CHAPTER 400. SOCIAL SERVICES

THE SOCIAL WELFARE ACT
Act 280 of 1939

AN ACT to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1950, Ex. Sess., Act 42, Eff. Oct. 1, 1950;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1965, Act 283, Imd. Eff. July 22, 1965;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1967, Act 58, Imd. Eff. June 20, 1967;—Am. 1969, Act 338, Imd. Eff. Dec. 8, 1969;—Am. 1987, Act 184, Imd. Eff. Nov. 30, 1987;—Am. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

The People of the State of Michigan enact:

STATE DEPARTMENT OF SOCIAL SERVICES

400.1 Family independence agency; creation; powers and duties; director, assistants, and employees; rules; successor to juvenile institute commission; other references.

Sec. 1. (1) A department of state government is created that shall be known and designated as the family independence agency, and that shall possess the powers granted and perform the duties imposed in this act. The family independence agency shall consist of a director and the assistants and employees appointed or employed in the family independence agency.

(2) The family independence agency is responsible for the operation and supervision of the institutions and facilities established within the family independence agency. The institutions and facilities may be operated on a coeducational basis. The family independence agency shall make and enforce its own rules, not inconsistent with the law governing the institutions or facilities under its control, respecting the conduct of the institutions and facilities, discipline in the institutions and facilities, the care of property, and the welfare of the residents.

(3) The family independence agency shall be, in all respects, the legal successor to the powers, duties and responsibilities of the juvenile institute commission.

(4) A reference in this act to “the state department of social services”, “the state department”, or “department” means the family independence agency.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1943, Act 208, Imd. Eff. Apr. 17, 1943;—Am. 1947, Act 224, Imd. Eff. June 17, 1947;—CL 1948, 400.1;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1972, Act 301, Eff. Jan. 1, 1973;—Am. 1995, Act 223, Eff. Mar. 28, 1996.

Compiler's note: For transfer of powers and duties of the medical services administration, medical assistance program and state medical program from the department of social services, or the director, to the department of community health, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of adult foster care licensing, adult foster care licensing advisory council, and child welfare licensing from the department of social services to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For renaming family independence agency to department of human services, see E.R.O. No. 2004-4, compiled at MCL 400.226.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Transfer of powers: See MCL 16.552.

Popular name: Act 280

Administrative rules: R 400.1 et seq. of the Michigan Administrative Code.

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400.1a Social welfare act; short title.

Sec. 1a. This act shall be known and may be cited as "The social welfare act".

History: Add. 1943, Act 85, Eff. July 30, 1943;—CL 1948, 400.1a.

Popular name: Act 280

400.1b Annual appropriation act as time-limited addendum; inclusion of program not as entitlement.

Sec. 1b. (1) This act shall be read in conjunction with the annual appropriation act appropriating funds for the family independence agency for each fiscal year. The annual appropriation act shall be considered as a time-limited addendum to this act.

(2) A program created in or authorized under this act is subject to the annual appropriation of funds. The inclusion of a program in this act does not create an entitlement to that program, and the family independence agency is not required to operate a program unless the legislature appropriates funds for that program.

History: Add. 1969, Act 278, Imd. Eff. Aug. 11, 1969;—Am. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

400.1c Compensation of certain employees injured during course of employment as result of assault by recipient of social services.

Sec. 1c. (1) A person employed by the department of social services at the W.J. Maxey campus in Whitmore lake or any of its affiliated facilities, at the Adrian training school in Adrian, the Arbor Heights center in Ann Arbor, Camp Nokomis in Prudenville, Camp Shawano in Grayling, or a similar facility under the jurisdiction of the department established or funded by the state after the effective date of this section, who is injured during the course of his or her employment as a result of an assault by a recipient of social services shall receive his or her full wages by the state department until worker's compensation benefits begin and then shall receive in addition to worker's compensation benefits a supplement from the state department which together with the worker's compensation benefits shall equal but not exceed the weekly net wage of the employee at the time of the injury. This supplement shall only apply while the person is on the state department's payroll and is receiving worker's compensation benefits and shall include an employee who is currently receiving worker's compensation due to an injury covered by this section. Fringe benefits normally received by an employee shall be in effect during the time the employee receives the supplement provided by this section from the department.

(2) Subsection (1) shall apply whether the employee was directly assaulted or was assaulted as a result of aiding another employee in subduing a recipient.

History: Add. 1978, Act 131, Imd. Eff. May 4, 1978.

Popular name: Act 280

400.2 Michigan social welfare commission; powers and duties; appointment, terms, and qualifications of members; governor as ex officio member; oath; removal; vacancies; conducting business at public meeting; notice; quorum; meetings; failure to attend meetings; designation of chairperson and vice-chairperson; compensation and expenses; availability of writings to public.

Sec. 2. (1) The administration of the powers and duties of the state department shall be vested in a commission of 5 members which commission shall be known as the Michigan social welfare commission. A member of the commission shall not be a member of another commission or board, or hold another position with a state institution or department. Members of the commission shall be appointed by the governor, by and with the advice and consent of the senate, for a term of 5 years each. Of the members first appointed, 1 shall be appointed for a term of 1 year, 1 for a term of 2 years, 1 for a term of 3 years, 1 for a term of 4 years, and 1 for a term of 5 years.

(2) Members of the commission shall be citizens and residents of this state for not less than 5 years who possess and have demonstrated sincere interest, knowledge, and ability consistent with the responsibilities of the office, and not more than 3 of whom shall be members of the same political party. The governor shall be an ex officio member of the commission. Each member of the commission shall qualify by taking and filing with the secretary of state the constitutional oath of office and shall hold office until the appointment and qualification of a successor. A member of the commission may be removed by the governor for misfeasance, malfeasance, or nonfeasance in office, after hearing. Vacancies in the membership of the commission shall be filled for the remainder of the unexpired term, in the same manner as the original appointment.

(3) The business which the commission may perform shall be conducted at a public meeting of the

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commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. A majority of the members of the commission shall constitute a quorum for the transaction of business. The commission shall meet on the call of the chairperson, or on a written request to the chairperson signed by 3 members of the commission, or at times and places as are prescribed by the rules of the commission. The commission shall hold not less than 12 meetings each fiscal year, with an interval of not more than 1 month between meetings.

(4) The failure on the part of a member to attend 3 consecutive meetings of the commission, unless excused by a formal vote of the commission, shall be considered by the governor as ground for removal of the nonattending member, and upon removal, the governor may appoint a successor. The commission shall annually designate 1 member to act as chairperson and 1 member to act as vice-chairperson of the commission.

(5) Each member of the commission shall be reimbursed for necessary travel and other expenses, and shall be paid $15.00 per day when in actual session, to be paid in the same manner as expenses of other state officers are paid.

(6) Except as prescribed in sections 35 and 64, a writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.2;—Am. 1978, Act 224, Imd. Eff. June 13, 1978.

Transfer of powers: See MCL 16.553.

Popular name: Act 280

400.3 Family independence agency; director; appointment; salary; expenses; intent as to references.

Sec. 3. (1) The director of the family independence agency shall be appointed by the governor with the advice and consent of the senate, and shall serve at the pleasure of the governor. The director shall be the executive officer of the family independence agency and shall be responsible to the governor for performing his or her duties.

(2) The director shall receive such salary as shall be appropriated by the legislature, and shall receive actual and necessary traveling and other expenses incurred in the discharge of his or her official duties, to be paid in the same manner as salaries and expenses of other state employees are paid.

(3) Whenever reference is made in this act to the “bureau of social security”, or the “state bureau”, reference shall be deemed to be intended to be made to the family independence agency.

(4) Whenever reference is made in this act to the “supervisor of the state bureau”, reference shall be deemed to be made to the director of the family independence agency.

(5) For counties having a population of 600,000 or less and for all cities regardless of population, whenever reference is made in this act to the “county bureau of social aid”, reference shall be deemed to be made to the county or city family independence agency.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1945, Act 217, Eff. May 18, 1945;—CL 1948, 400.3;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1996, Act 483, Imd. Eff. Dec. 27, 1996.

