

**PUBLIC HEALTH CODE (EXCERPT)**

**Act 368 of 1978**

**PART 58**

**CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS**

**333.5801 "Child or youth with special health care needs" or "child" defined; general definitions and principles of construction.**

Sec. 5801. (1) As used in this part, "child or youth with special health care needs" or "child" means a single or married individual under 26 years of age whose activity is or may become so restricted by disease or specified medical condition as to reduce the individual's normal capacity for education and self-support.

(2) In addition, article 1 contains general definitions and principles of construction applicable to all articles in this code and part 51 contains definitions applicable to this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015;—Am. 2023, Act 138, Imd. Eff. Sept. 29, 2023.

**Compiler's note:** For transfer of certain powers and duties of the bureau of child and family services, with the exception of the women, infants, and children division, from the department of public health to the director of the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

**Popular name:** Act 368

**333.5805 Service to be developed, extended, and improved; purposes; referral of child to appropriate services; purposes of program.**

Sec. 5805. (1) The department shall develop, extend, and improve services for the following purposes:

(a) To locate a child or youth with special health care needs reported to the department pursuant to section 5721.

(b) To provide medical, surgical, corrective, nutritional, and other services and care, including aftercare if necessary, and to provide facilities for diagnosing and hospitalizing a child or youth with special health care needs.

(c) To the extent possible, to prevent diseases and specified medical conditions that reduce an individual's normal capacity for education and self-support.

(2) The department shall refer a child reported to the department under section 5721 who is in need of services to the appropriate services inside or outside of the department.

(3) The department shall carry out the program established under section 5815 for the purposes of providing medical care and treatment to improve or maintain health and enhance the quality of life for children and youth with special health care needs.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1988, Act 236, Eff. Oct. 1, 1988;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

**333.5811 Repealed. 2015, Act 91, Imd. Eff. June 25, 2015.**

**Compiler's note:** The repealed section pertained to crippled children's advisory committee.

**Popular name:** Act 368

**333.5815 Program of services; establishment and administration; rules.**

Sec. 5815. The department shall establish and administer a program of services for children and youth with special health care needs and children who are suffering from conditions which lead to special health care needs because of disease or specified medical condition. In implementing this part, the department shall promulgate rules that do all of the following:

(a) Provide for the monitoring of the availability and quality of facilities, treatment centers, medical and surgical specialists, and other providers for children or youth with special health care needs.

(b) Implement section 5841.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

**Administrative rules:** R 722.601 et seq. of the Michigan Administrative Code.

**333.5817 Duties of department.**

Sec. 5817. The department shall do all of the following:

(a) Formulate and administer detailed policies to implement the program services stated in section 5805. The department shall include all of the following in the policies under this subdivision:

- (i) Financial participation by this state.
  - (ii) Administration necessary for efficient operation of the policies.
  - (iii) Maintenance of records and preparation of reports of services rendered.
  - (iv) Cooperation with health and human services organizations and with any agency of this state charged with the administration of laws providing for vocational rehabilitation and special education of children and youth with special health care needs.
- (b) Expend in accordance with the policies and money made available to this state by the federal government for those purposes.
- (c) Develop systems of care that are community based, comprehensive, culturally competent, coordinated, and family centered.
- (d) Cooperate with the federal government, under title V of the social security act, 42 USC 701 to 713, through its appropriate agency or instrumentality, in developing, extending, and improving services, provided by this part and in the administration of the policies.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 1998, Act 88, Imd. Eff. May 13, 1998;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5821 Diagnostic clinics and services; availability of examination results.**

Sec. 5821. (1) The department shall provide for diagnostic clinics for children and youth with special health care needs in places, at times, and under circumstances it determines. The department may purchase diagnostic services from outpatient departments of approved hospitals and other facilities.

(2) The department shall make results of examinations at clinics available to parents and individuals and agencies providing services to children and youth with special health care needs, unless otherwise prohibited by law.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5823 Eligibility for services; application; investigation; medical evidence.**

Sec. 5823. If a child or youth with special health care needs is identified, a person authorized by rule may apply to the department for eligibility for services under this part. The department shall investigate and secure medical evidence as to the condition of the child.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5825 Eligibility for services; determination; financial assessment; transportation; referrals.**

Sec. 5825. Upon completion of the medical investigation under section 5823, the department shall promptly make a determination of medical eligibility. If the department determines that the child or youth with special health care needs is medically eligible for services under this part, the department shall perform a financial assessment to determine cost sharing responsibilities. The department shall authorize the transportation of an eligible child or youth with special health care needs to a provider of services approved and designated by the department. In consultation with the family, the department may facilitate transfer of a child or youth with special health care needs to a provider for treatment better adapted to the child's needs. In making referrals under this part the department shall not discriminate against health professionals qualified to render care.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5826 Approval of hospital, facilities, and specialists.**

Sec. 5826. The department may approve for the rendering of services under this part a hospital maintaining clinical services and convalescent and educational facilities, including qualified instructional service, and attending medical and surgical specialists approved by the department.

**History:** 1978, Act 368, Eff. Sept. 30, 1978.

**Popular name:** Act 368

### **333.5828 Hospital bed to be provided; operation or treatment by physician or surgeon.**

Sec. 5828. The administrator of a hospital shall provide a bed in the hospital to which a child or youth with special health care needs is assigned for operation or treatment, or both, of the child's disease or specified

medical condition. The physician or surgeon approved by the department shall proceed as promptly as necessary to perform or give a necessary operation or treatment.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5831 Report from approved hospital; form; contents; time.**

Sec. 5831. (1) An approved hospital receiving a child or youth with special health care needs shall send to the department a written report on a form furnished by the department that contains the date of admission and discharge, the names of approved physicians and surgeons, and other information the department requires.

