.29 Certificate, conditions, revocation, recovery of excess.

(1) A certificate shall be issued to each applicant when old-age asistance is allowed stating the date upon which payments shall commence and the amount of each monthly instalment.

(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. [*1945 c. 585*]

Note: Rule of state pension department that old-age assistance shall not be allowed for any period prior to date of certificate is valid. (Stats. 1935) 25 Atty. Gen. 151.

49.30 Funeral expenses. On the death of a beneficiary reasonable funeral expenses shall be paid to such persons as the county judge directs; provided, that these expenses do not exceed $150 and that the estate of the deceased is insufficient to defray these expenses. [*1945 c. 585; 1947 c. 418*]

Note: It is function of old-age administrative agency in proper cases to direct payment of funeral expenses. Counties are entitled to eighty per cent reimbursement from state for moneys so expended. (Stats. 1935) 25 Atty. Gen. 270.

It is doubtful whether county board can control discretion of administrative officer when he acts within limitations of this section. (Stats. 1939) 29 Atty. Gen. 344.

156.14 does not control discretion vested in public officers nor in director of county pension system under 49.30, Stats. 1939, in those cases where burial of deceased person is to be made at county expense and following of desires and instructions received by such public officials conflict with public interest. 29 Atty. Gen. 436.

When proper county official has directed undertaker to bury body of recipient of old-age assistance for specified sum, in accordance with this section undertaker may recover from county under his contract. In absence of fraud or other special circumstances it is no defense upon contract that family of decedent has paid undertaker for additional services agreed upon between them. (Stats. 1939) 30 Atty. Gen. 51.

Denial of burial expenses under 49.30, Stats. 1941, is not reviewable under 49.50. 32 Atty. Gen. 123.

This section limits the amount which may be paid by a county for funeral expenses of an old-age assistance recipient to $100. It leaves to the discretion of county administrators the question whether, and to what extent, contribution may be made by friends or relatives for services additional to those compensated by the county. 34 Atty. Gen. 191.

[*49.31 Stats. 1945 repealed by 1947 c. 121 s. 16*]

49.32 Payments exempt from levy. All amounts received as old-age assistance shall be exempt from every tax, and from execution, garnishment, attachment or any other process whatsoever and shall be inalienable. [*1945 c. 585*]

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. [*1945 c. 585*]

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. [*1945 c. 585*]

49.35 General penalty. (1) Any person who violates any provision of sections 49.21 to 49.38, 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. [*1945 c. 585*]

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. [*1945 c. 585*]

49.37 County appropriation, disbursement of funds, reimbursement of county. (1) The county board shall annually appropriate a sum of money sufficient to carry out the provisions of sections 49.20 to 49.38, taking into account the money expected to be received during the ensuing year as state and federal aid. Upon the orders of the county judge, the county treasurer shall pay out the amounts ordered to be paid as old-age assistance.

(2) The county board may cause each municipality to reimburse the county for all amounts paid in old-age assistance to persons having a settlement therein, less the amounts received by the county from the state and federal governments pursuant to section 49.38. If the county board has taken such action the county clerk shall make a report to the board at its annual November meeting showing in detail the amounts which are chargeable to each municipality, and the board at such meeting shall determine the amount to be raised and paid by each municipality to reimburse the county.

(3) The county clerk shall charge the amount so determined to such municipality and shall certify the same to the municipal clerk. Each municipality shall annually levy a tax sufficient to meet such charges, and shall pay to the county the amount so certified. Such tax shall be a county special tax for tax settlement purposes but the municipality shall pay to the county on or before March 22 in each year the percentage of such tax actually collected, which percentage shall be determined by applying the ratio of collection of its entire tax roll excepting special assessments and taxes levied pursuant to section 59.96 to the amount of such county special tax. [*1945 c. 585*]

Note: Payments under old-age pension law are to be out of general fund in county treasury, regardless of sum appropriated by county board. (Stats. 1933) 22 Atty. Gen. 269, 24 Atty. Gen. 453.

County board is subject to mandamus for its failure to arrange for payment of old-age pensions. If no special provision has been made by county board, old-age pensions are to be paid out of county's general fund. (Stats. 1933) 24 Atty. Gen. 280.