Compiler's note: The office of director of the state department of social welfare, referred to in this section, was transferred to the department of social services by MCL 16.553.

Transfer of powers: See MCL 16.553.

Popular name: Act 280

400.3a Advisory committee; establishment; appointment of members; recommendations from county social services boards and county social services association; advising on statutes and policies.

Sec. 3a. (1) There is established an advisory committee to the state department consisting of 10 members appointed by the Michigan county social services association in accordance with a plan adopted by a majority of the members of the association. The association shall receive recommendations from the county social service boards and annually prepare and submit recommendations to the director. The director shall receive and respond to recommendations from the association on matters including but not limited to:

(a) The preparation of annual budget recommendations for the department prior to submission to the governor.

(b) Priorities for social services components of the state social services plan prepared in compliance with

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Title XX of the federal social security act, Public Law 93-641, and subsequent amendments.

(c) Program and policy guidelines relating to the conduct of and eligibility standards for general public relief and burial.

(d) Development and implementation of complementary policies between the department and county social service boards to promote local initiative efforts in work incentive and employment skills training programs.

(e) Policies and procedures relating to medicaid, food stamps, aid to families of dependent children and child welfare programs.

(2) The association may periodically advise the director, the governor, and the legislature on statutes and policies relating to state and local social services.

History: Add. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1975, Act 237, Eff. Dec. 1, 1975.

Popular name: Act 280

400.4 Executive heads of state institutions; appointment; employees, salaries and expenses.

Sec. 4. The commission shall appoint the executive heads of all state institutions and facilities under the supervision of the state department, and such assistants and employees for them and the state department, and may incur such other expenses as may be necessary to carry out the provisions of this act. The executive head of each state institution under the supervision of the state department shall be responsible for the employment of all assistants and employees thereof. The compensation of all such assistants and employees, and the number thereof, shall be within the appropriations made therefor by the legislature. Such assistants and employees shall receive their actual and necessary traveling and other expenses incurred in the discharge of their official duties. All salaries and expenses shall be paid in the same manner as the salaries and expenses of other state employees are paid.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.4;—Am. 1957, Act 95, Eff. Sept. 27, 1957.

Popular name: Act 280

400.5 Divisions within state department of social welfare; creation, abolition.

Sec. 5. The commission is hereby authorized and empowered to create or abolish divisions within the state department for the economic and efficient administration of the work of such department, and to allocate and re-allocate their several functions and duties.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.5.

Popular name: Act 280

400.6 Rules, regulations, and policies; appointment and duties of bipartisan task force of legislators; applicability of subsection (2) to enrolled medicaid providers.

Sec. 6. (1) The family independence agency may promulgate all rules necessary or desirable for the administration of programs under this act. Rules shall be promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. Beginning 2 years after the effective date of subsection (2), if the Michigan supreme court rules that sections 45 and 46 of Act No. 306 of the Public Acts of 1969, being sections 24.245 and 24.246 of the Michigan Compiled Laws, are unconstitutional and a statute requiring legislative review of administrative rules is not enacted within 90 days after the Michigan supreme court ruling, this subsection does not apply.

(2) The family independence agency may develop regulations to implement the goals and principles of assistance programs created under this act, including all standards and policies related to applicants and recipients that are necessary or desirable to administer the programs. These regulations are effective and binding on all those affected by the assistance programs. Except for policies described in subsections (3) and (4), regulations described in this subsection, setting standards and policies necessary or desirable to administer the programs, are exempt until the expiration of 12 months after the effective date of this subsection from the rule promulgation requirements of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. Upon the expiration of 12 months after the effective date of this subsection, regulations described in this subsection are not effective and binding unless processed as emergency rules under section 48 of Act No. 306 of the Public Acts of 1969, being section 24.248 of the Michigan Compiled Laws, or promulgated in accordance with Act No. 306 of the Public Acts of 1969.

(3) The family independence agency may develop policies to establish income and asset limits, types of income and assets to be considered for eligibility, and payment standards for assistance programs administered under this act. Policies developed under this subsection are effective and binding on all those affected by the assistance programs. Policies described in this subsection are exempt from the rule promulgation requirements of Act No. 306 of the Public Acts of 1969. Not less than 30 days before policies

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developed under this subsection are implemented, they shall be submitted to the senate and house standing committees and appropriation subcommittees with oversight of human services.

(4) The family independence agency may develop policies to implement requirements that are mandated by federal statute or regulations as a condition of receipt of federal funds. Policies developed under this subsection are effective and binding on all those affected by the programs. Policies described in this subsection are exempt from the rule promulgation requirements of Act No. 306 of the Public Acts of 1969.

(5) All rules, regulations, and policies established by the family independence agency shall be in writing, shall be provided to the legislature, and shall be made available for inspection by any member of the public at all offices of the family independence agency during regular business hours.

(6) Until the expiration of 12 months after the effective date of this subsection, a bipartisan task force of legislators appointed in the same manner as members are appointed to standing committees of the legislature shall meet regularly with the family independence agency to review proposed policies and regulations for the family independence program. Meetings of the bipartisan task force are subject to the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(7) Subsection (2) does not apply to standards and policies related to the providers of services which have a written contractual relationship or are an enrolled medicaid provider with the family independence agency.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.6;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1995, Act 223, Eff. Mar. 28, 1996.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Popular name: Act 280

Administrative rules: R 400.1 et seq. and R 400.3151 et seq. of the Michigan Administrative Code.

400.7 Rules and regulations; publication, seal, certified copies as evidence; body corporate, powers.

Sec. 7. The commission may devise a seal, and the rules and regulations of the commission may be published over the seal of the commission. Copies of all records and papers in the office of the state department, certified by a duly authorized agent of the commission and authenticated by the seal of the commission, shall be evidence in all cases equally, and with the like effect, as the originals. The commission shall be a body corporate, and is hereby authorized to lease any lands under its jurisdiction and to do any other act or thing necessary in carrying out the provisions of this act.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.7.

Popular name: Act 280

400.8 Witnesses; compelled attendance, oaths; jurisdiction of courts.

Sec. 8. Any member of the commission or the director may issue a subpoena requiring any person to appear and be examined with reference to any matter within the jurisdiction of the commission and within the scope of the inquiry or investigation being conducted by the said commission or director, and to produce any books, records or papers, pertinent to such inquiry. Any member of the commission, the director, or their duly authorized agents, may administer an oath to a witness in any pending matter. In case of disobedience of a subpoena, the commission or director may by petition invoke the aid of the circuit court of the county in which the witness resides, or the circuit court of the county in which the inquiry is being held, to require the attendance and testimony of witnesses and the production of books, papers and documents. Any such circuit court of the state, may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear and to produce books, records, and papers if so ordered and give evidence touching the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.8;—Am. 1957, Act 95, Eff. Sept. 27, 1957.

Popular name: Act 280

400.9 Rules for conduct of hearings; procedure; hearing authority; powers and duties; review; representation of department; compliance with Open Meetings Act.

Sec. 9. (1) Pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, the director shall promulgate

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rules for the conduct of hearings within the state department. The rules shall provide adequate procedure for a fair hearing of appeals and complaints, when requested in writing by the state department or by an applicant for or recipient of, or former recipient of, assistance or service, financed in whole or in part by state or federal funds. Hearings shall be conducted by agents designated by the director. The director may appoint a hearing authority to decide these cases. The hearing authority shall be vested with the powers and duties of the director to hold and decide hearings. The director may also upon his or her own motion review a decision of a county or district department with respect to the granting of assistance financed in whole or in part by state or federal funds, and may consider and pass upon an application for assistance that has not been acted upon by the county or district department within a reasonable time.

(2) Irrespective of funding source, the state department may be represented in any hearing held pursuant to subsection (1) by a duly authorized employee or agent of the state department.

