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BILL ANALYSIS

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Senate Bill 890 (as reported without amendment)
Sponsor: Senator Bruce Caswell
Committee: Families, Seniors and Human Services

CONTENT

The bill would amend the Social Welfare Act to do the following:

-- Require the Department of Human Services (DHS) to pay a deferred determination of care rate to an adoptive parent of an adoptee placed in the adoptive parent's home if the adoptee would require extraordinary expense or care because of a condition that existed before the adoption was finalized.
-- Require the DHS to explain the purpose of a deferred determination of care agreement to an adoptive parent.
-- Allow the DHS to pay a medical subsidy to an adoptive parent (as currently permitted) or to a service provider.
-- Prohibit the payment of a medical subsidy to an adoptive parent for providing treatment to his or her adopted child.
-- Require that an adoption support agreement include a deferred determination of care agreement, if applicable.

MCL 400.115f et al. Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill would have a fiscal impact on the Department of Human Services budget. Based on the information that is currently available, the bill could increase State spending by $9.5 million to $28.8 million Gross, some of which would be one-time costs. The actual costs would be determined by Department policies and the implementation of the bill, as well as the responsiveness of adoptive parents in submitting a request for a revised Determination of Care payment. As such, the costs could vary from this range. Based on some additional mitigating factors discussed below, it is reasonable to expect that the costs would be closer to the lower end of the range.

The bill would have no fiscal impact on local units of government.

Determination of Care Payments. The DHS provides Determination of Care payments to adoptive parents in order to provide care for children with special health care needs. The term "special health care needs" as it is used in this analysis includes behavioral, emotional, and mental health conditions, physical or medical impairments, and exceptional educational support needs.

The DHS assesses a child for these potential needs, in order to determine the qualifying level of care that a parent may claim. The categories of care are determined by age or level of care, with DOC I being the lowest level of care and DOC Level IV being the highest level of care. The following table shows the categories of care and payments.

Determination of Care (DOC) Description	Daily Rate
DOC I for ages 13+	$6.00
DOC II for ages 13+	$11.00
DOC III for ages 13+	$16.00
DOC I for ages 0-12	$5.00
DOC II for ages 0-12	$10.00
DOC III for ages 0-12	$15.00
DOC Level IV	Average $23.51
DOC Medically Fragile I	$8.00
DOC Medically Fragile II	$13.00
DOC Medically Fragile III	$18.00
Unspecified DOC Level	Average $11.05

Source: Department of Human Services

Calculations. This analysis assumes that 20.0% to 60.0% of parents of adopted children ages 13 and over would request and qualify for a new or revised Determination of Care payment at an ongoing cost of $7.3 million to $21.9 million Gross.

Based on the results of the 2005-2006 National Survey of Children with Special Health Care Needs, 42.3% of children ages 13 and over who were adopted from foster care have a special health care need. These special health care needs include 1) ongoing limitations in the ability to perform activities that other children of the same age can perform; 2) ongoing need for prescription medications; 3) ongoing need for specialized therapies; 4) ongoing need for more medical, mental health, or educational services than are usual for most children of the same age; and 5) the presence of ongoing behavioral, emotional or developmental conditions requiring treatment or counseling.

Data from the DHS show that there are approximately 26,500 adoption subsidy cases, and approximately 13,100 cases receiving a Determination of Care payment. As of March 2014, 12,256 children ages 13 and over were receiving an adoption subsidy. Based on the national incidence of special health care needs in this age group, approximately 5,148 – or 42.0% – of this group could qualify under the bill for a Determination of Care payment. Currently, approximately 3.0% of this group receives the Determination of Care payment under the defined levels of care for children ages 13 and over[1]. This analysis does not include cost adjustments for children ages 0-12, because the Determination of Care payments for this group already exceed the national incidence of special health care needs, which is 58.0%. The DHS data show that 65.0% of these children ages 0-12 receive a Determination of Care rate. The estimated cost increase is based around the 42.0% incidence level, and assumes that 20.0% to 60.0% of children ages 13 and over could qualify for the payment.

Additionally, the bill would result in some administrative hearing and staffing costs that would likely be one-time costs, possibly spread over two or more years. The costs of the additional administrative hearings would range from $1.8 million for 6,600 hearings to $5.6

[1] The 3.0% estimate refers only to the defined age categories. The total percentage of children ages 13 and over is likely to be higher than 3.0%. The Level IV and Medically Fragile categories of care, as seen in the table, are not categorized by age. These categories are likely to include children ages 13 and over, however.

million for 19,900 hearings (based on three hours per hearing and a fee of $93.15 per hour). The costs of additional staffing to process the applications or requests for review would range from $440,000 for approximately 4.0 FTEs to $1.3 million for 13.0 FTEs. These estimates assume that 25% to 75% of all 26,500 adoption subsidy cases would submit a request for a revised payment, which would result in administrative and staffing costs, whether or not the cases were approved for a revised Determination of Care payment.

Additional Factors. While the estimated cost of the bill ranges from $9.6 million to $28.8 million Gross, the actual costs would likely fall within the lower range of the estimate (based on the best available information).

First, the burden of medical proof would rest on the adoptive parents. Parents of a child over the age of 13 would likely face challenges to prove that the child had a special health care need that was not identified at the time of adoption. In some cases, the adoption could have taken place years earlier.

Second, the data and evidence suggest that the number of adoptive parents who are receiving a subsidy and who would pursue a revised or new Determination of Care rate likely would be well below half of the 26,500 caseload. A national study conducted by the Federal Department of Health and Human Services found that 67.0% of adoptive parents receiving a subsidy believe that it is sufficient to take care of their children's needs. Furthermore, DHS's legislative report for Section 556 of Article X, Public Act 59 of 2013, states: "During FY 2013, the Department received zero complaints from adoptive parents stating that they were not notified that their children had special needs." The DHS's new adoption subsidy negotiation policy does not create a financial incentive for all foster parents to become adoptive parents, suggesting that the funds are not a prime motivator for the adoption. Previous case examples suggest that many clients choose to forego the administrative hearing process when given the option. For example, when the time limits went into effect for the Family Independence Program (FIP), the data show that, at most, 25.0% of those who depended on FIP for basic needs went through the administrative hearing process over the course of two years. Adoptive families are not dependent on the adoption subsidy to meet basic needs and perhaps have less incentive to initiate the administrative hearing process, unless circumstances are exceptional.

The annual costs of the bill would be based on several unknown factors, some of which would be determined by Departmental policy and others of which would be based on the actions of individual clients. Research on other states did not result in a model that could be used to predict the outcomes of this bill. Other factors that could affect the revision of a Determination of Care rate include, but are not limited to: (1) The threshold at which a client would qualify for an increased level of care, (2) deadlines for requesting administrative hearings, and (3) knowledge that a revision was possible.

Date Completed: 5-9-14 Fiscal Analyst: Frances Carley