Legislative Analysis

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FAMILY INDEPENDENCE PROGRAM REVISIONS

House Bill 4409 (Substitute S-2)
Sponsor: Rep. Ken Horn

House Bill 4410 (Substitute S-2)
Sponsor: Rep. Sharon Tyler
Committee: Families, Children, and Seniors

Complete to 8-22-11

A SUMMARY OF HOUSE BILLS 4409 & 4410 AS PASSED BY THE SENATE

Both bills would amend the Social Welfare Act (MCL 400.57 et al.). House Bill 4409 would provide general revisions to the Family Independence Program, the state's cash assistance program for low-income families with children administered by the Department of Human Services (DHS). House Bill 4410 would revise the criteria that determine which individuals receive exemptions from the Jobs, Education, and Training (JET) Program. Both bills would become effective October 1, 2011.

[This analysis was completed while these bills remain on the Senate floor pending a vote to grant them Immediate Effect.]

House Bill 4409 would do all of the following:

- Eliminate the sunset of September 30, 2011, that applies to the current 48-month state lifetime limit on FIP cash assistance benefits and the various exceptions to that limit that began on October 1, 2007. This extends the 48-month limitation indefinitely.

- Under the bill, only a month in which a recipient has been exempted from the JET Program would not count toward the cumulative total of 48 months in a lifetime. This applies to full exemptions under Section 57f(3) and does not apply to temporary exemptions other than the domestic violence exemption under Section 57f(4)(b) as amended by House Bill 4410. The bill would eliminate current clock stoppers for recipients employed and meeting the requirements of the self-sufficiency plan and if the unemployment rate in the recipient's county is 25 percent above the state average. The bill would allow, at DHS' discretion, to not count the months of a caretaker of a disabled spouse or child under Section 57f(4)(e) and(f) toward the 48-month lifetime limit.

- Increase the sanctions on families that do not meet family self-sufficiency plan requirements, and thus are noncompliant, as follows: for a second instance of noncompliance, a family would be ineligible for assistance for at least 6 calendar months (rather than 3 calendar months); and for a third instance, the family would be permanently ineligible for assistance (rather than ineligible for 12 calendar months).

- Revise the earned income disregard for case closure from $200.00 plus 20% of the Family Independence Program Assistant Group's earned income to $200 plus 50%, starting October 1, 2011. The earned income disregard for intake would stay $200.00 plus 20%.

- Require with the establishment of paternity an obligation to assign and procure child and spousal support to DHS as required by federal law.

- Require DHS to verify the immigration status of non-citizen applicants for assistance using the federal Systematic Alien Verification for Entitlements (SAVE) Program.

- Amend the definition of "child" to eliminate 19-year olds who are high school students expected to graduate by age 20. Under the bill, 18-year olds in school and children under 18 would remain under the definition.

- Require the DHS to inform a minor parent who applies for assistance of the requirement to attend school full time.

- Require that a family self-sufficiency plan notify the recipient of the 48-month lifetime cumulative total for collecting family independence program assistance.

- Require that a family self-sufficiency plan prohibit using family independence program assistance to purchase lottery tickets, alcohol, or tobacco, for gambling, or for illegal activities or any other non-essential items and provide information regarding sanctions that would be under this subsection for noncompliance. For purposes of this section, non-compliance would also include that: a recipient voluntarily reduces employment hours or earnings; refuses a bona fide offer of employment or additional hours up to 40 hours per week; states orally or in writing his or her intent not to comply with family independence program or JET program requirements; or refuses employment support services if the refusal prevents participation in an employment or self-sufficiency related activity. For instances of non-compliance, the recipient would have a 12-day negative action period before penalties would be imposed.

- Permit DHS to promulgate rules in accordance with the Administrative Procedures Act of 1969 to identify other reasons for good cause for noncompliance with the family self-sufficiency plan. Any rule promulgated under this subsection would not apply one year after the effective date of the bill.

- Specify that if DHS is notified that a landlord or provider of housing is delinquent on payment of property taxes or if the title of the property reverts to the state for non-payment of property taxes, DHS could terminate that landlord's or provider's housing participation in the rent vendoring program for that property.

- Require DHS to review and report on the feasibility of a substance abuse testing program. Report would include methods of possible substance abuse testing, and the costs associates with each method.

- Eliminate all references to fingerprint imaging system design, implementation, and processing.

- Replace references to the Work First Program with references to the JET Program.

- The bill would add the term "negative action period" and define it to mean the time frame a client is given notice for a benefit decrease or closure of the family independence program benefit.

- Repeal a number of existing provisions, including direct payments to child care providers, establishment of individual development accounts for financing post-secondary education, business capitalization, or first-time home purchases, study of the earned income disregard, implementation of JET statewide.

House Bill 4410 would strike existing exemption language in the JET Program and would specify that the following individuals are exempt from participation in JET:

- A child under the age of 16.

- A child age 16 to 18 who is attending elementary or secondary school full time.

- A recipient who has medical documentation of disability or an inability to participate in employment or the JET program for more than 90 days because of a mental or physical condition.

- A recipient unable to participate as determined for the medical review team.

- A recipient 65 years or older.

- A recipient of supplemental security income.

- A recipient of retirement, survivor, or disability insurance based on disability or blindness, or a recipient found eligible for retirement, survivor or disability insurance based on disability or blindness who is in nonpay status.

The bill also specifies temporary exemptions that could not exceed specified periods without a review by a department caseworker for all of the following:

- An individual suffering from a documented short-term mental or physical illness or disability that severely restricts participation in JET program, with the exemption limited to 90 days without a review.

- An individual for whom certain program requirements have been waived under Section 56I (related to domestic violence). An exemption under this subdivision could not exceed a period of 90 days without a review.

