



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


 BILL ANALYSIS

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

Senate Bills 1500 and 1501 (as enrolled)  
House Bills 6580 and 6587 (as enrolled)  
Sponsor: Senator Bill Hardiman (S.B. 1500 & 1501)  
Representative Jerry O. Kooiman (H.B. 6580)  
Representative Chris Kolb (H.B. 6587)  
Senate Committee: Families and Human Services  
House Committee: Family and Children Services

**PUBLIC ACTS 470 & 471 of 2006**  
**PUBLIC ACTS 468 & 469 of 2006**

Date Completed: 1-18-07

**CONTENT**

**Senate Bill 1500** amended the Social Welfare Act to postpone from December 31, 2006, to March 31, 2007, the expiration of specific exemptions from Work First requirements and penalties for noncompliance with the Act.

**Senate Bill 1501** amended the Act to do the following:

- Specify conditions under which a month does not count toward an individual's 48-month cumulative lifetime limit on Family Independence Program (FIP) assistance.
- Require the Department of Human Services (DHS) to pay an individual \$10 a month for six months if he or she no longer qualifies for assistance based on earned income and if he or she continues to meet the Federal guidelines for work participation.

**House Bill 6580** amended the Act to do the following:

- Establish a 48-month cumulative lifetime limit on FIP assistance for individuals in an area with a Jobs, Education, and Training (JET) program, with one possible 12-month extension under certain circumstances.
- Require statewide implementation of the JET program by September 30, 2007.

- Re-enact expiring Work First exemptions and add new exemptions.
- Establish new penalties, beginning April 1, 2007, for noncompliance with Work First or other noncompliance without good cause.
- Require the DHS to increase the earned income disregard for FIP recipients to not more than 67% of earned income by September 30, 2010.
- Require the DHS to report certain information on the FIP program and Work First to the Legislature on a quarterly basis.

**House Bill 6587** amended the Social Welfare Act to require the DHS to develop a family self-sufficiency plan, rather than a social contract, for an individual who qualifies for FIP assistance, and to specify certain obligations that must be included in the plan.

As indicated below, certain provisions of the bills do not apply after September 30, 2011. The bills took effect on December 20, 2006, and were tie-barred to each other.

**Senate Bill 1500**

The bill delayed the expiration of specific provisions of Sections 57f and 57g of the Act from December 31, 2006, to March 31, 2007.

The affected provisions in Section 57f create exemptions from Work First participation for the parent of a child under three months; a recipient of Supplemental Security Income (SSI); a recipient of Social Security disability, or medical assistance due to disability or blindness; an individual suffering from a physical or mental impairment that meets SSI disability standards; the spouse of an individual meeting the disability or impairment criteria, who is that person's full-time caregiver; and a parent or caretaker of a child who has a physical or mental impairment that meets SSI disability standards. (As described below, House Bill 6580 establishes the same, and additional, exemptions that apply beginning April 1, 2007, and retains other existing exemptions not subject to the expiration date.)

Section 57g establishes penalties for a recipient's noncompliance with the Act. The provisions subject to the sunset allow the DHS to impose a penalty for failure to meet social contract requirements; provide for the termination of FIP benefits for failure to comply with child support requirements; require the DHS to determine whether good cause for noncompliance exists; define "noncompliance"; and provide for an assistance group's ineligibility for assistance after termination for noncompliance. (The existing penalty provisions are described below in the summary of House Bill 6580, which establishes new penalties that take effect beginning April 1, 2007.)

### **Senate Bill 1501**

Under the bill, beginning April 1, 2007, any month in which any of the following occur does not count toward the cumulative total of 48 months in a lifetime for family independence assistance (created by House Bill 6580):

- An individual has been exempted temporarily from Work First under Sections 57f(3)(c) and 57f(4) (which provide a temporary exemption for the parent of a child under the age of three months, and a maximum 90-day exemption for an individual suffering from a temporary physical or mental illness, limitation, or disability).
- A recipient is employed and meeting the requirements of his or her self-sufficiency plan.