It is duty of county board to estimate reasonably the amount required for old-age pensions and make appropriation therefor. Under 49.28, Stats. 1933, board may at any time reduce or discontinue pension of any beneficiary. 24 Atty. Gen. 453.

Cost of old-age assistance is borne by county where applicant resides. Such cost may be charged back to town, city or village where applicant resides, even if he has no legal settlement therein. (Stats. 1935) 24 Atty. Gen. 711.

County board must take affirmative action in order to charge cost of assistance to cities, towns and villages. (Stats. 1935) 24 Atty. Gen. 764.

Old-age assistance laws are based upon residence and not upon legal settlement. (Stats. 1935) 25 Atty. Gen. 485.

Disbursements of pensions from county treasury to individual beneficiaries without separate orders of county clerk, signed by chairman of county board, are not in compliance with statute. (Stats. 1937) 26 Atty. Gen. 454, 28 Atty. Gen. 360.

49.38 State aid; reimbursement to county. (1) The county treasurer and county agency administrator 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 of aid paid under sections 49.20 to 49.38. If the department is satisfied that the amount claimed has actually been expended in accordance with sections 49.20 to 49.38, it shall certify to the director of budget and accounts 30 per cent of the approved amount paid by each county plus federal aid received for such expenditures. To facilitate prompt reimbursement the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of current or prior fiscal years may be included in subsequent certifications.

(2) The director of budget and accounts shall forthwith draw his warrant for reimbursement to the counties in accordance with the certification of the department. If the total amount payable to all counties exceeds the amount available under the appropriation made in section 20.18 (5), the department shall prorate the amount available among the counties according to the amount paid out by each. Whenever the department prorates the amount available to the various counties, the counties in the next following month may prorate to the recipients of old-age assistance such proportion of the amount allowed as the amount paid by the state bears to the full amount due from the state. [*1945 c. 585; 1947 c. 9*]

Note: Counties need not prorate old-age assistance if full aid is not received from state. Word "shall" in last sentence of (2) construed to mean "may". (Stats. 1935) 25 Atty. Gen. 68.

See note to 49.51, citing 25 Atty. Gen. 441.

State pension department may offset aid improperly extended in past against future allotments when making reimbursements pursuant to 49.38 (2), Stats. 1937. 26 Atty.

Gen. 218 is overruled to extent that it is inconsistent herewith upon basis of departmental rule not previously submitted to attorney-general. 26 Atty. Gen. 576.
See note to 49.50, citing 30 Atty. Gen. 71.

49.39 State aid to counties. Any county which is financially unable to fully perform its duties under sections 49.18 to 49.38 and 49.61 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 of 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 director of budget and accounts for payment to the applicant out of the appropriations provided by section 20.18 (9) 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 emergency board. 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. [*1945 c. 585; 1947 c. 9, 121*]

Comment of Interim Committee, 1947: The amendment to 49.39 makes state aid available to distressed counties for the local share of aid to totally and permanently disabled persons. (Bill 34-A)

Note: 49.505 and 20.18 (9), Stats. 1943, were designated to aid counties which are financially unable to perform duties required of them by 47.08, 48.33 and 49.37. 49.505 does not contemplate aid to counties which have refused or neglected to provide adequate funds for public assistance where such counties have sufficient resources within limits allowed by statutes. 65.90 does not in any way alter mandatory duty of county board to provide sufficient sums to pay for public assistance having due regard for state and federal aid. 32 Atty. Gen. 425.

State department of public welfare must be satisfied of inability of county to provide money for public assistance before approving state aid, and the department's discretion is to be reasonably exercised in the light of the over-all financial standing of the county. The statute does not contemplate that special funds, such as highway funds accruing from state collected gas and motor vehicle taxes are to be diverted from highway purposes and expended on public assistance, or that any other county moneys reasonably required for other current expenses must be diverted from the purposes specified in the county budget, or be completely depleted as a condition precedent to qualifying for aid under this section. State department of public welfare may question items set up by a county for current expenses in bad faith. 35 Atty. Gen. 141.

49.40 Supplementary health services. (1) The county agency administering aid to the blind, aid to dependent children, and old-age assistance may supplementary to such aids authorize and pay for medical, surgical, dental, hospital and nursing home care and optometrical services for recipients of such aids when necessary. The provisions of section 49.11 shall not apply to this section.