(3) A hearing held pursuant to this section shall be held as prescribed in the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.9;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1971, Act 193, Imd. Eff. Dec. 20, 1971;—Am. 1978, Act 224, Imd. Eff. June 13, 1978;—Am. 1982, Act 131, Imd. Eff. Apr. 20, 1982;—Am. 1993, Act 41, Imd. Eff. May 27, 1993.

Popular name: Act 280

Administrative rules: R 400.1 et seq.; R 400.3351; and R 400.3401 et seq. of the Michigan Administrative Code.

400.10 Administration of social security act and food stamp act; cooperation with federal, state, and local governments; reports; welfare and relief problems; plan for distribution and allotment of federal moneys; rules; agreements; assuring federal approval.

Sec. 10. The family independence agency is designated as the state agency to cooperate with the federal government in the administration of the social security act, chapter 531, 49 Stat. 620. The family independence agency may administer the food stamp act of 1977, Public Law 88-525, 7 U.S.C. 2011 to 2012 and 2013 to 2032, and any other law which the governor or the legislature of the state may designate. The family independence agency may cooperate with the proper departments or agencies of the federal government and with all other departments or agencies of the state and local governments, and supervise the administration by local governmental departments or agencies of any plans established by the state in cooperation with the federal government under these provisions and the rules promulgated pursuant thereto. The director shall make reports, in such form and containing such information, required under the social security act, and shall comply with the requirements made to assure the correctness and verification of the reports.

(2) The director, with the approval of the governor, may cooperate with the federal government, or any of its agencies or instrumentalities, in handling the welfare and relief problems and needs of the people of this state, to the extent authorized by the laws of this state.

(3) The director may adopt any plan required or desirable to participate in the distribution of federal moneys or the assistance of the federal government, and may accept on behalf of the state any allotment of federal moneys. The state treasurer may forward state moneys to the federal social security administration for federal administration of the state supplemental program of the social security act in accordance with an agreement pertaining thereto. The director may promulgate rules and the director or his or her designee may enter into any agreement or agreements with federal, state, or local units of government or private agencies necessary to enable the state or such units to participate in any plan the director deems desirable for the welfare of the people of this state.

(4) For the purpose of assuring full federal approval of the activities of the department and local departments with respect to the operation of a plan, the director may do all things reasonable and proper to conform with federal requirements pertaining to methods and standards of administration. In making rules with respect thereto, there shall be included such methods and standards of administration for the conduct of the work of local units, including the necessary supervision thereof, as may be required for the receipt of aid from the federal government.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.10;—Am. 1950, Ex. Sess., Act 42, Eff. Oct. 1, 1950;—Am. 1973, Act 156, Imd. Eff. Dec. 6, 1973;—Am. 1973, Act 189, Imd. Eff. Jan. 8, 1974;—Am. 1996, Act 483, Imd. Eff. Dec. 27, 1996.

Popular name: Act 280

Administrative rules: R 400.1 et seq.; R 400.1101 et seq.; R 400.7171 et seq.; R 400.7391 et seq.; and R 400.7701 et seq. of the Michigan Administrative Code.

400.10a Disclosure of certain recipients to law enforcement agency; federal approval; definitions.

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Sec. 10a. (1) Notwithstanding any other provision of this act, and subject to subsection (2), the family independence agency shall disclose the address of a recipient or known member of a recipient's household to a federal, state, or local law enforcement officer if all of the following requirements are met:

(a) The officer furnishes the family independence agency with the name of the recipient or known member of the recipient's household, the recipient's or member's social security number or other identifying information, if known, and information showing that the recipient or member of the household is subject to arrest under an outstanding warrant arising from a felony charge or under an outstanding warrant for extradition arising from a criminal charge in another jurisdiction, or is a material witness in a criminal case arising from a felony charge.

(b) The officer provides a written statement to the family independence agency attesting that locating or apprehending the recipient or member of the recipient's household is within the officer's official duties and that the information is necessary for the officer to conduct his or her official duties.

(2) If federal approval is required in order to prevent the loss of federal reimbursement as a result of the application of this section to a recipient receiving family independence assistance or food stamps, the family independence agency shall promptly take any action necessary to obtain federal approval. In the absence of any necessary federal approval, the family independence agency shall apply this section only to recipients of state family assistance and state disability assistance.

(3) As used in this section:

(a) “Felony” means a violation of a penal law of this state or the United States for which the offender may be punished by imprisonment for more than 1 year, an offense expressly designated by law to be a felony, or a violation of felony probation or parole.

(b) “Known member of a recipient's household” means an individual listed on the recipient's application for public assistance as an individual who is living with the recipient.

(c) “Material witness” means an individual who is required by subpoena, summons, certificate, or other order of a court to appear and give testimony in a criminal case.

(d) “Public assistance” means family independence assistance, state family assistance, state disability assistance, or food stamps provided under this act.

(e) “Recipient” means an individual receiving public assistance.

History: Add. 1996, Act 190, Eff. Oct. 1, 1996.

Popular name: Act 280

400.10b Individual subject to felony charge; eligibility for public assistance; federal approval; definitions.

Sec. 10b. (1) Subject to subsection (2), the family independence agency shall not grant public assistance under this act to an individual if the family independence agency receives information and a written statement described in section 10a that the individual is subject to arrest under an outstanding warrant arising from a felony charge against that individual or under an outstanding warrant for extradition arising from a criminal charge against that individual in another jurisdiction. This subsection does not affect the eligibility for assistance of other members of the individual's household. An individual described in this subsection is eligible for assistance when he or she is no longer subject to arrest under an outstanding warrant as described in this section.

(2) If federal approval is required in order to prevent the loss of federal reimbursement as a result of the application of this section to a recipient receiving family independence assistance or food stamps, the family independence agency shall promptly take any action necessary to obtain federal approval. In the absence of any necessary federal approval, the family independence agency shall apply this section only to recipients of state family assistance and state disability assistance.

(3) As used in this section:

(a) “Felony” means a violation of a penal law of this state or the United States for which the offender may be punished by imprisonment for more than 1 year, an offense expressly designated by law to be a felony, or a violation of felony probation or parole.

(b) “Public assistance” means family independence assistance, state family assistance, state disability assistance, or food stamps provided under this act.

History: Add. 1996, Act 190, Eff. Oct. 1, 1996.

Popular name: Act 280

400.11 Definitions.

Sec. 11. As used in this section and sections 11a to 11f:

(a) “Abuse” means harm or threatened harm to an adult's health or welfare caused by another person.

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Abuse includes, but is not limited to, nonaccidental physical or mental injury, sexual abuse, or maltreatment.

(b) “Adult in need of protective services” or “adult” means a vulnerable person not less than 18 years of age who is suspected of being or believed to be abused, neglected, or exploited.

(c) “Exploitation” means an action that involves the misuse of an adult's funds, property, or personal dignity by another person.

(d) “Neglect” means harm to an adult's health or welfare caused by the inability of the adult to respond to a harmful situation or by the conduct of a person who assumes responsibility for a significant aspect of the adult's health or welfare. Neglect includes the failure to provide adequate food, clothing, shelter, or medical care. A person shall not be considered to be abused, neglected, or in need of emergency or protective services for the sole reason that the person is receiving or relying upon treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, and this act shall not require any medical care or treatment in contravention of the stated or implied objection of that person.

(e) “Protective services” includes, but is not limited to, remedial, social, legal, health, mental health, and referral services provided in response to a report of alleged harm or threatened harm because of abuse, neglect, or exploitation.

(f) “Vulnerable” means a condition in which an adult is unable to protect himself or herself from abuse, neglect, or exploitation because of a mental or physical impairment or because of advanced age.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983;—Am. 1990, Act 122, Imd. Eff. June 26, 1990.

Compiler's note: Former MCL 400.11, creating an irrevocable medical assistance account within the general fund, was repealed by Act 321 of 1966.