- The unemployment rate in the recipient's county of residence is 25% above the State's average unemployment rate.
- Compliance with certain FIP requirements is waived under Section 56i(1)(c) (which allows the DHS to waive specific requirements if compliance would make it more difficult for a recipient to escape domestic violence, or would penalize individuals who are or have been victimized by domestic violence or who are at risk of further domestic violence).

These provisions do not apply after September 30, 2011.

The bill requires the DHS to pay \$10 per month for six months to individuals who leave FIP programs because they no longer meet the financial eligibility criteria based on earned income, if those individuals continue to meet the Federal guidelines for Work First participation.

The bill also replaced the definition of "social contract" with a definition of "family self-sufficiency plan", which is the same, i.e., a document described in Section 57e that is executed by a family in return for receiving family independence assistance. (Section 57e specifies the required contents of a self-sufficiency plan, including Work First requirements and expectations for each member of the FIP assistance group.)

### **House Bill 6580**

#### Application for Assistance

Under the bill, beginning December 31, 2006, if a recipient who otherwise is eligible for FIP assistance under the Act currently is applying for SSI and seeking exemption or deferment from the Work First program, the recipient must be evaluated and assessed before a family self-sufficiency plan is developed. Based on a report resulting from the evaluation and assessment, the caseworker must make a determination and a referral as follows:

- A determination that the recipient is eligible to participate in Work First and a referral to the Work First program.
- A determination that the recipient is exempt from Work First participation and a referral to a sheltered work environment or subsidized employment.

-- A determination that the recipient is exempt from Work First and a referral to a legal services organization for SSI advocacy.

The bill permits the DHS to contract with a legal services organization to assist recipients with the process for applying for SSI. The DHS also may contract with a nonprofit rehabilitation organization to perform the evaluation and assessment. If the DHS contracts with either type of organization, uniform contracts that include uniform rates and performance measures must be used statewide.

The bill requires the Auditor General to conduct an annual audit of the evaluation and assessment process and submit a report of his or her findings to the Legislature.

#### Lifetime Limit on FIP Assistance

The bill requires the DHS, when it determines that an individual is eligible to receive FIP assistance, to determine whether that individual is eligible to participate in the Work First program or is exempt from Work First participation.

If the DHS determines that an individual is eligible to participate and resides in a county in which a JET program is available, FIP assistance may be paid to that individual for not more than a cumulative total of 48 months during his or her lifetime. If a recipient is meeting all of the requirements outlined in his or her family self-sufficiency plan and has not received more than two penalties under the Act after December 31, 2006, has not received any penalties during the previous 12 months, and labor market conditions or employment barriers prevent employment placement, the recipient may apply to the DHS for an extension of FIP benefits for a period of up to 12 months beyond the 48-month cumulative lifetime total. The bill specifies that nothing in these provisions prevents the DHS from providing assistance to individuals who are determined to be exempt from Work First participation.

The bill requires the DHS to implement the JET program statewide by September 30, 2007.

#### Work First Participation

Until March 31, 2007 (under Senate Bill 1500), the Act exempts from Work First participation certain individuals, including the parent of a child under the age of three months, an SSI recipient, and an individual with certain physical or mental impairments (as described above). The bill re-establishes those exemptions beginning April 1, 2007.

The bill also retains exemptions for a child under the age of 16; a child aged 16 or older, or a minor parent, who is attending elementary or secondary school full-time; and an individual aged 65 or older. (These exemptions are not subject to the March 31, 2007, expiration date.)

In addition, beginning April 1, 2007, the bill exempts the following individuals from Work First participation:

- An individual with low intellectual capacity or learning disabilities that impedes comprehension and prevents success in acquiring basic reading, writing, and math skills, including an individual with an intelligence quotient less than 80.
- An individual with documented chronic mental health problems that cannot be controlled through treatment or medication.
- An individual with physical limitations on his or her ability to perform routine manual labor tasks, including bending or lifting, combined with intellectual capacity or learning disabilities.

Such an individual will be exempt to the extent that, based on medical evidence and an assessment of need by the DHS, the individual is severely restricted in his or her ability to participate in employment or training activities. (This criterion already applies to individuals whose exemption is based on the receipt of Social Security disability or medical assistance or the existence of a physical or mental impairment.)