(2) The time for making the report under subsection (1) must conform to applicable state and federal requirements.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5835 Educational services for hospitalized child; compliance; records.**

Sec. 5835. (1) Upon receiving the parent's consent, an approved hospital shall arrange with the local school district in which a child resides to provide or contract for educational services for the hospitalized child.

(2) Courses of study, attendance record systems, adequacy of methods of instruction, qualifications of teachers and conditions under which they are employed, and purchases of necessary equipment for the instruction of a hospitalized child or youth with special health care needs must comply with requirements prescribed by the department of education.

(3) A hospital shall keep daily records on the regular child accounting forms used in the public schools, listing all children actually receiving instruction.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5841 Charges for medical care and treatment; agreement for payment; information; account; disposition of parent participation payments; modification or cancellation of agreement.**

Sec. 5841. (1) All or part of the charges for the medical care and treatment of a child or youth with special health care needs must be paid to the department of treasury by the child, parent, or spouse, if that individual has the ability to pay. The payment must be in the amount and at a rate determined by agreement between the individual and the department. Upon treatment of the child or youth with special health care needs, the department shall furnish the department of treasury information required to keep a correct account of the money due this state from the child, parent, or spouse. The department of treasury shall credit the parent participation payments to the parent participation fund.

(2) The department may modify or cancel an agreement made under this section based on economic or other factors and shall report that action to the department of treasury.

(3) The department of treasury may accept and issue a receipt for an amount due under an agreement or modification to an agreement under this section.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5843 Cost of care and surgical and medical treatment; subrogation.**

Sec. 5843. This state is subrogated to the rights of recovery that a child, parent, spouse, or guardian may have against a liable third party for the cost of care and surgical and medical treatment provided to a child or youth with special health care needs under this part to the extent that the state has spent money for that care and treatment.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

### **333.5847 Payments not considered social services aid; individual not considered indigent.**

Sec. 5847. Payments made by this state under this part are not considered social services aid, and an individual is not considered an indigent because of his or her inability to pay for the care and treatment of a child or youth with special health care needs.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

**333.5861 Receiving and holding title to property; property as trust fund; disposition of property; children with special needs fund; minimum balance.**

Sec. 5861. (1) The department may receive and hold title to real and personal property by gift, devise, bequest, and conveyance to be used for the purpose of carrying out this part. The property accepted must be held and used as a trust fund for the purposes for which received. The department promptly shall send the money, securities, or like personal property received to the department of treasury to be credited to the fund of this state designated by the donor or the department. The income from securities must be sent promptly to the department of treasury to be credited to the fund designated and must be likewise disbursed.

(2) The children with special needs fund that operates under this section shall maintain a minimum balance of \$18,000,000.00. If the balance of the children with special needs fund is less than \$18,000,000.00, no money shall be expended from that fund until the balance of the fund exceeds \$18,000,000.00.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2016, Act 427, Eff. Apr. 4, 2017.

**Popular name:** Act 368

**333.5863 Duties of department of treasury.**

Sec. 5863. (1) The department of treasury shall do all of the following:

- (a) Receive money granted to this state by the federal government under this part.
- (b) Receive payments as provided in section 5841 and keep that money in the parent participation fund.
- (c) Disburse money from the funds on certification by the department.

(2) The state treasurer shall direct the investment of the children with special needs fund. The state treasurer has the same authority to invest assets of the children with special needs fund as is granted to an investment fiduciary that is investing assets under the public employee retirement system investment act, 1965 PA 314, MCL 38.1132 to 38.1141. The state treasurer shall comply with the divestment from terror act, 2008 PA 234, MCL 129.291 to 129.301, in making investments under this subsection.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015;—Am. 2016, Act 427, Eff. Apr. 4, 2017.

**Popular name:** Act 368

**333.5871 Entering home or taking charge of child or youth with special health care needs; power to accept or refuse services.**

Sec. 5871. (1) A department official, agent, or representative shall not enter a home or take charge of a child or youth with special health care needs over the objection of a parent, a guardian, a person in loco parentis, or the person that has custody of the child.

(2) This part does not limit the power of a parent, guardian, or person in loco parentis of the child to accept or refuse the services offered under this part for a child or youth with special health care needs or by an agency employed for that purpose.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

**333.5874 Confidentiality of records; disclosure.**

Sec. 5874. Records regarding a child or youth with special health care needs are confidential to the extent required by state and federal statutes and rules. Part 26 applies to the disclosure of information regarding a child or youth with special health care needs under this part.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368

**333.5879 Unlawful conduct; misdemeanor.**

Sec. 5879. (1) A person who wilfully makes a false statement or wilfully gives false information for the purpose of securing aid under this part is guilty of a misdemeanor.

(2) An official of a hospital or a physician or dentist who bills this state for the care of a child or youth with special health care needs in accordance with the fee schedules established under this part and who also attempts to force a parent, relative, or guardian of the child to pay an additional sum for the care is guilty of a misdemeanor.

**History:** 1978, Act 368, Eff. Sept. 30, 1978;—Am. 2015, Act 91, Imd. Eff. June 25, 2015.

**Popular name:** Act 368