Popular name: Act 280

400.11a Reporting abuse, neglect, or exploitation of adult; oral report; contents of written report; reporting criminal activity; construction of section.

Sec. 11a. (1) A person who is employed, licensed, registered, or certified to provide health care, educational, social welfare, mental health, or other human services; an employee of an agency licensed to provide health care, educational, social welfare, mental health, or other human services; a law enforcement officer; or an employee of the office of the county medical examiner who suspects or has reasonable cause to believe that an adult has been abused, neglected, or exploited shall make immediately, by telephone or otherwise, an oral report to the county department of social services of the county in which the abuse, neglect, or exploitation is suspected of having or believed to have occurred. After making the oral report, the reporting person may file a written report with the county department. A person described in this subsection who is also required to make a report pursuant to section 21771 of the public health code, Act No. 368 of the Public Acts of 1978, as amended, being section 333.21771 of the Michigan Compiled Laws and who makes that report is not required to make a duplicate report to the county department of social services under this section.

(2) A report made by a physician or other licensed health professional pursuant to subsection (1) shall not be considered a violation of any legally recognized privileged communication or a violation of article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws.

(3) In addition to those persons required to make an oral report under subsection (1), any person who suspects that an adult has been abused, neglected, or exploited may make a report to the county department of social services of the county in which the abuse, neglect, or exploitation is suspected of having occurred.

(4) A report made under this section shall contain the name of the adult and a description of the abuse, neglect, or exploitation. If possible, the report shall contain the adult's age and the names and addresses of the adult's guardian or next of kin, and of the persons with whom the adult resides, including their relationship to the adult. The report shall contain other information available to the reporting person that may establish the cause of the abuse, neglect, or exploitation and the manner in which the abuse, neglect, or exploitation occurred or is occurring. The county department shall reduce to writing the information provided in an oral report received pursuant to this section.

(5) The county department shall report to a police agency any criminal activity that it believes to be occurring, upon receipt of the oral report.

(6) This section shall not be construed as limiting the responsibilities of the police agency of a local unit of government to enforce the laws of this state or as precluding the police agency from reporting and investigating, as appropriate, alleged criminal conduct.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983;—Am. 1987, Act 208, Imd. Eff. Dec. 22, 1987;—Am. 1990, Act 122, Imd. Eff. June 26, 1990.

Popular name: Act 280

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400.11b Investigation; purpose; basis; providing licensee with substance of allegations; response to allegations; cooperation of local law enforcement officers; investigation not to be in place of investigation of suspected criminal conduct; scope of investigation; interview; search warrant; availability of protective services; collaboration with other agencies; petition for finding of incapacity and appointment of guardian or temporary guardian; petition for appointment of conservator; report; providing copy of report to state department and prosecuting attorney.

Sec. 11b. (1) Within 24 hours after receiving a report made or information obtained pursuant to section 11a, the county family independence agency shall commence an investigation to determine whether the person suspected of being or believed to be abused, neglected, or exploited is an adult in need of protective services. A reasonable belief on the part of the county department that the person is an adult in need of protective services is a sufficient basis for investigation. If an investigation pertains to an adult residing in an adult foster care facility licensed by the Michigan family independence agency, the county department shall provide the adult foster care licensee with the substance of the abuse or neglect allegations as soon as practicable after the beginning of the investigation. The licensee shall have the opportunity to respond to the allegations, and the response shall be included in the record.

(2) Upon a request by the county department, local law enforcement officers shall cooperate with the county department in an investigation of suspected abuse, neglect, or exploitation. However, the investigation required by this section shall not be in place of an investigation by the appropriate police agency regarding suspected criminal conduct arising from the suspected abuse, neglect, or exploitation.

(3) The investigation shall include a determination of the nature, extent, and cause of the abuse, neglect, or exploitation; examination of evidence; identification, if possible, of the person responsible for the abuse, neglect, or exploitation; the names and conditions of other adults in the place of residence; an evaluation of the persons responsible for the care of the adult, if appropriate; the environment of the residence; the relationship of the adult to the person responsible for the adult's care; an evaluation as to whether or not the adult would consent to receiving protective services; and other pertinent data.

(4) The investigation shall include an interview with the adult. The county department shall conduct the interview by means of a personal visit with the adult in the adult's dwelling or in the office of the county department, by telephone conversation, or by other means that may be available to the county department. In attempting to conduct a personal visit with the adult in the adult's dwelling, if admission to the dwelling is denied, the county department may seek to obtain a search warrant as provided in 1966 PA 189, MCL 780.651 to 780.659.

(5) The investigation may include a medical, psychological, social, vocational, and educational evaluation and review.

(6) In the course of an investigation, the county department shall determine if the adult is or was abused, neglected, or exploited. The county department shall make available to the adult the appropriate and least restrictive protective services, directly or through the purchase of services from other agencies and professions, and shall take necessary action to safeguard and enhance the welfare of the adult, if possible. The county department also shall collaborate with law enforcement officers, courts of competent jurisdiction, and appropriate state and community agencies providing human services, which services are provided in relation to preventing, identifying, and treating adult abuse, neglect, or exploitation. If the abuse, neglect, or exploitation involves substance abuse, the county department shall collaborate with the local substance abuse coordinating agency as designated by the office of substance abuse services in the department of community health for a referral for substance abuse services. The county department may petition for a finding of incapacity and appointment of a guardian or temporary guardian as provided in section 5303 or 5312 of the estates and protected individuals code, 1998 PA 386, MCL 700.5303 and 700.5312, and may petition for the appointment of a conservator as provided in section 5401 of the estates and protected individuals code, 1998 PA 386, MCL 700.5401, for a vulnerable adult.

(7) Upon completion of an investigation, the county department shall prepare a written report of the investigation and its findings. A copy of this written report shall be forwarded to the state department upon the request of the state department.

(8) The county department may provide a copy of the written report to the prosecuting attorney for the county in which the adult suspected of being or believed to be abused, neglected, or exploited resides or is found.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983;—Am. 1988, Act 422, Imd. Eff. Dec. 27, 1988;—Am. 1990, Act 122, Imd. Eff. June 26, 1990;—Am. 2000, Act 61, Eff. Apr. 1, 2000.

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Popular name: Act 280

400.11c Confidentiality of identity of person making report; immunity from civil liability; presumption; extent of immunity; abrogation of privileged communication; exception.

Sec. 11c. (1) The identity of a person making a report under section 11a or 11b shall be confidential, subject only to disclosure with the consent of that person or by judicial process. A person acting in good faith who makes a report or who assists in the implementation of sections 11 to 11b, 11d to 11f, and this section shall be immune from civil liability which might otherwise be incurred by making the report or by assisting in the making of the report. A person making a report or assisting in the implementation of sections 11 to 11b, 11d to 11f, and this section shall be presumed to have acted in good faith. The immunity from civil liability extends only to an act performed under sections 11 to 11b, 11d to 11f, and this section, and shall not extend to a negligent act which causes personal injury or death.

(2) Any legally recognized privileged communication, except that between attorney and client and except as specified in section 11a(2), is abrogated and shall not constitute grounds for excusing a report otherwise required to be made pursuant to this act.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983.

Popular name: Act 280

400.11d Availability of writing to public; correction of inaccurate statements; identification of unsubstantiated statements.

Sec. 11d. (1) A writing prepared, owned, used, in the possession of, or retained by the state department in the performance of its duties under this act shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) The state department shall correct any inaccurate statement and shall clearly identify any unsubstantiated statement in a record or report provided to the state department pursuant to sections 11 to 11e.

(3) Any person who is the subject of a report provided to the department pursuant to sections 11 to 11e may request that the director correct an inaccurate report or clearly identify as unsubstantiated any record of a case for which the investigation did not reveal an incident described in sections 11 to 11e. If the director determines that the request is valid, the state department shall take the appropriate action. However, a correction or identification provided for in this subsection shall not be made until an investigation has been completed and the case has been closed to receipt of adult protective services.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983.