The bill permits the DHS to promulgate rules identifying exemptions from Work First. The DHS Director may grant exemptions for extenuating circumstances beyond the exemptions provided in the Act. The Department must provide to the Legislature annually, at the time of the Governor's

budget proposal, a report of the number of exemptions issued under these provisions, and the individual reasons for those exemptions.

Under the bill, the provisions for determining eligibility for Work First and the exemptions from Work First requirements do not apply after September 30, 2011.

#### Education & Training

The Act requires that any and all training or education under the Work First program, with the exception of high school completion and GED preparation, be occupationally relevant and in demand in the labor market. The bill also makes an exception for literacy training.

#### Penalties for Noncompliance

Current Provisions. The DHS is required to develop a system of penalties to be imposed if a recipient fails to comply with applicable rules or the provisions of the Act. The penalties may be cumulative and may include reduction of the individual's grant received under the Act, removal of an individual from the family independence assistance group, and termination of assistance to the family.

Noncompliance means one or more of the following:

- A recipient quits a job.
- A recipient is fired for misconduct or for absenteeism without good cause.
- A recipient voluntarily reduces the hours of employment or otherwise reduces earnings.
- A recipient does not participate in Work First activities.

After assistance has been terminated for noncompliance, the assistance group is ineligible for FIP assistance for at least one month. Assistance then may be approved if a recipient completes a willingness to comply test, which means participating in Work First or other self-sufficiency activities for up to 40 hours within 10 working days.

When any penalty is imposed under these provisions, the DHS must give the recipient written notice of his or her option to reapply immediately for FIP benefits and that he or

she may complete a willingness to comply test during the penalty period.

The system of penalties must include the termination of benefits if a recipient fails without good cause to comply with the applicable child support requirements, including efforts to establish paternity and obtain child support. In that instance, the assistance group is ineligible for FIP assistance for not less than one month. Assistance may be restored after at least one month if the recipient complies with child support requirements.

Recipients who are willing to participate in activities leading to self-sufficiency but who require child care or transportation in order to participate may not be penalized if the DHS determines that child care or transportation is not reasonably available or provided to them.

If a recipient does not meet his or her individual social contract requirements, the DHS may impose a penalty.

Under the bill, none of these provisions will apply after March 31, 2007.

Revised Penalty Provisions. The following provisions of the bill apply from April 1, 2007, through September 30, 2011.

The DHS must implement a schedule of penalties for instances of noncompliance as follows:

- For the first and second instances of noncompliance, the recipient is ineligible to receive FIP assistance for at least three calendar months.
- For the third instance of noncompliance, the recipient is ineligible to receive FIP assistance for 12 calendar months.

The period of time that the recipient is ineligible to receive FIP assistance applies toward his or her 48-month cumulative lifetime total.

For the first instance in which a caseworker determines a recipient to be noncompliant, the DHS must notify the recipient within three business days of making that determination. The notice must include the reason that he or she has been determined to be noncompliant, the penalty to be imposed for the noncompliance, and an

opportunity for the recipient to meet in person with the caseworker within 10 business days of the determination that the recipient is noncompliant.

If the recipient meets with a caseworker within 10 business days, the caseworker and the recipient must review and modify the family self-sufficiency plan, as determined necessary by the caseworker. The caseworker also must discuss and provide an official warning regarding penalties that will have to be imposed if the recipient continues to be noncompliant. The caseworker is required to inform the recipient that he or she must verify compliance with his or her self-sufficiency plan within 10 business days.

If the recipient fails to meet with the caseworker within 10 business days of the determination of noncompliance, or fails to verify compliance with his or her self-sufficiency plan within 10 business days as required, he or she is subject to the penalties for noncompliance.

The meeting with the caseworker is available only for the first time a recipient is determined to be noncompliant, regardless of whether he or she becomes subject to the penalties.

Noncompliance means one or more of the following:

- A recipient quits a job.
- A recipient is fired for misconduct or absenteeism.
- A recipient does not participate in Work First activities.
- A recipient is noncompliant with his or her family self-sufficiency plan.