(2) Upon forms prescribed by the department claims by counties for reimbursement shall be made at the same time and in the same manner as other claims for aid to the blind, aid to dependent children, and old-age assistance and if approved by the department 35 per cent of such expenditures plus any federal aid that may be received for such expenditures shall be certified by the department to the director of budget and accounts as reimbursement to the counties. To facilitate prompt reimbursement the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of current or prior years may be included in subsequent certifications. [*1947 c. 121*]

Comment of Interim Committee, 1947: New 49.40 replaces 49.03 (1) (c) which is repealed by this bill. It permits counties to make direct payments for health services for resident recipients without charge-back to place of settlement. (Bill 34-A)

49.41 Assistance grants exempt from levy. All grants of old-age assistance, aid to 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. [*1947 c. 121*]

Comment of Interim Committee, 1947: The exemption provided by new 49.41 is similar to 49.32 but applies to all security aids. (Bill 34-A)

STUDENT LOANS

49.42 Loans to students. (1) From the appropriation provided by section 20.17 (35), the department shall make loans to needy and qualified residents of the state desirous of attending the university, the state teachers' colleges, Stout institute, Wisconsin institute of technology, or other educational institutions in this state of like rank above the high school.

(2) Such loans shall be made to students who are either unemployed or would otherwise be unable to continue their education.

(3) Loans shall be made on the student's application indorsed by the authorities of the institution which the applicant desires to attend or is attending. The terms of the loans shall be prescribed by the department, which may adopt and enforce all necessary rules to carry out this section.

(4) Loans may be made to minors; and minority shall not be a defense to the collection of the debt. [*Stats. 1945 s. 46.30; 1947 c. 268 s. 39*]

Comment of Interim Committee, 1947: 46.30 is renumbered 49.42 for better location and amended by omitting high school students and by adding (4) to make the debts of minors collectible. Mr. Keith, director of public assistance, reported that loans to high school students were not satisfactory. (Bill 394-S)

ADMINISTRATION OF SECURITY AIDS

49.50 State supervision. (1) PLANS AND RECORDS. The department shall supervise the administration of old-age assistance, aid to dependent children and blind aid. The department shall submit to the federal authorities state plans for the administration of these forms of public assistance in such form and containing such information as the federal authorities require and shall comply with all requirements prescribed to insure the correctness. All records of the department relating to these forms of public assistance shall be open to inspection, at all reasonable hours, by representatives of the federal government. Such merit system status as any employe may have on the effective date of this section (1945) shall not be deemed changed or interrupted by the provisions hereof.

(2) RULES AND REGULATIONS, MERIT SYSTEM. The department shall adopt rules and regulations, not in conflict with law, for the efficient administration of these forms of public assistance, 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.

(3) PERSONNEL EXAMINATIONS. State-wide examinations to ascertain qualifications of applicants in any county department administering old-age assistance, aid to dependent children or blind aid shall be given by the state bureau of personnel. The bureau shall be reimbursed for actual expenditures incurred in the performance of its functions under this section from the appropriations available to the department 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. In counties having a civil service system, the department may delegate to the civil service agency in such county responsibility for determining qualifications of applicants by merit examination, provided the standards of qualifications and examinations have been approved by the department and the state bureau of personnel. The personnel in such counties shall be exempt from such reexamination provided such personnel has qualified for present positions by examinations conducted pursuant to standards acceptable to the department.

(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) COUNTIES TO OBSERVE REGULATIONS AND KEEP RECORDS. All county officers and employes performing any duties in connection with the administration of these forms of public assistance shall observe all rules and regulations promulgated by the department pursuant to subsection (2) and shall keep such records and furnish such reports as the department requires in relation to their performance of such duties. All records relating to the administration of these forms of public assistance shall be open to inspection at all reasonable hours, by the department and any authorized employe thereof or by any authorized representative of the federal government.

(8) FAIR HEARING AND REVIEW. Any person whose application for any of these forms of assistance is not acted upon by the county agency within a reasonable time after the filing of the application, or is denied in whole or in part, or whose award is modified or canceled, may petition the department for a review of such action. The department shall, upon receipt of such a petition, give the applicant or recipient reasonable

notice and opportunity for a fair hearing. The department may make such additional investigation as it may deem 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.

