



**ASSEMBLY SUBSTITUTE AMENDMENT 1,  
TO ASSEMBLY BILL 232**

February 24, 2014 - Offered by Representative WEININGER.

1 **AN ACT to amend** 20.435 (4) (b), 20.435 (4) (bm), 20.435 (4) (L), 20.435 (4) (nn),  
2 20.435 (4) (pa) and 49.793 (2) (a); and **to create** 49.846 of the statutes; **relating**  
3 **to:** an optional incentive program for counties and tribes that identify  
4 fraudulent activity in certain public assistance programs, granting  
5 rule-making authority, and making appropriations.

---

***Analysis by the Legislative Reference Bureau***

Under current law, a county or elected governing body of a federally recognized American Indian tribe or band (county or tribe) may retain a portion of incorrect overpayments in public assistance programs administered by the Department of Health Services (DHS), including Medical Assistance and the supplemental nutrition assistance program (known as FoodShare in Wisconsin), that are recovered as the result of the efforts of an employee or officer of the county or tribe. Currently, DHS establishes by rule the portion of FoodShare overpayment recoveries that a county or tribe may retain. Under the substitute amendment, a county or tribe may retain the full amount of FoodShare overpayment recoveries that the state is permitted to retain under federal law. Current law also allows a county or tribe to retain a portion of incorrect overpayments that are recovered in the Wisconsin Works program as the result of the efforts of an employee or officer of the county or tribe.

Under current law, Milwaukee County may not retain a portion of incorrect payments that are recovered as a result of the efforts of an employee or officer of the county.

Under the substitute amendment, DHS is required to establish an optional incentive program, by rule, under which a county with a population of less than 750,000 or tribe receives a reward payment if an employee or officer of the county or tribe identifies fraudulent activity in Medical Assistance or FoodShare and the county or tribe determines the fraudulent activity occurred, establishes a claim for any overpaid benefits related to the fraudulent activity, and, if directed by DHS, criminally prosecutes the fraudulent activity. Under the substitute amendment, the amount of the reward payment under the program is 20 percent of the amount that DHS determines will be saved in the program over a 12-month period as the result of eliminating the identified fraudulent activity. The substitute amendment also provides that, if a county or tribe receives a reward payment under the optional incentive program, the county or tribe may not retain recovered overpayments that were made as the result of the identified fraudulent activity. The substitute amendment does not change a county or tribe's eligibility to retain a recovered overpayment that was made as the result of a recipient's error.

---

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

1           **SECTION 1.** 20.435 (4) (b) of the statutes, as affected by 2013 Wisconsin Act 20,  
2 is amended to read:  
3           20.435 (4) (b) *Medical Assistance program; benefits and reward payments for*  
4 *identifying fraud.* Biennially, the amounts in the schedule to provide a portion of the  
5 state share of Medical Assistance program benefits administered under subch. IV of  
6 ch. 49, for a portion of the Badger Care health care program under s. 49.665, to  
7 provide a portion of the Medical Assistance program benefits administered under  
8 subch. IV of ch. 49 that are not also provided under par. (o), to fund the pilot project  
9 under s. 46.27 (9) and (10), to provide a portion of the facility payments under 1999  
10 Wisconsin Act 9, section 9123 (9m), to fund services provided by resource centers  
11 under s. 46.283, for services under the family care benefit under s. 46.284 (5), for  
12 assisting victims of diseases, as provided in ss. 49.68, 49.683, and 49.685, for

1 distributing grants under s. 146.64, for reward payments under s. 49.846 (2), and for  
2 reduction of any operating deficits as specified in 2005 Wisconsin Act 15, section 3.  
3 Notwithstanding s. 20.002 (1), the department may transfer from this appropriation  
4 account to the appropriation account under sub. (5) (kc) funds in the amount of and  
5 for the purposes specified in s. 46.485. Notwithstanding ss. 20.001 (3) (b) and 20.002  
6 (1), the department may credit or deposit into this appropriation account and may  
7 transfer between fiscal years funds that it transfers from the appropriation account  
8 under sub. (5) (kc) for the purposes specified in s. 46.485 (3r). Notwithstanding s.  
9 20.002 (1), the department may transfer from this appropriation account to the  
10 appropriation account under sub. (7) (bd) funds in the amount and for the purposes  
11 specified in s. 49.45 (6v).