Popular name: Act 280

400.11e Failure to make report; liability; disposition of fine.

Sec. 11e. (1) A person required to make a report pursuant to section 11a who fails to do so is liable civilly for the damages proximately caused by the failure to report, and a civil fine of not more than $500.00 for each failure to report.

(2) A civil fine which is ordered under subsection (1) shall be deposited in the general fund of the state, to be appropriated annually to the state department.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983.

Popular name: Act 280

400.11f Certain actions and investigations prohibited; report; interdepartmental agreements; coordinating investigations; agreement establishing criteria.

Sec. 11f. (1) The state department shall not take any action pursuant to sections 11 to 11e in the case of a person who is residing in a state funded and operated facility or institution, including but not limited to a correctional institution, mental hospital, psychiatric hospital, psychiatric unit, or a developmental disability regional center.

(2) The state department shall not investigate suspected abuse, neglect, or any other suspected incident pursuant to sections 11 to 11e if the department of public health has investigative and enforcement responsibility for the incident pursuant to section 20201, 21771, or 21799a of the public health code, Act No. 368 of the Public Acts of 1978, as amended, being sections 333.20201, 333.21771, and 333.21799a of the Michigan Compiled Laws. The state department shall refer a report of suspected abuse or neglect in an institution governed by those sections to the department of public health.

(3) Sections 11 to 11e do not preclude the director from entering into interdepartmental agreements to carry out the duties and responsibilities of the state department under sections 11 to 11e in state funded and operated facilities or institutions, or to coordinate investigation in state licensed facilities under contract with

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a state agency in order to avoid duplication of effort among state agencies having statutory responsibility to investigate.

(4) The state department and the department of attorney general shall enter into an agreement establishing criteria to be used to determine those complaints involving a facility that receives funding under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396d, 1396f to 1396g, and 1396i to 1396s, or involving the delivery of a service funded under title XIX of the social security act, which complaints shall be referred immediately to the department of attorney general for possible investigation and prosecution.

History: Add. 1982, Act 519, Eff. Mar. 30, 1983;—Am. 1990, Act 122, Imd. Eff. June 26, 1990.

Popular name: Act 280

400.12 Transfer of funds.

Sec. 12. All funds in the hands of the state treasurer or on deposit to the credit of any of the departments, boards, commissions and offices which are hereby abolished shall be transferred to and are hereby appropriated for the state department of social welfare, and shall be disbursed on its order.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.12.

Popular name: Act 280

400.13 Reciprocal agreements with other states; authorization, exception.

Sec. 13. The commission is hereby authorized, subject to the approval of the attorney general, to enter into reciprocal agreements with corresponding state agencies of other states, regarding the interstate transportation of indigent persons, and to arrange with the proper officials in this state for the acceptance, transfer and support of persons receiving any form of public aid or relief in other states in accordance with the terms of such reciprocal agreement: Provided, That this state shall not, nor shall any county or any county department of social welfare, in this state, be committed to the support of persons whom the commission determines are not entitled to public support under the laws of this state. This section shall be so interpreted and construed as to effectuate its general purpose to make uniform laws of such states as enact similar legislation.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.13.

Popular name: Act 280

400.14 Additional powers and duties of department; powers and duties of county social services boards as to general public relief transferred to department; changing eligibility standards and coverages for medical care.

Sec. 14. (1) The state department has all of the following additional powers and duties:

(a) To allocate and distribute to the county and district departments of social services, as provided in section 18, and in accordance with the rules promulgated by the director, money appropriated by the legislature or received from the federal government for the relief of destitution or unemployment within the state, or a political subdivision of the state.

(b) To distribute, as provided in this act, subject to federal rules and regulations, and in accordance with the rules promulgated by the director, money appropriated by the legislature or received from the federal government for the granting of aid to dependent children and supplemental security income; for medical, dental, optometric, nursing, pharmaceutical, and burial relief; for services furnished by professions under the public health code, Act No. 368 of the Public Acts of 1978, as amended, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws; and for other relief or welfare services provided by law.

(c) To operate a day care program in rural and urban areas and assist in the development of sound programs and standards for day care by public organizations throughout the state. If the director, commissioner, or those officials responsible for enforcing a state or local building code determine that a dwelling unit fails to meet the standards of that code through fault of the landlord, the department may refuse to pay public assistance grants authorized under this act for payment of rent on the dwelling unit. A written notice of the refusal, stating the grounds for the refusal and listing the defects to be corrected, shall be mailed immediately to the landlord by certified mail. During the period of refusal, the landlord may bring an action against the department in the nature of quo warranto, but may not maintain an action for the rent or possession of the premises. If the defects have been corrected or if the department's refusal to pay is determined by a court of competent jurisdiction to be wrongful, the department shall pay the rent that is owed, but not more than the amount of the grants withheld.

(g) To assist other departments, agencies, and institutions of the federal and state governments, when so requested, in performing services in conformity with the purposes of this act. The director shall act as

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certifying agent for federal departments or agencies in determining eligibility of applicants for aid or service rendered by those departments or agencies. The rules of the state departments under this subsection shall be binding upon the county departments of social services.

(h) To collect and compile statistics, make special fact-finding studies, and publish reports in reference to the field of welfare, including a biennial report as provided in section 17.

(i) To arbitrate and decide disputed or contested claims between 2 or more counties relative to the settlement or domicile of a person or family given or in need of any form of public aid or relief, and to determine and declare the county of settlement or domicile in any instance when so requested or on the department's own volition. All decisions and determinations made under this subdivision shall be binding upon the county departments of social services.

(j) To administer or supervise relief or welfare functions vested in the department by law, and to provide for the progressive codification of the laws governing relief and welfare problems.

(k) To inspect county infirmaries and places of detention for juveniles for the purpose of obtaining facts pertaining to the usefulness and proper management of the infirmaries and places of detention, and of promoting proper, efficient, and humane administration of those infirmaries and places of detention. A reasonable order of the department fixing minimum standards of sanitation, fire protection, food, and comfortable lodging may be enforced, through mandamus or injunction in the circuit court for the county where the county infirmary or place of detention for the juveniles is located, through proper proceedings instituted by the attorney general on behalf of the department. The burden of proof shall be on the department to establish the reasonableness of the order.

(*l*) To promulgate by rules a recommended schedule of payment for care and maintenance, pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, to be used, as provided by law, in determining the amount of payment to be made by patients, their guardians, or relatives who are liable for the care and maintenance of persons entitled to treatment under the mental health code, Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws. The department in promulgating the schedule may give consideration to the person's income, the number of other persons he or she is obligated to support, his or her estate, medical and other necessary expenses, and other relevant matters.

(n) To provide or contract for legal services for persons receiving assistance under this act in guardianship and support proceedings.

(p) To provide services to adults and aging persons, which shall include:

(*i*) Services for the blind in accordance with the rehabilitation act of 1973, 29 U.S.C. 701 to 796i.

(*ii*) Services authorized in title XX of the social security act, 42 U.S.C. 1397 to 1397e.

(q) To license and regulate child care organizations and programs as described in Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

(2) Other sections of this act notwithstanding, all powers and duties of the county social services boards to develop, implement, and administer a program of general public relief, are transferred to the state department effective beginning with the first county fiscal year following December 1, 1975. However, in a county that operates a patient care management system pursuant to section 66j, the county social services board may change the eligibility standards and coverages for medical care for persons eligible for services under a patient care management system subject to the consent of the county board of commissioners, or, in a charter county, subject to the consent of the county board of commissioners and the county executive.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1944, 1st Ex. Sess., Act 30, Imd. Eff. Mar. 3, 1944;—CL 1948, 400.14;—Am. 1949, Act 142, Eff. Sept. 23, 1949;—Am. 1951, Act 248, Imd. Eff. June 15, 1951;—Am. 1952, Act 237, Eff. Sept. 18, 1952;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1964, Act 220, Eff. Aug. 28, 1964;—Am. 1965, Act 283, Imd. Eff. July 22, 1965;—Am. 1966, Act 229, Imd. Eff. July 11, 1966;—Am. 1969, Act 310, Eff. Mar. 20, 1970;—Am. 1975, Act 237, Eff. Dec. 1, 1975;—Am. 1976, Act 136, Imd. Eff. May 27, 1976;—Am. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1982, Act 519, Eff. Mar. 30, 1983;—Am. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Compiler's note: For transfer of powers and duties related to the inspection of infirmaries and places of detention for juveniles from the family independence agency to the director of the department of consumer and industry services, see E.R.O. No. 1996-2, compiled at MCL 445.2001 of the Michigan Compiled Laws.

