



State of Wisconsin
2017 - 2018 LEGISLATURE

January 2018 Special Session

LRB-5545/1

TJD:ahe

ENGROSSED ASSEMBLY BILL 8

February 16, 2018 - Printed by direction of SENATE CHIEF CLERK.

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

Analysis by the Legislative Reference Bureau

Engrossment information:

The text of Engrossed January 2018 Special Session Assembly Bill 8 consists of the following documents adopted in the assembly on February 15, 2018: the bill as affected by Assembly Amendment 1.

Content of Engrossed January 2018 Special Session Assembly Bill 8:

The bill prohibits certain able-bodied adults and able-bodied parents who refuse to cooperate in determining the paternity of a child, establishing or enforcing any support order, or obtaining any other payments or property to which the adult or the child has rights from being eligible for the Medical Assistance program. The bill also prohibits certain parents who are delinquent in child support payments and do not satisfy an exception specified in the bill or who refuse to cooperate in providing or obtaining support for their child from being eligible for the Medical Assistance program. Pregnant women are exempt from paternity determinations and child support requirements of the bill. Under the bill, a dependent child remains eligible for the Medical Assistance program even if a person charged with the care and custody of the dependent child is ineligible for the Medical Assistance program.

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because he or she did not comply with those requirements. Under current law, a person is required, as a condition of eligibility for Medical Assistance, to fully cooperate in good faith with efforts directed at establishing the paternity of a nonmarital child and obtaining support payments or any other payments or property to which the person and the dependent child may have rights.

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

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

2 49.45 **(19)** (title) ~~ESTABLISHING PATERNITY AND ASSIGNING~~ ASSIGNING MEDICAL
3 SUPPORT RIGHTS.

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

6 49.45 **(19)** (a) As a condition of eligibility for medical assistance, a person shall:
7 ~~2. Notwithstanding, notwithstanding~~ other provisions of the statutes, be deemed to
8 have assigned to the state, by applying for or receiving medical assistance, any rights
9 to medical support or other payment of medical expenses from any other person,
10 including rights to unpaid amounts accrued at the time of application for medical
11 assistance as well as any rights to support accruing during the time for which
12 medical assistance is paid.

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

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

15 **49.463 Ineligibility for noncompliance with child support**
16 **determinations and obligations. (1) DEFINITIONS.** In this section:

17 (a) "Able-bodied adult" means an adult who is not elderly, as defined in s.
18 49.468 (1) (a) 2., or disabled, as defined in s. 49.471 (1) (cm), who is not pregnant, and
19 who is able-bodied, as defined by the department.

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

2 (c) “Noncustodial parent” has the meaning given in s. 49.141 (1) (h).

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

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

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

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

12 b. The able-bodied adult refuses to cooperate fully, in good faith, with efforts
13 directed at establishing or enforcing any support order or obtaining any other
14 payments or property to which that adult or the child may have rights.

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

18 2. The able-bodied adult is a noncustodial parent of a child under the age of
19 18 and the adult refuses to cooperate in providing or obtaining support for the child.

20 **(3) ELIGIBILITY DENIAL; PATERNITY.** (a) In this subsection, what constitutes a
21 refusal to cooperate is determined by the department in accordance with 42 USC
22 1396k and any federal regulations promulgated under 42 USC 1396k.

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

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

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

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

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

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

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

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

13 **(4) ELIGIBILITY DENIAL; DELINQUENT SUPPORT.** An able-bodied adult is ineligible
14 for the Medical Assistance program under this subchapter in a month in which the
15 adult is obligated by order granted inside or outside this state to provide support
16 payments and is delinquent in making those payments, unless any of the following
17 is true:

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

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

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

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

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

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

9 **(5m) NOTIFICATION REQUIREMENT.** The department or the county department
10 under s. 46.215 or 46.22 shall notify an applicant for Medical Assistance of the
11 requirements of this section at the time of application.

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

22 **(END)**