- A parent with a child under the age of 60 days if that child is in the home, or a mother for postpartum recovery up to 60 days after giving birth if that child is not in the home.

- A pregnant recipient who, based on medical evidence, is severely restricted in her ability to participate in JET program for the duration of the pregnancy.

- The spouse needed in the home full-time to care for a disabled spouse. An exemption under this subdivision could not exceed 365 days without a review.

- A parent needed in the home to care for a disabled child. The parent may be referred to JET if the child attends school. An exemption under this subdivision could not exceed 365 days without a review.

Currently, DHS is authorized to promulgate rules to identify exemptions under the statute. It also can grant exemptions for extenuating circumstances beyond those provided in statute. The department must report annually to the Legislature about exemptions issued and the reasons for them. The bill states that these provisions (granting exemptions and rulemaking) would no longer apply after December 31, 2013.

FISCAL IMPACT:

House Bills 4409 and 4410, along with DHS amending its TANF State Plan to eliminate various state hardship exemptions to the federal 60 month time limit for cash assistance, would generate over $60 million in state savings from a variety of changes to the Family Independence Program (FIP), the state's cash assistance program for families with children.

House Bills 4409 and 4410 eliminate the September 30, 2011, sunset for the 48-month lifetime limit to receive FIP and revise which months can be exempt from counting toward the 48-month lifetime limit. The Executive Recommendation for FY 2011-12 included eliminating this sunset and proposed similar exemptions to when a month does not count toward the 48 month lifetime limit. The Executive Recommendation projected that these changes would save $77.4 million gross, $65.0 million GF/GP from closing 12,600 cases, 45,300 recipients (15% of the total number of FIP cases). Section 57p as amended by House Bill 4409 does not include the following temporary "clock stoppers" that were originally proposed by the Governor:

1) A pregnant recipient who, based on medical evidence, is severely restricted in her ability to participate in JET program.
2) A parent with a child less than 60 days old.
3) A spouse needed in the home full-time to care for a disabled spouse.
4) A parent needed in the home to care for a disabled child.

However, House Bill 4409 does grant DHS discretion to count or not count the months a spouse or parent is needed in home to care for a disabled spouse or child toward the 48-month lifetime limit for that caretaker.

DHS is currently looking at how these legislative changes as well as new data change the original Executive Recommendation's savings projection of $77.4 million. The original savings projection included months prior to October 1, 2007, but on August 9, 2011, DHS stated that they will only count months beginning October 2007 toward the state lifetime limit of 48 months. HB 4409 does not include as many "clock stoppers" as the Governor proposed, and that should lead to more months counting toward the state lifetime limit. Also the number of FIP cases has declined since the Executive Recommendation's savings projections were calculated. It is clear that the number of FIP cases that will be closed because the adult has exhausted his or her state lifetime limit will be less than 12,600 cases. However, most of those cases will still see their FIP cases closed because DHS also revising the state's hardship exemptions to the federal 60-month lifetime limit (as discussed at the end of this fiscal impact statement).

Revisions to the earned income disregard in Section 57q cost $10.0 million. House Bill 4409 increases the earned income disregard for case closure from $200.00 plus 20% to $200 plus 50%. (The earned income disregard for intake would stay $200.00 plus 20%.) The costs of this change come from higher FIP benefit payments paid to the current FIP population that have earned income and from some FIP cases no longer being closed because of net earned income being higher than the FIP payment standard. For example, under the current earned income disregard a family with a group size of three would see their FIP benefits closed if their monthly earned income is $815 or more. Under the revised earned income disregard, a family with a group size of three would see their FIP benefits closed if their monthly earned income is $1,184 or more.

The sanction requirements in Section 57g are revised for the second and third instances of noncompliance. The second noncompliance is increased from 3 months to 6 months. The third noncompliance is increased from 12 months to permanent ineligibility. The fiscal impact projection of this revision is a savings of $7.5 million. The reapplications for the groups with two noncompliance sections would receive from 3 to 1 month less in FIP payments, depending on when they reapply for FIP. The reapplications for the groups with three or more noncompliance sanctions would no longer be able to reapply for FIP.

House Bill 4409 strikes out the definition of a child as an individual age 19 and is reasonably expected to graduate high school before the age of 20 and only defines individuals up to age 18 as children. In January 2011, there were 1,067 children over the age of 18 in FIP. It is unclear if all of these persons would become ineligible for FIP under this new definition. The state would generate $1.1 million in state savings if these persons are removed from the FIP group. The federal Social Security Act defines a minor child as an individual who has not attained 19 years of age.

House Bill 4409 codifies current DHS policy to verify the applicant's immigration status though the federal Systematic Alien Verification for Entitlements (SAVE) Program if the applicant indicates he or she is not a citizen. DHS policy was implemented and effective February 28, 2011, to utilize SAVE.

House Bill 4409 codifies current policy to redetermine FIP eligibility every 12 months.

DHS Policy Change Affecting the Federal 60-Month Lifetime Limit

During the week of August 8, 2011, DHS notified the Legislature through a "Welfare Reform Fact Sheet" that DHS is also, through internal policy changes, eliminating a number of hardship extensions granted for the federal 60-month cash assistance lifetime limit. Specifically, beginning October 1, 2011, DHS will eliminate the hardship extension for a family that lives in a county that either has an unemployment rate of over 10 percent or does not have a sufficient number of jobs to provide employment for the individual. DHS will only grant extensions to the federal cash assistance time limit if the person is disabled.

DHS stated in the "Welfare Reform Fact Sheet" that the changes to the federal hardship extensions and the changes to the state time limit included in HB 4409 and 4410 will close a total of 14,000 cases during FY 2011-12. As of August 22, 2011, DHS has not provided HFA the data used to produce their new projections, so HFA has not seen and reviewed DHS's new analysis.

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