Popular name: Act 280

Administrative rules: R 400.1 et seq.; R 400.1101 et seq.; R 400.3351; R 400.3401 et seq.; R 400.3501 et seq.; R 400.7101 et seq.; R 400.7171 et seq.; R 400.7391 et seq.; and R 400.7701 et seq. of the Michigan Administrative Code.

400.14a State department; camps, purposes.

Sec. 14a. The state department shall be authorized to operate camps for the furnishing of relief and medical care to homeless and unattached persons.

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History: Add. 1945, Act 157, Eff. Sept. 6, 1945;—CL 1948, 400.14a.

Popular name: Act 280

400.14b Family planning services; notice of availability, contents; referral, drugs and appliances, rules and regulations.

Sec. 14b. The director, and under his supervision, county, city and district departments of social welfare, may provide written or oral notice to recipients of public assistance of the availability of advice and treatment in family planning. Such notice shall include a statement that receipt of public assistance is in no way dependent upon a request or nonrequest for family planning services. No effort shall be made to suggest or persuade recipients to request or not request family planning services. The director, and under his supervision, county, city and district departments of social welfare may make available upon request of recipients of public assistance advice and treatment in family planning by referral upon request of the recipient to a licensed medical doctor, licensed osteopathic physician, public agency or, on a contractual basis, to a private agency of the recipient's choice. Necessary drugs and recognized medical appliances for use in family planning may also be made available through licensed pharmacists upon prescription issued by a licensed physician. Such family planning services shall be made available in accordance with rules and regulations promulgated by the director under law.

History: Add. 1965, Act 302, Imd. Eff. July 22, 1965;—Am. 1966, Act 248, Imd. Eff. July 11, 1966.

Popular name: Act 280

400.14c Minimum housing standards; establishment, annual review; use of relief grants.

Sec. 14c. The state department shall establish minimum housing standards for the maintenance of health and decency which shall be not less than those required by the provisions of Act No. 167 of the Public Acts of 1917, as amended, being sections 125.401 to 125.519 of the Compiled Laws of 1948, and shall review the standards at least once each year. No general relief authorized under this act shall be used to pay rent for any dwelling that does not meet the standard established under this section.

History: Add. 1966, Act 192, Imd. Eff. July 1, 1966;—Am. 1967, Act 76, Imd. Eff. June 21, 1967.

Popular name: Act 280

400.14e Federal food stamps; distribution by mail; rules.

Sec. 14e. The department, within 60 days after the effective date of this section, may establish a system for distribution by mail of federal food stamps to persons who make the required payments therefor to the department before the mailing. The department may promulgate rules to implement this section.

History: Add. 1971, Act 177, Imd. Eff. Dec. 2, 1971.

Popular name: Act 280

400.14f Administration of program or performance of duty; contract with private individual or agency.

Sec. 14f. Subject to section 5 of article XI of the state constitution of 1963, the family independence agency may contract with a private individual or agency to administer a program created under this act or to perform a duty of the family independence agency under this act.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

400.14g Pilot projects.

Sec. 14g. In order to achieve more efficient and effective use of funds for public assistance, to reduce dependency, or to improve the living conditions and increase the incomes of individuals receiving public assistance, the family independence agency may establish and conduct pilot projects in 1 or more county or district offices. The family independence agency may apply different policies in the pilot programs than it applies in the rest of the county or district offices, and may conduct the pilot projects as long as is necessary to provide a reasonable test of the policy being evaluated. Pilot projects shall be consistent with principles and goals set forth in this act.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

400.14h Electronic benefit transfer system; use for food stamp distribution; rescission of rules.

Sec. 14h. (1) The family independence agency shall use an electronic benefit transfer system for food

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stamp distribution.

(2) To the extent that rules or parts of rules promulgated under this act conflict with the provisions of this section, the provisions of this section supersede those rules or parts of rules.

(3) The following rules are rescinded:

(a) R 400.3002 of the Michigan administrative code.

(b) R 400.3003 of the Michigan administrative code.

(c) R 400.3004 of the Michigan administrative code.

(d) R 400.3007 of the Michigan administrative code.

(e) R 400.3008 of the Michigan administrative code.

(f) R 400.3012 of the Michigan administrative code.

(g) R 400.3013 of the Michigan administrative code.

(h) R 400.3125 of the Michigan administrative code.

History: Add. 2001, Act 280, Eff. Mar. 22, 2002.

Popular name: Act 280

400.14i Applicability of MCL 400.57f(3)(c), (e), and (f) and 400.57g(4), (5), (6), and (7).

Sec. 14i. Sections 57f(3)(c), (e), and (f) and 57g(4), (5), (6), and (7) do not apply after March 31, 2007.

History: Add. 2001, Act 280, Eff. Mar. 22, 2002;—Am. 2004, Act 571, Imd. Eff. Jan. 3, 2005;—Am. 2005, Act 333, Imd. Eff. Dec. 29, 2005;—Am. 2006, Act 470, Imd. Eff. Dec. 20, 2006.

Popular name: Act 280

400.14j Issuance of food assistance benefits; number of times per month.

Sec. 14j. (1) If the department determines that an individual is eligible for food assistance benefits of $100.00 per month or more, the department shall issue his or her regular food assistance benefits 2 times each month. The department may continue to issue food assistance benefits 1 time per month to recipients receiving food assistance benefits that are less than $100.00 per month. The department may continue to issue food assistance benefits on a staggered basis by case ending digit.

(2) This section does not apply to issuing initial food assistance benefits, retroactive food assistance benefits, or supplemental food assistance benefits.

History: Add. 2008, Act 107, Imd. Eff. Apr. 25, 2008.

Popular name: Act 208

400.15 Gifts; acceptance by commission; duties of attorney general.

Sec. 15. The commission may receive on behalf of the state of Michigan any grant, devise, bequest, donation, gift, or assignment of money, bonds, or choses in action, or any property, real or personal, and accept that property, so that the right and title to that property shall pass to the state of Michigan. All bonds, notes, or choses in action, or the proceeds of the bonds, notes, or choses in action when collected, and all other property or things of value received by the commission shall be reported to the state treasurer and used for the purposes set forth in the grant, devise, bequest, donation, gift, or assignment if such purposes are within the powers conferred on the commission. If it is necessary to protect or assert the right or title to any property received or derived under this section, or to collect or reduce into possession any bond, note, bill, or chose in action, the attorney general, upon request of the commission, shall take the necessary and proper proceedings and bring suit in the name of the commission on behalf of the state of Michigan in any court of competent jurisdiction, state or federal, and prosecute all such suits.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.15;—Am. 2002, Act 84, Imd. Eff. Mar. 26, 2002.

Popular name: Act 280

400.16 Budget; preparation by commission, submission to governor.

Sec. 16. The commission shall prepare and submit to the governor or budget director the estimated needs and costs to operate the state department, including the several institutions under the jurisdiction of the department, in accordance with the requirements of the laws of this state.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.16.

Popular name: Act 280

400.17 Report of program goals and biennial report to governor and legislature; recommendations.

Sec. 17. (1) The family independence agency shall establish program goals consistent with section 57a and shall report these goals to the governor and the legislature within 6 months after the effective date of this

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subsection.