(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 dependent children or blind aid 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. [*1945 c. 585; 1947 c. 121*]

Comment of Interim Committee, 1947: The last sentence of old 49.50 (3) may limit reimbursement to the bureau of personnel to expenditures on account of examinations. The bureau performs other services for the department of public welfare under the merit rule, notably the hearing of appeals of discharged personnel. 49.50 (3) is broadened by this amendment to permit the bureau to be reimbursed for such necessary outlays without question. Many functions are prescribed by the rules and regulations adopted by the department under 49.50 (2) The word "agency" in (5) is corrected to read "department". (Bill 34-A).

Note: Word "denial" in (4), Stats. 1935, is not confined to absolute denial of assistance. 25 Atty. Gen. 202.

26 Atty. Gen. 791, holding that recovery may not be had from estate of person receiving blind pension, is reviewed and followed. (Stats. 1937) 27 Atty. Gen. 141.

It is mandatory upon secretary of treasury and federal social security board to cause to be paid to state operating under approved plan of public assistance such percentage of state's payments for old-age assistance, aid to dependent children, and blind pensions as is fixed by federal act, provided such payments are lawfully made under state law. Moneys delivered into hands of beneficiaries are lawful payments under Wisconsin law even though evidence in nature of canceled checks or receipts is required as to use of such moneys by beneficiaries before future payments are made and even though payments are made by means of two or more checks. State may not recoup state's share of lawful expenditures made by counties for old-age assistance, aid to dependent children, and blind pensions, even though no federal aid is received, but may recoup payments made to counties on account of expenditures not authorized by state law. Amount allowed to counties for old-age assistance and blind pensions is not affected by failure of federal government to make allowance to state, but counties are not entitled to federal share of aid to dependent children unless aid is actually paid by federal government to state. (Stats. 1939) 30 Atty. Gen. 71.

State department of public welfare may adopt rule under (2), Stats. 1941, as to what may be regarded as prima facie showing of need for old-age assistance provided rule does not preclude exercise of discretion in individual cases. 32 Atty. Gen. 53.

No rule adopted by the state department of public welfare under the provisions of (2), Stats. 1943, requires a county board to delegate its authority to fix the compensation of county pension department employes. 33 Atty. Gen. 109.

49.51 County administration. (1) COUNTY OFFICERS AND AGENCIES. The county administration of all laws relating to old-age assistance, aid to dependent children and blind aid shall be vested in the officers and agencies designated in the statutes. The county board may provide assistants for such officers and agencies and prescribe their qualifications and fix their compensation in conformity with the rules and regulations of the department as provided in section 49.50 (2). The county board may direct the county judge to administer such assistance and may fix his compensation therefor.

(2) COUNTY DEPARTMENTS. (a) *Administration in populous counties.* In counties having a population of 500,000 the county board may by ordinance establish a county department of public welfare to consist of 5 members to be appointed by the board, at least 3 of which members shall be members of the county board. Such department shall administer any one or more of the following forms of public assistance: Old-age assistance, aid to dependent children and blind aid, as the county determines. The investigational departments for these respective forms of assistance, existing in such county on October 10, 1945, may continue under the county department of public welfare, as the county board may determine. The county department of public welfare, in conformity with the rules and regulations of the state department, as provided in section 49.50 (2) shall appoint an administrator and necessary assistants pursuant to the county civil service law, such appointees to receive such salaries as the county department may fix. The county board may at any time by ordinance discontinue the county department of public welfare and provide that the administration of all such forms of public assistance

shall be returned to the county court and such other agencies as administered such laws prior to October 10, 1935.

(b) *County departments.* In counties containing a population of less than 500,000, the county board may by ordinance provide for a county pension department with such personnel, qualifications, duties and compensation as the county board may determine in conformity with the rules and regulations of the department as provided in section 49.50. The county department shall administer within such county all laws relating to old-age assistance, aid to dependent children and blind aid, or any or all of such forms of assistance. The creation of such county pension department shall not prevent the discontinuance thereof by subsequent adoption of an ordinance reinstating the prior method of administering such forms of assistance.

(3) REIMBURSEMENT. (a) *Federal aid.* The state shall reimburse the counties for expenditures incurred in the administration of old-age assistance, aid to dependent children, and blind aid, to be prorated in accordance with the amount expended by each county for such administration and be paid from the appropriation made by section 20.18 (6) (a).

