

Act No. 41
Public Acts of 1993
Approved by the Governor
May 27, 1993
Filed with the Secretary of State
May 27, 1993

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Hill, London, Kukuk, Kaza and Horton

ENROLLED HOUSE BILL No. 4299

AN ACT to amend section 9 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, infirmity 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 amended by Act No. 131 of the Public Acts of 1982, being section 400.9 of the Michigan Compiled Laws; and to add section 43a.

The People of the State of Michigan enact:

Section 1. Section 9 of Act No. 280 of the Public Acts of 1939, as amended by Act No. 131 of the Public Acts of 1982, being section 400.9 of the Michigan Compiled Laws, is amended and section 43a is added to read as follows:

Sec. 9. (1) 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, the director shall promulgate rules for the conduct of hearings within the state department. The rules shall provide adequate procedure for a fair hearing of appeals and complaints, when requested in writing by the state department or by an applicant for or recipient of, or former recipient of, assistance or service, financed in whole or in part by state or federal funds. Hearings shall be conducted by agents designated by the director. The director may appoint a hearing authority to decide these cases. The hearing authority shall be vested with the powers and duties of the director to hold and decide hearings. The director may also upon his or her own motion review a decision of a county or district department with respect to the granting of assistance financed in whole or in part by state or federal funds, and may consider and pass upon an application for assistance that has not been acted upon by the county or district department within a reasonable time.

(2) Irrespective of funding source, the state department may be represented in any hearing held pursuant to subsection (1) by a duly authorized employee or agent of the state department.

(3) A hearing held pursuant to this section shall be held as prescribed in the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

Sec. 43a. (1) As used in this section:

(a) "Overpayment" means the difference between the amount of assistance to which an individual is entitled under this act and the amount of assistance actually received by that individual.

(b) "Public assistance recipient" means an individual who is receiving, or who did receive, assistance under this act.

(2) The state department shall take all necessary steps to recover an overpayment made to a public assistance recipient, including, but not limited to, administrative action or action in a court of competent jurisdiction. Procedures for the recovery of overpayments made under federally assisted programs shall be consistent with federal law and regulations.

(3) This section does not limit or prevent the criminal prosecution of an individual who has received an overpayment as a result of fraud or other criminal act.

(4) In the case of an individual who is no longer a public assistance recipient, the state department may waive recovery of an overpayment if the cost of recovery is equal to or greater than the amount of the overpayment or if the error was made by the department. Except as prohibited by federal law or regulation, the state department may waive recovery of an overpayment if the recovery would result in undue hardship to the public assistance recipient, as determined by the state department.

(5) The state department shall report annually to the legislature on the cost effectiveness of the recovery of overpayments described in this section.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.