(2) The family independence agency shall prepare and on or before the fifteenth day of December in each even-numbered year make a report to the governor, setting forth the operation of the family independence agency during the preceding fiscal biennium of the state, reporting on progress toward the goals established under subsection (1), and containing any findings and recommendations of the family independence agency. The report shall also be submitted to the legislature.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.17;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

400.18 Appropriations for general public relief; distribution of moneys to county and district departments; assumption of program costs by state; exclusions; county expenditures and costs; reimbursement of county payments; difference between county's shared revenue and county's costs; supplemental security income and aid to dependent children; general public relief payments.

Sec. 18. (1) The state department shall provide for the distribution of such moneys as shall be appropriated by the legislature for public welfare grants in respect to general relief, but not expenditures in respect to a county medical care facility, other infirmary care in a county infirmary not existing on January 1, 1981, or inpatient hospitalization, to the several county and district departments of social services on the basis of monthly reporting to the department by the county departments.

(2) Effective December 1, 1979 in counties having a fiscal year beginning December 1 and ending November 30 and effective January 1, 1980 in counties having a fiscal year beginning January 1 and ending December 31, all expenditures for a program of general public relief shall be appropriated from the general revenues of the state. The state shall assume the full cost of the general relief program for public welfare costs including total administration, but excluding costs incurred for county hospitalization and in the administration of and care in a county medical care facility, or infirmary not existing on January 1, 1981.

(3) The period from December 1, 1974 through November 30, 1975 shall be the base year upon which the reductions of county expenditures shall be determined in those counties having a fiscal year beginning December 1 and ending November 30. The period from January 1, 1975 through December 31, 1975 shall be the base year upon which the reductions of county expenditures shall be determined in those counties having a fiscal year beginning January 1 and ending December 31. Net county costs shall be the county portion of matchable general relief expenditures which were matched by state funds during the base year, not to exceed 1 mill of the county's 1974 state equalized valuation, as certified by the director. During the first county fiscal year following the base year, county costs shall be 80% of the net county costs. During the second county fiscal year following the base year, county costs shall be 60% of the net county costs. During the third county fiscal year following the base year, county costs shall be 40% of the net county costs. During the fourth county fiscal year following the base year, county costs shall be 20% of the net county costs.

(4) Beginning with the first county fiscal year following the base year, county payments to recipients of general public relief shall be reimbursed monthly by the state for all costs certified by the director, less the county costs.

(5) The difference between a county's unrestricted state shared revenue distributed during the county's 1976 fiscal year pursuant to the provisions of Act No. 140 of the Public Acts of 1971, as amended, being sections 141.901 to 141.921 of the Michigan Compiled Laws, and the county's costs for general public relief in its 1976 fiscal year as certified by the department of management and budget shall be at least 30 cents per capita more than the difference between the county's unrestricted state shared revenue distributed during the county's 1975 fiscal year and the net county costs for general public relief as defined in subsection (3). Any additional amount required to fulfill the provisions of this subsection shall be paid from the general fund and remitted to the county with the June, 1977 payment provided under subsection (4).

(6) The state department shall provide for the allocation and distribution of such moneys as shall be appropriated by the legislature or received from the federal government, for supplemental security income and aid to dependent children to be disbursed in accordance with the laws of this state.

(7) The state department may make arrangements to disburse amounts to general public relief recipients after determination of the recipients' needs by county. The arrangements shall permit general public relief payments by the department and voucher or vendor payments for persons entitled to general public relief not involving any federal funds, where the well-being of the recipient or the protection of general public relief funds makes such payments desirable. Nothing in this section or act shall be construed, however, as limiting the right of the state department to make warrants payable to and deliver same to any creditor of a recipient of general public relief who has provided food, shelter, or public utility service to such recipients at the request

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of the state department.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.18;—Am. 1950, Ex. Sess., Act 19, Eff. Mar. 31, 1951;—Am. 1951, Act 125, Eff. Sept. 28, 1951;—Am. 1957, Act 286, Imd. Eff. June 13, 1957;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1975, Act 237, Eff. Dec. 1, 1975;—Am. 1980, Act 486, Imd. Eff. Jan. 20, 1981.

Popular name: Act 280

400.18a Friend of the court incentive payment program; establishment; activities; subsection (1) inapplicable to certain judicial circuits; annual appropriation.

Sec. 18a. (1) A friend of the court incentive payment program is established in the state department. Except as provided in subsection (2), the program shall consist of the following activities:

(a) An annual determination of the gross amount of child support payments collected by each office of the friend of the court for families receiving aid to families with dependent children, which amount is collected under the friend of the court act, Act No. 294 of the Public Acts of 1982, being sections 552.501 to 552.535 of the Michigan Compiled Laws, or the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws.

(b) The remitting of 3% of the amount determined under subdivision (a) for an office, to the county treasurer for the appropriate county or counties for deposit in the friend of the court fund created in section 2530 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2530 of the Michigan Compiled Laws, if the county board of commissioners makes appropriations in accordance with that section.

(2) Subsection (1) does not apply to any judicial circuit in which the employees serving in the circuit court are employees of the state judicial council.

(3) The legislature annually shall appropriate to the state department an amount equal to the amount required to be remitted under subsection (1)(b).

History: Add. 1982, Act 298, Eff. July 1, 1983;—Am. 1996, Act 12, Eff. June 1, 1996.

Compiler's note: Former MCL 400.18a, providing for allocation and distribution of aid to persons permanently and totally disabled, was repealed by Act 286 of 1957.

Popular name: Act 280

400.18b Repealed. 1975, Act 280, Eff. Jan. 1, 1976.

Compiler's note: The repealed section pertained to distribution of moneys for foster care of children.

Popular name: Act 280

400.18c Foster care of children; licensed institutes, placement agencies of county department; standards of care and service.

Sec. 18c. Foster care financed by a county department of social welfare shall be provided by the use of licensed child caring institutions or placement agencies, in accordance with the needs of the child, or if licensed child caring institutions or placement agencies are not available, or there is a religious conflict, foster care shall be provided under the direct supervision of the county department, which care shall meet the following standards of care and service:

(1) Personnel engaged in placement and supervision of children in foster care shall have qualifying training and experience.

(2) Adequate records shall be maintained with information on the physical and mental health of the child, his emotional stability and family background, together with the reasons for the child's placement away from home to aid in planning for any child placed by the department, toward the end that the child may be reunited with his family as soon as it appears possible.

(3) Family foster homes used by the department shall be selected with consideration of the religious, racial and cultural background of the child to be placed and children thus placed shall be visited in these homes at least once a month.

History: Add. 1955, Act 113, Eff. Oct. 14, 1955.

Popular name: Act 280

400.18d Foster care of children; county emergency receiving facility for temporary care, standards.

Sec. 18d. The county department of social welfare, upon authorization of the county board of supervisors, may operate an emergency receiving facility for the temporary care of homeless, dependent or neglected children for whom such care is necessary, pending foster care placement or restoration to their own homes or any other plan deemed best for the health, safety and welfare of such children. The county department

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operating an emergency receiving facility shall maintain the standards of the state department established in respect to places of detention for juveniles under section 14 of this act.

History: Add. 1958, Act 29, Eff. Sept. 13, 1958.

Popular name: Act 280

400.18e State plan for foster care; focus groups; establishment; funds.

Sec. 18e. (1) The family independence agency shall establish and administer a state plan for foster care according to the provisions of part E of title IV of the social security act, 42 USC 670 to 679b. The state plan shall include programs and services that promote, implement, and support foster care focus groups. When developing and annually reviewing the state plans to carry out foster care policy and services, the family independence agency shall utilize input from locally-based foster care focus groups.

(2) Foster care focus groups shall be composed of youth in foster care or independent living programs, youth previously in foster care, foster parents or relatives caring for youth in foster care, and adults previously in foster care or independent living programs. The majority of the focus group consists of youth in foster care or independent living programs.

