

Legislative Analysis



MODIFY STATE ADOPTION SUPPORT SUBSIDY LAW TO COMPLY WITH FEDERAL GUIDELINES

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House Bill 4159

Sponsor: Rep. Alma Wheeler Smith

Committee: Families and Children's Services

Complete to 2-17-09

A SUMMARY OF HOUSE BILL 4159 AS INTRODUCED 2-4-09

The bill would amend the Social Welfare Act to revise eligibility and payments provisions related to adoption support subsidies and adoption medical subsidies. The Department of Human Services indicates the bill is intended to bring the current adoption subsidy statute in line with federal guidelines.

House Bill 4159 would amend Sections 115g, 115i, and 115j of the Social Welfare Act to revise eligibility and payments provisions related to adoption support subsidies and adoption medical subsidies. The bill would do all of the following, with new language underlined.

Support Subsidy. The act provides that the department pay a support subsidy to an adoptive parent of an adoptee who is placed in the home of the adoptive parent under the Adoption Code or laws of any other state if specified conditions are met. The bill would require department certification be made and the contract agreement be signed by the adoptive parent or adoptive parents and the department before the adoption is finalized.

The support subsidy provision would be rewritten to say that the maximum amount of the support subsidy would be equal to the rate that the child received in the family foster care placement or the rate the child would have received if he or she had been in a family foster care placement at the time of the adoption. This rate includes the difficulty-of-care rate that was paid or would have been paid for the adoptee in a family foster care placement.

However, the bill specifies that the department could not implement policy to limit the maximum amount at an amount less than the family foster care rate, including the difficulty of the care rate that was paid for the adoptee while he or she was in family foster care.

Adoption Assistance. If assistance is to be paid, the adoptive parent or parents and the department enter into an adoptive assistance agreement. Under the bill, that agreement would include, in addition to current provisions, any services and other assistance to be provided under the agreement and provisions to protect the interest of the child in cases in which the adoptive parent or parents move to another state while the adoption assistance agreement is in effect.

Continuance of Adoption Assistance or Medical Subsidy. Current language says that adoption assistance and/or medical subsidy may be continued beyond the age of 18 until 21 years of age if sufficient money is appropriated and the adoptee is determined to be regularly attending high school, college, university, or vocational school. That language would be stricken.

Under the bill, if sufficient funds are appropriated by the Legislature in the DHS annual budget, adoption support subsidy agreements and/or adoption medical subsidy agreements could be extended through state funding for an adoptee under 21 years of age if all the following criteria are met:

- (1) The adoptee has not completed high school or a GED program.
- (2) The adoptee is regularly attending high school, or a GED program, or a program for children with disabilities, on a full-time basis and is progressing toward achieving a high school diploma, certificate of completion, or GED.
- (3) The adoptee is not eligible for supplemental security income.

Child with Mental or Physical Disability. Also under the bill, if sufficient funds are appropriated by the Legislature in the DHS annual budget, adoption support subsidy agreements may be extended through Title IV-E funding for an eligibility adoptee up to the age of 19 years if the state determines that the child has a mental or physical disability that warrants continuation of adoption assistance.

Current language says the department would continue making support subsidy payments or continue eligibility, or both, to the guardian of the adoptee if a guardian is appointed as provided under the EPIC code. The bill would specify support subsidy payments or continued eligibility through state funding.

FISCAL IMPACT:

The bill would amend the Social Welfare Act to revise eligibility and payments provisions related to adoption support subsidies and adoption medical subsidies. The Department of Human Services indicates the bill is intended to bring the current adoption subsidy statute in line with federal guidelines. A DHS analysis does not anticipate significant cost impacts, estimating initial new costs of between \$90,000 and \$150,000.

Adoption Subsidy Program - Background

Michigan's adoption subsidy program provides subsidy payments to adoptive families who adopt a child determined to have "special needs" out of the child welfare system. For FY 2007, total adoption subsidy payments and medical subsidy payments statewide exceeded \$222 million. Current law sets the adoption support subsidy payment rate for families equal to the family foster care rate, including any difficulty of care supplements paid due to special needs of the child. This equates to a monthly payment of around \$450

to the adoptive family of a child 12 years old or younger who received the standard foster care rate, and an increased monthly payment of around \$555 for the same child aged 13 years or older. The adoptive family of a child who received supplements for special needs can receive an additional amount of between \$150 to \$550 per month depending upon the determined level of need. The adoptive family of an eligible child would receive this amount as their subsidy payment unless they requested something less than this amount.

Cost Impact - Adoption Subsidies and "Fictive Kin"

The bill revises these provisions to make the maximum adoption subsidy payment equal to what the child received in the family foster care placement, or would have received if the child had been in a family. The provision clarifies how subsidy rates are to be determined for youth not in a typical family foster care placement at the time of adoption. For those youth, the maximum subsidy amount would now be equal to "the rate the child would have received if he or she had been in a family foster care placement at the time of adoption." This provision is expected to increase subsidy payments to children who were cared for by unlicensed, unrelated adults (referred to as "fictive kin" settings) while in foster care. Currently, these families often receive Family Independence Program payments (around \$157 per month for one child) while the child is in their care. Under current policy, the adoption subsidy payment is based on this lower FIP payment amount rather than on the higher family foster care rate. The bill would revise current law to link the subsidy rate with the family foster care rate for all types of settings.

The Department of Human Services estimates that it will cost between \$90,000 and \$150,000 in the first year to adjust the adoption subsidy payments to these "fictive kin" adoptive families so that they also reflect the family foster care rate level. The DHS indicates this change is needed to comply with the federal review of Michigan's statute that noted this section as being inconsistent with federal standards.

Adoption Subsidy Payment Policy

The bill revises these provisions to make the *maximum* adoption subsidy payment equal to what the child received or would have received in the family foster care placement. This contrasts with current law which sets the adoption subsidy payment as being equal to that family foster care payment. However, the bill also contains language prohibiting the Department from implementing policy to limit the maximum amount paid to an amount less than the family foster care rate. The bill as drafted would appear to prohibit the DHS from setting a maximum adoption subsidy payment through policy guidelines at some fixed percentage below the full foster care rate as is done in some other states. So, in short, the bill should not impact current payment policies.

Adoption Subsidy Extensions

Finally, the bill amends current law language regarding extensions of adoption subsidy payments after an adopted youth becomes 18 years of age. Since both the current law

and proposed language provisions are permissive and are subject to legislative appropriations, the provisions should have no fiscal impact unless the Legislature separately decides to add appropriation authority to the DHS budget to support additional extensions. Under current DHS policy and funding levels, extensions of adoption subsidy agreements are provided only through age 19 or through high school graduation, whichever comes first, and only when the youth remains in school.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.