12 **SECTION 2.** 20.435 (4) (bm) of the statutes is amended to read:

13 20.435 (4) (bm) *Medical Assistance, food stamps, and Badger Care*  
14 *administration; contract costs, insurer reports, and resource centers.* Biennially, the  
15 amounts in the schedule to provide a portion of the state share of administrative  
16 contract costs for the Medical Assistance program under subch. IV of ch. 49 and the  
17 Badger Care health care program under s. 49.665 and to provide the state share of  
18 administrative costs for the food stamp program under s. 49.79, other than payments  
19 under s. 49.78 (8), for reward payments under s. 49.846 (2) and (3), to develop and  
20 implement a registry of recipient immunizations, to reimburse 3rd parties for their  
21 costs under s. 49.475, for costs associated with outreach activities, for state  
22 administration of state supplemental grants to supplemental security income  
23 recipients under s. 49.77, to administer the pharmacy benefits purchasing pool  
24 under s. 146.45, and for services of resource centers under s. 46.283. No state  
25 positions may be funded in the department of health services from this

1 appropriation, except positions for the performance of duties under a contract in  
2 effect before January 1, 1987, related to the administration of the Medical Assistance  
3 program between the subunit of the department primarily responsible for  
4 administering the Medical Assistance program and another subunit of the  
5 department. Total administrative funding authorized for the program under s.  
6 49.665 may not exceed 10% of the amounts budgeted under pars. (p) and (x).

7 **SECTION 3.** 20.435 (4) (L) of the statutes is amended to read:

8 20.435 (4) (L) *Fraud and error reduction.* All moneys received as the state's  
9 share of the recovery of overpayments and incorrect payments under ss. 49.497 (1)  
10 and (1m), 49.793 (2) (a), and 49.847, all moneys received from counties and tribal  
11 governing bodies as a result of any error reduction activities under ss. 49.197 and  
12 49.845, and all moneys credited to this appropriation account under ss. 49.497 (2) (b),  
13 49.793 (2) (b), and 49.847 (3) (b), for any contracts under s. 49.197 (5), for any  
14 activities to reduce error and fraud under s. 49.845, to pay federal sanctions under  
15 the food stamp program, for reward payments under 49.846 (2) and (3), and for food  
16 stamp reinvestment activities under reinvestment agreements with the federal  
17 department of agriculture that are designed to improve the food stamp program.

18 **SECTION 4.** 20.435 (4) (nn) of the statutes is amended to read:

19 20.435 (4) (nn) *Federal aid; income maintenance.* All moneys received from the  
20 federal government for the costs of contracting for the administration of the Medical  
21 Assistance program under subch. IV of ch. 49 and the Badger Care health care  
22 program under s. 49.665 and the food stamp program, other than moneys received  
23 under par. (pa), for costs to administer income maintenance programs, as defined in  
24 s. 49.78 (1) (b), and for reward payments under 49.846 (2) and (3).

1           **SECTION 5.** 20.435 (4) (pa) of the statutes, as affected by 2013 Wisconsin Act 20,  
2 is amended to read:

3           20.435 (4) (pa) *Federal aid; Medical Assistance and food stamp contracts*  
4 *administration.* All federal moneys received for the federal share of the cost of  
5 contracting for payment and services administration and reporting, other than  
6 moneys received under pars. (nn) and (np), to reimburse 3rd parties for their costs  
7 under s. 49.475, for administrative contract costs for the food stamp program under  
8 s. 49.79, for reward payments under s. 49.846 (2) and (3), and for services of resource  
9 centers under s. 46.283.

10           **SECTION 6.** 49.793 (2) (a) of the statutes is amended to read:

11           49.793 (2) (a) Except as provided in par. (b), a county, multicounty consortium,  
12 as defined in s. 49.78 (1) (br), or governing body of a federally recognized American  
13 Indian tribe may retain ~~a portion of the~~ full amount of an overpayment the state is  
14 authorized to retain under 7 USC 2025 that is recovered under sub. (1) due to the  
15 efforts of an employee or officer of the county, multicounty consortium, or tribe. The  
16 ~~department shall promulgate a rule establishing the portion of the amount of the~~  
17 ~~overpayment that the county, multicounty consortium, or governing body may~~  
18 ~~retain.~~ This paragraph does not apply to recovery of an overpayment that was made  
19 as a result of state, county, multicounty consortium, or tribal governing body error.

20           **SECTION 7.** 49.846 of the statutes is created to read:

21           **49.846 Optional incentive program for counties and tribes that**  
22 **identify fraud in certain public assistance programs. (1) DEFINITIONS.** In this  
23 section:

24           (a) "County or tribe" means a county having a population of less than 750,000  
25 or a federally recognized American Indian tribe or band in this state.

1 (b) “Department” means the department of health services.

2 (c) “Food stamp program” means the federal food stamp program under 7 USC  
3 2011 to 2036a.

