

Act No. 40
Public Acts of 1992
Approved by the Governor
April 28, 1992
Filed with the Secretary of State
April 28, 1992

**STATE OF MICHIGAN
86TH LEGISLATURE
REGULAR SESSION OF 1992**

Introduced by Reps. Jondahl, Leland, Scott, Harder, Anthony, Clack, DeMars, Baade, Dolan and Clarke

ENROLLED HOUSE BILL No. 4344

AN ACT to amend section 115f of Act No. 280 of the Public Acts of 1939, entitled as amended "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," as added by Act No. 292 of the Public Acts of 1980, being section 400.115f of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 115f of Act No. 280 of the Public Acts of 1939, as added by Act No. 292 of the Public Acts of 1980, being section 400.115f of the Michigan Compiled Laws, is amended to read as follows:

Sec. 115f. (1) As used in this section:

- (a) "Adoptee" means the child who is to be adopted or who is adopted.
- (b) "Certification" means a determination of eligibility by the office that an adoptee is eligible for a support or medical subsidy or both.
- (c) "Child placing agency" means that term as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.
- (d) "Court" means the juvenile division of the probate court in this state.
- (e) "Foster care" means placement of a child outside the child's parental home by and under the supervision of a child placing agency, the court, the state department, or the department of mental health.
- (f) "Medical subsidy" means payment for medical, surgical, hospital, and related expenses necessitated by a specified physical, mental, or emotional condition of a child who has been placed for adoption.
- (g) "Support subsidy" means payment for support of a child who has been placed for adoption.

(2) If a child who is certified eligible for subsidy is placed for adoption in a home under chapter X of Act No. 288 of the Public Acts of 1939, as amended, being sections 710.21 to 710.70 of the Michigan Compiled Laws, or under the adoption laws of any other state, the office may pay to the adopting parent or parents either or both of the following adoption subsidies:

(a) A support subsidy for an adoptee certified eligible for a support subsidy. The minimum requirements for certification for a support subsidy are all of the following:

(i) The adoptee was in foster care for not less than 4 months before certification.

(ii) Certification for a support subsidy was made before the adoptee's eighteenth birthday.

(iii) A reasonable effort failed to identify a person qualified and willing to adopt without a subsidy or a prospective placement is the only placement in the best interest of the child and the family is unwilling to adopt without a subsidy.

(iv) Certification for a support subsidy was made by the office before the petition for adoption was filed.

(b) A medical subsidy for specified medical, surgical, hospital, and related expenses for an adoptee certified eligible for a medical subsidy. The minimum requirements for certification for a medical subsidy are all of the following:

(i) The expenses to be covered by the medical subsidy are necessitated by a physical, mental, or emotional condition of the adoptee that existed or the cause of which existed before the adoption petition was filed or certification was requested, whichever occurred first.

(ii) The adoptee was in foster care at the time the petition for adoption was filed. This subparagraph does not apply to adoptions confirmed before the effective date of the amendatory act that added this subparagraph.

(iii) Certification for a medical subsidy was made before the adoptee's eighteenth birthday.

(3) The office shall make the payment of an adoption subsidy without respect to the income of the adopting parent or parents if all of the following conditions apply:

(a) The adoptee is certified by the office as being eligible for a subsidy.

(b) The adopting parent or parents request a subsidy of the office. The request for a support subsidy shall be made not later than the adoption confirmation date. The request for a medical subsidy may be made any time after the petition for adoption is filed.

(c) The support subsidy does not exceed the family foster care rate that was paid for the same adoptee. Support subsidy payments shall be subject to increases made in the foster care rate paid by the office. The support subsidy for an adoptee shall not be less than the intensive foster care rate that was paid for the same adoptee unless financial constraints require a reduction in all medical and support subsidies.

(d) The office and the adopting parent or parents enter into a contract setting forth all of the following: the subsidy to be paid; the amount to be paid, if known with certainty; the identity of the physical, mental, or emotional condition that is covered by a medical subsidy; and conditions for continued payment of the subsidy as established by statute. The adopting parent or parents shall receive a copy of the contract.

(e) The adopting parent or parents file a verified report with the office at least once each year as to the location of the adoptee and other matters relating to the continuing eligibility of the adoptee for a subsidy. The report shall not contain information concerning the financial condition of the adopting parent or parents.

(4) All other available public money and third party payment shall be used before payment of a medical subsidy is made. For purposes of this subsection, third party payment is available if the adopting parent has an option, at or after the time of certification, to obtain from his or her employer health coverage for the child, with or without cost to the adopting parent. The office may waive this subsection in cases of undue hardship.

(5) Payment of a medical subsidy for treatment of a mental or emotional condition is limited to outpatient treatment unless 1 or more of the following apply:

(a) Certification for the medical subsidy was made before the adoption confirmation date.

(b) The child was placed in foster care by the court pursuant to section 18(d) or (e) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.18 of the Michigan Compiled Laws, before the petition for adoption was filed.

(c) The child was certified for a support subsidy.

(6) A medical subsidy requested after the adoptee is placed in adoption shall be effective the date the request is received by the office if the necessary documentation for certification is received within 90 days after the request is made.

(7) An adoption subsidy shall continue until 1 of the following occurs:

(a) The adoptee becomes 18 years of age.

(b) The adoptee is emancipated.

- (c) The adoptee dies.
- (d) The adoption is terminated.
- (e) A determination of ineligibility is made by the office.

(8) If sufficient funds are appropriated, the office may continue a subsidy for an adoptee under 21 years of age if the office determines that the adoptee is a student regularly attending a high school, college, university, or a course of vocational training in pursuance of a course of study leading to a high school diploma, college degree, or gainful employment.

(9) The office may modify or discontinue an adoption subsidy on the basis of changed conditions as indicated in a report filed under subsection (3)(e) or other information received by the office.

(10) An adoptee, the adoptee's guardian, or the adopting parent or parents have the right to appeal a determination of the office made under this section. The appeal shall be conducted pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws. An adoptee, the adoptee's guardian, or the adopting parent or parents have the right to appeal a final determination of the office pursuant to sections 101 to 106 of Act No. 306 of the Public Acts of 1969, as amended, being sections 24.301 to 24.306 of the Michigan Compiled Laws, except that the appeal shall be heard:

(a) If the adoptee resides in this state, by the probate court for the county in which the petition for adoption was filed or in which the adoptee is found.

(b) If the adoptee does not reside in this state, by the probate court for the county in which the petition for adoption was filed.

(11) The office shall notify the adoptee and the adopting parent or parents of their right of appeal under subsection (10).

(12) An adoption subsidy shall continue even if the adopting parent or parents leave the state.

(13) An adoption subsidy shall not affect the legal status of the adoptee or the legal rights and responsibilities of the adoptive parent or parents.

(14) An adopting parent or parents receiving a subsidy under former section 13a or 48 of chapter X of Act No. 288 of the Public Acts of 1939 shall continue to receive a subsidy for which they qualified under those sections and shall have an opportunity to request a modification of the subsidy to conform with subsection (2)(b) or (8), or both.

(15) The department, in conjunction with the office, shall promulgate rules regarding this section.

Section 2. This amendatory act shall take effect upon the expiration of 60 days after the date of its enactment.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.

