

State of Wisconsin



January 2018 Special Session
Assembly Bill 8

Date of enactment: April 10, 2018
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2017 WISCONSIN ACT 268

AN ACT *to repeal* 49.45 (19) (a) 1.; *to consolidate, renumber and amend* 49.45 (19) (a) (intro.) and 2.; *to amend* 49.45 (19) (title); and *to create* 49.463 of the statutes; **relating to:** requiring child support compliance in the Medical Assistance program.

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

SECTION 1. 49.45 (19) (title) of the statutes is amended to read:

49.45 (19) (title) ~~ESTABLISHING PATERNITY AND ASSIGNING~~ ASSIGNING MEDICAL SUPPORT RIGHTS.

SECTION 2. 49.45 (19) (a) (intro.) and 2. of the statutes are consolidated, renumbered 49.45 (19) (a) and amended to read:

49.45 (19) (a) As a condition of eligibility for medical assistance, a person shall: ~~2. Notwithstanding, notwithstanding~~ other provisions of the statutes, be deemed to have assigned to the state, by applying for or receiving medical assistance, any rights to medical support or other payment of medical expenses from any other person, including rights to unpaid amounts accrued at the time of application for medical assistance as well as any rights to support accruing during the time for which medical assistance is paid.

SECTION 3. 49.45 (19) (a) 1. of the statutes is repealed.

SECTION 4. 49.463 of the statutes is created to read:

49.463 Ineligibility for noncompliance with child support determinations and obligations. (1) DEFINITIONS. In this section:

(a) "Able-bodied adult" means an adult who is not elderly, as defined in s. 49.468 (1) (a) 2., or disabled, as defined in s. 49.471 (1) (cm), who is not pregnant, and who is able-bodied, as defined by the department.

(b) "Custodial parent" has the meaning given in s. 49.141 (1) (b).

(c) "Noncustodial parent" has the meaning given in s. 49.141 (1) (h).

(2) ELIGIBILITY DENIAL; CHILD SUPPORT NONCOMPLIANCE. (a) In this subsection, what constitutes a refusal to cooperate is determined by the department in accordance with [42 USC 1396k](#) and any federal regulations promulgated under [42 USC 1396k](#).

(b) An able-bodied adult is ineligible for the Medical Assistance program under this subchapter in a month in which any of the following is true:

1. The able-bodied adult satisfies all of the following:

a. The able-bodied adult is a custodial parent of or lives with and exercises parental control over a child who is under the age of 18 and who has an absent parent.

b. The able-bodied adult refuses to cooperate fully, in good faith, with efforts directed at establishing or enforcing any support order or obtaining any other pay-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

ments or property to which that adult or the child may have rights.

c. The able-bodied adult does not have good cause for refusing to cooperate, as determined by the department in accordance with [42 USC 1396k](#) and any federal regulations promulgated under [42 USC 1396k](#).

2. The able-bodied adult is a noncustodial parent of a child under the age of 18 and the adult refuses to cooperate in providing or obtaining support for the child.

(3) **ELIGIBILITY DENIAL; PATERNITY.** (a) In this subsection, what constitutes a refusal to cooperate is determined by the department in accordance with [42 USC 1396k](#) and any federal regulations promulgated under [42 USC 1396k](#).

(b) An able-bodied adult is ineligible for the Medical Assistance program under this subchapter in a month in which any of the following is true:

1. The able-bodied adult satisfies all of the following:

a. The able-bodied adult is a custodial parent of or lives with and exercises parental control over a child who is under the age of 18 and who has an absent parent.

b. The able-bodied adult refuses to cooperate fully, in good faith, with applicable efforts directed at establishing the paternity of the child.

c. The able-bodied adult does not have good cause for refusing to cooperate, as determined by the department in accordance with [42 USC 1396k](#) and any federal regulations promulgated under [42 USC 1396k](#).

2. The able-bodied adult is one of the following and refuses to cooperate fully, in good faith, with efforts directed at establishing the paternity of the child:

a. Alleged to be the father under s. 767.80 of a child under the age of 18.

b. A noncustodial parent of a child under the age of 18 for whom paternity has not been established.

(4) **ELIGIBILITY DENIAL; DELINQUENT SUPPORT.** An able-bodied adult is ineligible for the Medical Assistance program under this subchapter in a month in which the adult is obligated by order granted inside or outside this state to provide support payments and is delinquent in

making those payments, unless any of the following is true:

(a) The delinquency balance equals less than 3 months of the ordered support payment amount.

(b) A court or a county child support agency under s. 59.53 (5) is allowing the able-bodied adult to delay the child support payments.

(c) The able-bodied adult is complying with a payment plan approved by a county child support agency under s. 59.53 (5) to provide support for the child of the adult.

(d) The able-bodied adult is participating in an employment and training program, as determined by the department.

(e) The able-bodied adult is participating in a substance abuse treatment program, as determined by the department.

(5) **EXCEPTION FOR ELIGIBILITY OF CHILD.** A dependent child remains eligible for the Medical Assistance program under this subchapter even if a person charged with the care and custody of the dependent child is ineligible for the Medical Assistance program because he or she did not comply with this section.

(5m) **NOTIFICATION REQUIREMENT.** The department or the county department under s. 46.215 or 46.22 shall notify an applicant for Medical Assistance of the requirements of this section at the time of application.

(6) **FEDERAL APPROVAL.** If the department of health services or the department of children and families determines that federal approval is required to implement any part of this section, the applicable department shall submit a state plan amendment or request for a waiver to the federal department of health and human services. The departments shall implement this section to the extent that the federal department of health and human services does not disapprove of the plan amendment or waiver request and if the department of children and families determines that this section as it pertains to child support and paternity order establishment and compliance is able to be implemented in a way that is substantially state budget neutral in regard to child support fees.