(b) *State aid.* The state shall also reimburse the counties 25 per cent of the expenditures incurred in the administration of old-age assistance, aid to dependent children, and aid to the blind, and for related welfare services performed by a county agency administering such aids in co-operation with or at the request of the state department pursuant to express authorization; provided, that if the appropriation in section 20.18 (6) (b) is insufficient for the payment in full of the amounts due the counties under this provision such appropriation shall be prorated. In no event shall reimbursement to any county under this subsection exceed its total expenditures for administration and if any reduction is necessary to avoid payments over such total, the amount available under this paragraph shall be reduced.

(c) *Reimbursements made monthly.* Payment of the state aid for administration under this section shall be made monthly on certification of the state department of public welfare, at the same time and in the same manner as state and federal aid for old-age assistance, aid to dependent children and aid to the blind.

(4) PRORATION WHEN STATE APPROPRIATIONS ARE INSUFFICIENT. Whenever the state prorates the appropriations for state aid for old-age assistance, aid to dependent children, and blind aid among the counties, the counties may reduce the amounts allowed to the beneficiaries in the following month, by the amount of the state and federal aid unpaid. Such reduction shall be made on a pro rata basis and shall apply until the state and federal aid is paid in full. The amount unpaid by the state as determined with respect to amounts actually expended by the counties for any of these forms of public assistance shall remain as a charge against the state.

(5) ALTERNATIVE OFFICIAL DESIGNATIONS. The use of the words "county court", "county judge," or "juvenile judge" in any statute relating to old-age assistance, aid to dependent children, and blind aid, unless the context indicates otherwise, means the county court, county judge, juvenile judge, county department of public welfare, or county pension department, whichever has been designated by the county board under this section to administer assistance and aid in the county. [*1945 c. 585; 1947 c. 121, 584*]

Comment of Interim Committee, 1947: The amendments to 49.51 (3) revise and simplify the reimbursement formula for administration costs and distributes the allotments without regard to personnel costs or grants to beneficiaries. The total amount disbursed is not affected. (Bill 34-A)

Note: Member of county board cannot be appointed as assistant under (1), Stats. 1935, nor as member of county pension department under (2) (b). 24 Atty. Gen. 698, 762.

Under chapter 554, Laws 1935, county judge or county pension department is substituted for county board as authority responsible for administration of blind relief. 24 Atty. Gen. 710.

County judge is ineligible to serve as member of county pension department. (Stats. 1935) 24 Atty. Gen. 765.

See note to 59.06, citing 24 Atty. Gen. 768.

Justice of peace may serve as member of county pension department. (Stats. 1935) 25 Atty. Gen. 55.

Offices of district attorney and member of county pension department are incompatible. (Stats. 1935) 25 Atty. Gen. 178.

County board may create county pension department at special meeting of board. (Stats. 1935) 25 Atty. Gen. 190.

It is function of county board to determine whether assistance grants shall be reduced in accordance with 49.51 (4), Stats. 1935. Formula for reduction specified in (4) prevails over formula specified by 49.38 (2). County may reduce assistance in less amount than specified in 49.51 (4). Basis of calculations for reduction discussed. 25 Atty. Gen. 441.

State pension department may legally reimburse county for old-age assistance, aid to dependent children and blind pensions paid out by illegally appointed pension director. (Stats. 1935) 26 Atty. Gen. 52.

Member of county board may not be appointed pension director during term for which he is elected even though he has resigned from county board. (Stats. 1935) 26 Atty. Gen. 52.

Upon creation of county pension department pursuant to (2), Stats. 1935, such department succeeds to all records pertaining to assistance laws in possession of county judge. 26 Atty. Gen. 82.

Town clerk is eligible to serve as member of county pension department. (Stats. 1935) 26 Atty. Gen. 136.

County board may not delegate to a committee all of its authority pertaining to the selection, retention, qualifications and

compensation of the personnel of a county pension department. (Stats. 1937) 28 Atty. Gen. 353.

Grants made and not amounts actually paid to beneficiaries are to be used as the basis for figuring reimbursement of counties and prorating among counties under 47.08, 48.33, 49.38 and 49.51, Stats. 1939. 28 Atty. Gen. 499.

Full-time administrator of county pension department may hold office of soldiers and sailors relief commissioner and may receive remuneration for both positions. (Stats. 1939) 29 Atty. Gen. 71.

