

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4655 (Substitute H-1 as passed by the House)
Sponsor: Representative Mark Jansen
House Committee: Family and Children Services
Senate Committee: Families, Mental Health and Human Services

Date Completed: 2-27-02

CONTENT

The bill would create a new act to specify that it would be State policy for the Michigan Department of Community Health (MDCH) to give priority in the allocation of funds through grants or contracts for educational and other programs and services administered by the MDCH and primarily pertaining to family planning, reproductive health services, or both. This would apply to grants or contracts awarded to entities that did not engage in certain abortion-related activities.

Funding Priority

Specifically, the policy expressed in the bill would apply to grants or contracts awarded to a "qualified entity" that did not engage in one or more of the following activities:

- Performing elective abortions or allowing the performance of elective abortions within a facility owned or operated by a qualified entity.
- Referring a pregnant woman to an abortion provider for an elective abortion.
- Public advocacy promoting the legality or accessibility of elective abortion.
- Adopting or maintaining a written policy that elective abortion was considered part of a continuum of family planning or reproductive health services, or both.

If each entity applying for a grant or contract engaged in one or more of those activities, the MDCH would have to give priority to those entities that engaged in the least number of them. If the only entity applying for a grant or contract engaged in any of the activities, the bill's priority policy would not apply.

The priority policy would apply only to grants or contracts awarded by the MDCH for family planning and pregnancy prevention awards under Federal regulations pertaining to grants for family planning services (42 CFR 59, Subpart A) or State appropriated family planning or pregnancy prevention funds. In applying the priority established under the bill, the MDCH could not consider an activity listed above if participating in that activity were required under Federal law as a qualification for receiving Federal funding.

If an entity applying for a contract or grant were affiliated with another entity that engaged in any of the activities listed above, the applying entity would have to be considered independent of the affiliated entity, for purposes of awarding a grant or contract, if all of the following conditions were met:

- The physical properties and equipment of the applying entity were separate and not shared with the affiliated entity.

- The financial records of the applying entity and affiliated entity demonstrated that the affiliated entity received no funds from the applying entity.
- The applying entity's paid personnel did not perform any function or duty on behalf of the affiliated entity while on the physical property of the applying entity or during the hours the personnel were being paid by the applying entity.

Definitions

"Entity" would mean a local agency, organization, or corporation or its subdivision, contractee, subcontractee, or grant recipient. "Qualified entity" would mean an entity reviewed and determined by the MDCH to be technically and logistically capable of providing the quality and quantity of services required within a cost range considered appropriate by the MDCH and that could remain in continuous compliance with Federal regulations pertaining to grants for family planning services (42 CFR 59, Subpart A) and was capable of assuming patient capacity required by the current contract.

"Elective abortion" would mean the performance of a procedure involving the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after the live birth, or to remove a dead fetus. Elective abortion would not include either the use or prescription of a drug or device intended as a contraceptive or the intentional use of an instrument, drug, or other substance or device by a physician to terminate a woman's pregnancy if the woman's physical condition, in the physician's reasonable medical judgment, necessitated the termination of the pregnancy to avert the woman's death.

"Public advocacy" would mean to do one or more of the following:

- Regularly engage in efforts to encourage the passage or defeat of legislation pertaining to continued or expanded availability of elective abortion.
- Publicly endorse or recommend the election or defeat of a candidate for public office based on his or her position on the legality of elective abortion.
- Engage in civil litigation against a unit of government as a plaintiff seeking to enjoin or otherwise prohibit enforcement of a statute, ordinance, rule, or regulation pertaining to elective abortion.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local units of government. The bill could potentially lead to a redistribution of grants and contracts for family planning and pregnancy prevention services. The MDCH will allocate \$14.7 million for these types of services in FY 2001-02.

Fiscal Analyst: Dana Patterson
John Walker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.