4 (d) “Medical Assistance program” means the program under subch. IV.

5 **(2) MEDICAL ASSISTANCE PROGRAM.** (a) The department shall establish an  
6 optional incentive program, by rule, under which the department will provide a  
7 reward payment to a county or tribe if an employee or officer of the county or tribe  
8 identifies fraudulent activity in the Medical Assistance program and the county or  
9 tribe does all of the following:

10 1. Investigates the identified fraudulent activity and determines that fraud  
11 occurred.

12 2. Establishes a claim for any overpaid benefits related to the identified  
13 fraudulent activity.

14 3. Pursues criminal prosecution for the identified fraudulent activity if directed  
15 to do so by the department.

16 (b) The department shall establish the optional incentive program to include  
17 all of the following:

18 1. That, for identifying fraudulent activity, a county or tribe shall choose to  
19 receive a reward payment in the amount determined under subd. 2. or to retain funds  
20 under s. 49.49 (5) or 49.497 (2) (a).

21 2. That the amount of a reward payment to a county or tribe under the program  
22 is equal to 20 percent of the amount that the department determines will be saved  
23 in the Medical Assistance program as the result of eliminating the identified  
24 fraudulent activity during the 12-month period after the fraudulent activity is  
25 eliminated. Notwithstanding ss. 49.49 (5) and 49.497 (2) (a), a county or tribe that

1 receives a reward payment may not retain any funds that are incorrectly paid as the  
2 result of the identified fraudulent activity and recovered due to the efforts of an  
3 employee or officer of the county or tribe.

4 (c) Nothing in par. (b) prohibits a county or tribe from retaining funds under  
5 s. 49.793 (2) (a) that are incorrectly paid as the result of a recipient's error rather than  
6 fraud.

7 (d) The department may make reward payments under the optional incentive  
8 program established under this subsection from the appropriations under s. 20.435  
9 (4) (b), (bm), (L), (nn), and (pa).

10 **(3) FOOD STAMP PROGRAM.** (a) The department shall establish an optional  
11 incentive program, by rule, under which the department will provide a reward  
12 payment to a county or tribe if an employee or officer of the county or tribe identifies  
13 fraudulent activity in the food stamp program and the county or tribe does all of the  
14 following:

15 1. Investigates the identified fraudulent activity and determines that fraud  
16 occurred.

17 2. Establishes a claim for any overpaid benefits related to the identified  
18 fraudulent activity.

19 3. Pursues criminal prosecution for the identified fraudulent activity if directed  
20 to do so by the department.

21 (b) The department shall establish the optional incentive program to include  
22 all of the following:

23 1. That, for identifying fraudulent activity, a county or tribe shall choose to  
24 receive a reward payment in the amount determined under subd. 2. or to retain funds  
25 under s. 49.793 (2) (a).

1           2. That the amount of a reward payment to a county or tribe is equal to 20  
2 percent of the amount that the department determines will be saved in the food  
3 stamp program as the result of eliminating the identified fraudulent activity during  
4 the 12-month period after the fraudulent activity is eliminated. Notwithstanding  
5 s. 49.793 (2) (a), a county or tribe that receives a reward payment may not retain any  
6 funds that are incorrectly paid as the result of the identified fraudulent activity and  
7 recovered due to the efforts of an employee or officer of the county or tribe.

8           (c) Nothing in par. (b) prohibits a county or tribe from retaining funds under  
9 s. 49.793 (2) (a) that are incorrectly paid as the result of a recipient's error rather than  
10 fraud.

11           (d) The department may make reward payments under the optional incentive  
12 program established under this subsection from the appropriations under s. 20.435  
13 (4) (bm), (L), (nn), and (pa).

14           **(4) USE OF REWARD PAYMENT.** A county or tribe may use a reward payment  
15 received under this section for any purpose.

16           **(5) WAIVERS.** (a) If the department determines that it needs a waiver to allow  
17 reward payments under sub. (2) to qualify as administrative costs for the Medical  
18 Assistance program or to allow a county and tribe to use any federal funds received  
19 under sub. (2) for any purpose, the department shall request the necessary waiver  
20 from the secretary of the federal department of health and human services and may  
21 not implement the incentive program under sub. (2) unless the waiver is granted.

22           (b) If the department determines that it needs a waiver to allow reward  
23 payments under sub. (3) to qualify as administrative costs involved in the operation  
24 of the food stamp program or to allow a county and tribe to use any federal funds  
25 received under sub. (3) for any purpose, the department shall request the necessary



1 waiver from the secretary of the federal department of agriculture and may not  
2 implement the incentive program under sub. (3) unless the waiver is granted.

3 (END)