Counties are not entitled to reimbursement under (3), Stats. 1945, for any part of the salary of a county judge who administers old-age assistance. 34 Atty. Gen. 428.

The director of a county department of public welfare which was created pursuant to 49.51 and administers social security aids in accordance with 49.50 and rules adopted pursuant thereto by the state department of public welfare, may be dismissed only by the body which under such rules constitutes the county agency charged with the administration of such aids. Any dismissal of such director may not be summary but must be for cause and, unless the cause is conviction of a felony, the director may appeal to the state bureau of personnel for a hearing as provided in the rules and regulations of the state department of public welfare. 35 Atty. Gen. 379.

49.53 Limitation on giving information; department rules. The use or disclosure of information concerning applicants and recipients for any purpose not connected with the administration of aid to dependent children, blind aid and old-age assistance is prohibited. The department shall in conformity with the federal social security act and rules or regulations made pursuant thereto adopt rules and regulations restricting the use and disclosure of information concerning such applicants and recipients to become effective upon publication in the official state paper, and copies thereof shall be filed with the secretary of state and county clerks. Any person violating this section or any rule or regulation promulgated hereunder shall be punished by a fine of not less than $25 nor more than $500 or by imprisonment not less than 10 days nor more than one year, or by both fine and imprisonment. [*1945 c. 585*]

Note: Furnishing to unit of government, such as school district, information or records to enable it to determine liability arising out of legal settlement question or liability predicated upon 40.21 (2), Stats. 1939, does not contravene terms or policy of 49.53. 29 Atty. Gen. 467.

49.61 Aid to totally and permanently disabled persons. (1) DEFINITION. As used in this section a totally and permanently physically disabled person is a person found by medical authority to be so totally and permanently disabled physically as to require constant and continuous care.

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

(a) Who is more than 17 and less than 65 years of age;

(b) Who has resided in Wisconsin continuously for one year or more preceding the date of making application or of being granted aid;

(c) Who is a citizen of the United States;

(d) Who has no relatives able to support him and responsible for his support under section 49.07;

(e) Who is not an inmate of a prison, jail or other correctional institution, nor of an insane hospital or asylum, nor of any county or city home or other charitable, curative or correctional institution maintained by the state or any of its political subdivisions, provided that temporary care in a county or municipal hospital as a paying patient shall not preclude an applicant from such aid;

(f) Whose property does not exceed a home of reasonable value together with ownership of other property such as cash, securities and insurance with a cash surrender value in an amount not to exceed $1,000 to provide a reasonable reserve for expenses of burial, last sickness and other emergency needs not covered by this section;

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

(3) APPLICATION. Application for aid 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 state department of public welfare to the welfare agency of the county in which he resides.

(4) DETERMINATION OF ELIGIBILITY. The county agency shall promptly make an investigation to ascertain all pertinent facts as to the applicant's eligibility.

(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 may file petition for review of denial as provided in section 49.50 (8).

(6) AMOUNT OF AID. The amount of aid which a person may receive under this section shall be according to his need but shall not exceed $80 per month. Any person re-

ceiving aid under this section shall not be eligible for old-age assistance, aid to the blind or aid to dependent children.

(7) ORDER DIRECTING PAYMENT. If the county agency shall find a person eligible for aid under this section, such agency shall on a form to be prescribed by the state department of public welfare, 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.

(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) STATE AID REIMBURSEMENT TO COUNTY. The county treasurer and county agency administrator of each county shall monthly certify under oath to the state department of public welfare 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 director of budget and accounts for reimbursement to the county 50 per cent of the approved amount paid by the county for aid to the disabled pursuant to this section, plus federal aid received for such expenditure. If the total amount due all counties exceeds the sum appropriated by section 20.18 (11) the appropriation shall be prorated by the department among the counties according to the amounts due them. To facilitate prompt reimbursement, the certification of the department may be based upon the certified statements of the county officers, provided that any necessary audit adjustments for any month of the current or prior fiscal years may be made and included in subsequent certifications. The director of budget and accounts shall draw his warrant forthwith for reimbursement to the respective counties in accordance with the certification of the department.

(10) LAW GOVERNING. The administration of this section shall be governed by the provisions of sections 49.39, 49.50, 49.51 and 49.53, so far as applicable. [*1945 c. 578, 588; 1947 c. 9*]