

Legislative Analysis



SPECIAL NEEDS ADOPTION ASSISTANCE

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House Bill 6661

Sponsor: Rep. Scott Hummel

Committee: Family and Children Services

Complete to 11-29-06

A SUMMARY OF HOUSE BILL 6661 AS INTRODUCED 11-28-06

The bill would make a number of amendments to sections of the Social Welfare Act that deal with adoption subsidies for children with special needs.

In general, the bill replaces the term "subsidy" with "assistance" and refers to "adoption assistance" and "medical assistance." The bill also imposes a number of requirements on the Department of Human Services by replacing the term "may" with "shall" in various places in the act.

Among other things, the bill would appear to do the following.

- Amend the definition of "child with special needs" to require that certain new factors or conditions be considered, including (1) a diagnosed medical, physical, or emotional condition, or other clinically diagnosed disability documented by a licensed physician and (2) whether the child is at high risk based on history of abuse or neglect. Retained as factors or conditions are ethnic or family background, age, membership in a minority or sibling group, and length of time the child has been waiting for an adoptive home.
- Modify the current criterion for determining that a child has special needs that says a reasonable but unsuccessful effort must be made to place the child with an adoptive parent without providing adoption assistance, by adding "unless there are significant emotional ties with prospective adoptive parents while the child is in the care of those prospective adoptive parents as a foster child."
- Add to the description of the adoption process in the DHS pamphlet provided to prospective adoptive parents (1) a statement about the importance of seeking legal counsel before signing an agreement dealing with adoption assistance or medical assistance, and (2) a statement that coercive behavior from department staff or an employee of a child placing agency is not protected by governmental immunity and should be reported to law enforcement officials.
- Provide that an adoption assistance agreement would have to be negotiated and signed before adoption finalization. In some cases, a child could be eligible to receive adoption assistance after the adoption is legally finalized. An adoptive parent could request an application for adoption assistance be made on behalf of the child

and would receive an administrative hearing to determine eligibility for state or federally funded assistance. If the child is found eligible for the program, an adoption assistance agreement would be negotiated on behalf of the child and would be effective beginning on the date the child's special needs became apparent, as documented by a licensed physician.

- Require the department give a copy of the adoption assistance agreement or medical assistance agreement to the adoptive parents at least 14 days before signing an agreement, along with the recommendation that the adoptive parents seek legal counsel before signing an agreement.
- Require the department to notify prospective adoptive parents regarding the availability of adoption assistance, medical assistance, and nonrecurring adoptive assistance. Notification would be given in writing at the time of placement or at least 14 days before adoption finalization.
- Specify that a medical assistance agreement must cover, among other things, the amount to be paid, the nature and all types of services and assistance, and any preapproval or reimbursement procedures to be followed by the parties.
- Specify that the adoption assistance or medical assistance would continue until the adoptee dies, marries, enters military services, become 18 years of age, or the department determines the adoptive parents are no longer legally responsible for support of the adoptee or are no longer providing any support for the adoptee.
- Require the department to pay adoption assistance, medical assistance, or both, to an adoptive parent (unless otherwise directed by the adoptive parents through a signed written agreement) if the adoptee is a special needs child; meets the definition of a special needs child before his or her eighteenth birthday; meets the definition before the adoption is finalized; and the adoptive parent requests adoption assistance or medical assistance, or both, no later than the date of confirmation of the adoption. Currently, the act's provides that the department "may" pay a support subsidy if it has "certified" that those factors are present.
- Require the department pay medical assistance to the adoptive parent if the expenses to be covered by the medical assistance are necessitated by a physical, mental, or emotional condition that existed before the petition were filed or eligibility was determined. However, the department would be required to first seek all available public money and third-party payment when paying medical assistance.
- Require the department to provide an adoptive parent with a form that has clear instructions on how to submit a claim for nonrecurring adoption assistance. That term would be newly defined to go beyond the current adoption fees, court costs, and attorney fees. It would include home study fees, costs for replacement of birth certificates, and expenses for travel for visits to the adoptee. The definition would

also be modified to include items now covered under "other expenses directly related to adoption of a child with special needs," and that term would be deleted.

- Provide that if the adoptive parents choose not to receive adoption assistance or medical assistance at the time the child is placed in the adoptive parent's home, they must be encouraged to sign a deferred adoption assistance or medical agreement with a payment amount of \$0.00 listed in that agreement.
- Specify that establishing a deferred adoption assistance or medical assistance agreement preserves future recurring assistance eligibility for the adoptee in the event that the adoptive parent or parents needs assistance in meeting the needs of the adoptee.
- Provide that an adoptee, the adoptee's guardian, or the adoptive parents may appeal a determination of the department made under the act in the appropriate state court or under the Administrative Procedures Act of 1969. (Currently, appeals are made under the APA.)

MCL 400.115f et. al.

FISCAL IMPACT:

A fiscal analysis is in process.

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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.