#### Good Cause for Noncompliance

The Act requires the DHS, before determining that a penalty must be imposed for an instance of noncompliance, to determine if good cause for noncompliance exists. The DHS must notify the recipient that he or she has 10 days to demonstrate good cause for noncompliance. If good cause is not determined to exist, assistance must be terminated for the assistance group for at least one month.

A penalty may not be imposed if the recipient has demonstrated that there was

good cause for failing to comply. The DHS must determine the circumstances that constitute good cause based on factors that are beyond a recipient's control.

Under the bill, these provisions do not apply after March 31, 2007. Instead, beginning April 1, 2007, if the family independence specialist caseworker and the Work First caseworker agree that good cause for the recipient's noncompliance exists, a penalty is not to be imposed. Good cause exists if one of the following conditions is met:

- The recipient suffers from a temporary debilitating illness or injury, or an immediate family member has such an illness or injury and the recipient must care for him or her.
- The recipient lacks child care as described in the Federal Personal Responsibility and Work Opportunity Reconciliation Act (which prohibits a state from denying assistance to an individual based on a refusal to work if he or she is a single custodial parent caring for a child under the age of six and is unable to obtain needed day care).
- Commuting time to training or employment is more than two hours a day, or is more than three hours a day when there are unique and compelling circumstances, such as a salary is at least twice the applicable minimum wage or the job is the only available placement within a three-hour commute per day, not including the time necessary to transport a child to child care facilities.
- Transportation is not available to the recipient at a reasonable cost.
- The employment or participation involves illegal activities.
- The recipient is physically or mentally unfit to perform the job, as documented by medical evidence or by reliable information from other sources.
- The recipient is illegally discriminated against on the basis of age, race, disability, gender, color, national origin, or religious beliefs.
- Credible evidence establishes one or more unexpected events or factors that reasonably could be expected to prevent, or significantly interfere with, the recipient's compliance with employment or training requirements.
- The recipient quit employment to obtain comparable employment.

These provisions do not apply after September 30, 2011.

### Reporting Requirements

Under the bill, the DHS must provide a report of exemptions under the Act by district office and by criteria. The DHS also must provide a report by district office on the number of sanctions issued, the number of compliance exemptions granted, and the success rate of recipients given the compliance exception under Section 57g. (That section permits a recipient determined to be noncompliant to demonstrate compliance within 10 business days, as described above.)

In addition, the DHS must require district managers to track caseworkers' performance with regard to sanctions under the bill.

The DHS also must require reporting by county office on referrals to nonprofit rehabilitation organizations under the bill, as well as the number of referrals pending less than 90 days, pending 90 to 180 days, and pending 180 to 365 days.

The DHS must require a report on cases in which the recipient has applied for SSI as provided under the bill, including the following information:

- The number of cases assessed.
- The number of cases referred to Work First.
- The number of cases placed in subsidized employment.
- The number of cases referred to legal services advocacy programs.
- The number of cases granted SSI.

All of the above reports must be provided on a quarterly basis to the House and Senate standing committees dealing with appropriations for human services, the House and Senate Fiscal Agencies, the Senate Majority Leader, and the Speaker of the House of Representatives.

### Earned Income Disregard

The bill requires the DHS to develop and implement a plan to increase incrementally the earned income disregard for FIP recipients from \$200 plus 20% to a

maximum of 67% of earned income by September 30, 2010. The DHS must report annually by April 1 on the progress and implementation of that plan.

### **House Bill 6587**

Previously, the Social Welfare Act required each family receiving FIP assistance to develop a social contract outlining the responsibilities of members of the assistance group. The bill retains this requirement but refers to a family self-sufficiency plan, and requires that the plan include the contractual nature of FIP assistance and the focus on the goal of attaining self-sufficiency.

As previously required for the social contract, the self-sufficiency plan must be developed jointly by the DHS and the adult family members of the assistance group. The bill also requires the DHS, the adult family members, and the Department of Labor and Economic Growth to develop the details of Work First participation under the plan.

Under the bill, the DHS must complete a thorough assessment to facilitate the development of the family self-sufficiency plan, including consideration of referral to a life skills program and a determination whether the family independence assistance program group's adult members are eligible to participate in the Work First program or are exempt from Work First participation.

The Act required the social contract to identify compliance goals that were to be met by members of the assistance group. Under the bill, the family self-sufficiency plan must include those goals as well as the goals and responsibilities of the members of the program group, the DHS, and the Work First program.

The social contract also had to include the obligation of each adult to engage in employment, Work First activities, education or training, community service activities, or self-improvement activities, as determined appropriate by the DHS, up to 40 hours per week. Under the bill, this requirement applies to a family self-sufficiency plan, but the bill removed the reference to 40 hours a week.

In addition, under the bill, if the recipient is determined to be eligible to participate in Work First, the plan must include the obligation that the requirements of the plan, at a minimum, meet Federal guidelines for work participation, although exceptions may be granted if the recipient or a family member in the household has a disability that needs reasonable accommodation, as required under the Federal Americans with Disabilities Act, or another identified barrier that interferes with the recipient's ability to participate in required activities. Reasonable accommodation must be made to adjust the number of required hours or the types of activities required to take those limitations into account.

The bill also requires the plan to include the recipient's obligation to enroll in a GED preparation program, a high school completion program, or a literacy training program, if the DHS determines that the resources are available and the assessment and self-sufficiency plan demonstrate that these issues present a barrier to the recipient's meeting the requirements in the plan. The basic education skills training must be combined with other occupational skills training, wherever possible, to assure that it can be counted toward Federal work participation requirements.

MCL 400.14i (S.B. 1500)  
400.57 et al. (S.B. 1501)  
400.57b et al. (H.B. 6580)  
400.57e (H.B. 6587)

Legislative Analyst: Curtis Walker

## **FISCAL IMPACT**

### **Senate Bill 1500**

The bill will have no fiscal impact on State or local government.

### **Senate Bill 1501**

The bill will have an indeterminate fiscal impact on State government. The administrative tracking and reporting provisions as well as the cash assistance recipient work participation provisions are required by the Federal Temporary Assistance for Needy Families (TANF) block grant, which was reauthorized by the Federal Deficit Reduction Act of 2005. The new Federal rules and regulations require, in

addition to other provisions such as minimum work participation, the State to "establish and maintain work verification procedures that ensure an accurate measurement of work participation". The State faces a penalty of a 1% to 5% reduction in its block grant for failure to comply with the requirement. This is a possible penalty of \$38.8 million. The penalty is in addition to the possible loss of 5% for failure to reach 50% caseload participation in work activities and the maintenance of effort in historical State program spending. Those penalties could amount up to approximately \$62.2 million. In losing Federal funds, the State must make up both penalties with State funds. The FY 2006-07 appropriation act for the DHS includes a transfer of \$12.3 million Gross, \$8.0 million GF to the Department of Labor and Economic Growth (DLEG) for Work Force Development as part of the Jobs, Education and Training Program. It is assumed that no additional funds for this purpose will be necessary.

In FY 2005-06, DLEG expenditures for administrative costs related to the Work First program totaled approximately \$2.5 million. The current appropriation act for DLEG (Public Act 345 of 2006, Article 12) includes \$113,798,600 in FY 2006-07 that is awarded to the local agencies that provide training and job placement services to Work First participants.

## **House Bills 6580 & 6587**

The bills will have an indeterminate fiscal impact on State government. The family self-sufficiency plan is required by the TANF block grant regulations reauthorized by the Deficit Reduction Act of 2005. Under the new Federal rules and regulations, the states must require cash assistance clients to participate in work or work, education or training activities that prepare them for work. The FY 2006-07 appropriation for the Department of Human Services assumes pilot program implementation for districts representing 50% of the cash assistance caseload. There is insufficient information to determine at this time how much in additional costs the State will incur as a result of the change in the sanction policy, and if more than 50% of the caseload will be affected by the bill's provisions. There is insufficient information to determine how much in cost savings the State will realize

from the reduction of exemptions for individuals applying for SSI, and the required participation in work or employment training.

Fiscal Analyst: Constance Cole  
Elizabeth Pratt  
Maria Tyszkiewicz

S0506\1500es

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.