(3) In order to inform the legislature, the executive office, the judiciary, and the public of the needs and interests of youth in foster care, foster parents, and relatives caring for youth in foster care, the foster care focus groups are encouraged to be established in both of the following:

(a) Licensed child placing agencies with which the family independence agency contracts for youth foster care services that have an annual average daily foster care caseload of 150 or more cases or that derives more than 50% of its operating budget from contracts with the family independence agency for youth foster care services.

(b) Counties in which the family independence agency has an annual average daily foster care caseload of 150 or more cases.

(4) State and federal funds appropriated to implement state plans in compliance with part E of title IV of the social security act, 42 USC 670 to 679b and state laws may be used to meet the provisions of this section.

History: Add. 2004, Act 18, Imd. Eff. Mar. 4, 2004.

Popular name: Act 280

400.19 Powers and duties as to Michigan employment institution for blind; transfer to state department.

Sec. 19. The powers and duties vested by law in the board of corrections and charities and transferred to the state welfare commission, in the state welfare department, in the director of the state welfare department, in the state welfare commission and in the state institute commission as relating to the Michigan employment institution for the blind at Saginaw are hereby transferred to and vested in the state department of social welfare herein created. Immediately on the taking effect of this act, the departments, boards, commissions and officers whose powers and duties are hereby transferred shall be abolished, and, whenever reference thereto is made in any law of the state, reference shall be deemed to be intended to be made to the state department of social welfare.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.19;—Am. 1957, Act 95, Eff. Sept. 27, 1957.

Popular name: Act 280

400.20 Powers and duties as to social welfare; transfer to state department.

Sec. 20. All of the powers and duties prescribed in any law of this state with respect to any subject matter vested in the state department of social welfare shall be transferred to and be vested in said department.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.20.

Popular name: Act 280

400.21 Refusal of access or information to social welfare commission; misdemeanor.

Sec. 21. Any officer, superintendent or employe of any institution, home, hospital, or other facility subject to inspection under the provisions of this act, who shall refuse to admit any member of the commission, or any duly authorized agent of the state department, acting within the scope of his authority, for the purpose of inspection, or who shall refuse or neglect to furnish any information required by the commission, or said duly authorized agent, acting within the scope of his authority, shall be guilty of a misdemeanor and shall be punished as provided in the laws of this state.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.21.

Popular name: Act 280

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400.22 Repealed. 1957, Act 95, Eff. Sept. 27, 1957.

Compiler's note: The repealed section created bureau of social security.

Popular name: Act 280

400.23, 400.23a Repealed. 1968, Act 117, Imd. Eff. June 11, 1968.

Compiler's note: The repealed sections pertained to old age assistance and other aid; county bureau; director of state department.

Popular name: Act 280

400.24 Rules; printing of blanks and books of record; eligibility and financial standards for general relief and burial.

Sec. 24. The state department, for programs financed in whole or in part with federal funds, may make such rules as are necessary for guiding and regulating the county departments of social services. The state department shall prepare and have printed all blanks and books of record used in the county departments of social services, to the end that a uniform system shall be employed in all counties. The state department shall establish eligibility and financial standards for all forms of general public relief and burial. Differential area standards may be established to correspond to the characteristics of the community. Recommended standards for general relief and burial shall annually be submitted to the department by the Michigan county social services association. A county social services board which is dissatisfied with general relief and burial standards established for its county shall, within 30 days after notification of those standards, be given the opportunity to meet with the state director to review the determination. Eligibility and financial standards shall not be affected by a county decision to supplement individual payments to recipients of general public relief.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.24;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1975, Act 237, Eff. Dec. 1, 1975.

Popular name: Act 280

Administrative rules: R 400.1 et seq. and R 400.3501 et seq. of the Michigan Administrative Code.

400.25 Application for assistance; form, oath; third party; political or religious affiliations.

Sec. 25. An applicant for assistance or a third party acting responsibly in his behalf shall deliver his application in writing to the county department of social services in the manner and form prescribed by the state department. All statements in the application shall be over the signature or witnessed mark of the applicant or such third party and shall include a declaration under the penalties of perjury that the application has been examined by or read to the applicant or third party, and, to the best of the applicant's or third party's knowledge, that all facts are true in each material point and are complete; and the applicant or third party shall empower the county department of social services and the state department to obtain all necessary information concerning the recipient of social services for whom the application is made and his resources in order to determine the eligibility of the applicant. No question, inquiry or recommendation shall relate to the political opinions or religious affiliations of any person, and no grant or denial of aid under this act shall be in any manner affected or influenced by such opinions or affiliations.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1945, Act 225, Imd. Eff. May 18, 1945;—CL 1948, 400.25;—Am. 1950, 1st Ex. Sess., Act 42, Eff. Oct. 1, 1950;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1968, Act 232, Imd. Eff. June 26, 1968.

Popular name: Act 280

400.25a-400.27 Repealed. 1973, Act 189, Imd. Eff. Jan. 8, 1974.

Compiler's note: The repealed sections pertained to aid to permanently and totally disabled, and to eligibility and ineligibility for old age assistance.

Popular name: Act 280

400.28 Old age assistance; amount; aid by persons not responsible for support, effect.

Sec. 28. The amount of assistance shall be fixed with due regard to the condition of the individual and community and the circumstances in each case. When an applicant is not receiving adequate support from a husband or wife responsible under the laws of this state to furnish such support, free board and lodging supplied to an applicant because of his or her necessity by a friend or relative who is not responsible for applicant's support shall not be grounds for refusing aid.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1941, Act 186, Eff. Jan. 10, 1942;—Am. 1945, Act 225, Imd. Eff. May 18,

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1945;—Am. 1947, Act 301, Imd. Eff. June 30, 1947;—Am. 1948, 1st Ex. Sess., Act 8, Imd. Eff. Apr. 28, 1948;—CL 1948, 400.28;—Am. 1949, Act 77, Eff. July 1, 1949;—Am. 1951, 1st Ex. Sess., Act 2, Imd. Eff. Aug. 23, 1951;—Am. 1954, Act 45, Eff. Aug. 13, 1954;—Am. 1956, Act 25, Eff. July 1, 1956;—Am. 1957, Act 286, Imd. Eff. June 13, 1957;—Am. 1964, Act 202, Imd. Eff. May 22, 1964;—Am. 1966, Act 228, Eff. Aug. 1, 1966;—Am. 1970, Act 87, Imd. Eff. July 20, 1970.

Popular name: Act 280

400.29 Repealed. 1968, Act 117, Imd. Eff. June 11, 1968.

Compiler's note: The repealed section pertained to social welfare act; old age assistance; and effect of income from mortgages and land contracts.

Former law: See section 29 of Act 280 of 1939, which was repealed by Act 186 of 1941.

Popular name: Act 280

400.30 Repealed. 1965, Act 211, Imd. Eff. July 16, 1965.

Compiler's note: The repealed section provided formula for computing income from non-homestead real property held by applicant for assistance.

Popular name: Act 280

400.31 Residence of spouse living separate and apart.

Sec. 31. For the purposes of this act, the residence of 1 spouse shall not be considered the residence of the other spouse if they are living separate and apart, and in that case each may have a separate residence dependent upon proof of the fact and not upon legal presumption. A person shall not be, because thereof, precluded from acquiring or retaining a legal residence or settlement.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1945, Act 225, Imd. Eff. May 18, 1945;—CL 1948, 400.31;—Am. 1983, Act 213, Imd. Eff. Nov. 11, 1983.

Popular name: Act 280

400.32 Continuation of assistance if person moves or is taken to another county; transfer of records; "resident of state" defined; continued absence from state as abandonment of residence; inapplicability of certain rules; requirements applicable to medical assistance eligibility; residence of husband and wife living separate and apart.

Sec. 32. (1) Subject to section 14g, a person qualified for and receiving assistance under this act in any county in this state who moves or is taken to another county in this state may continue to receive assistance in the county to which the person has moved or is taken, and the county family independence agency of the county from which the person has moved shall transfer all necessary records relating to the person to the county family independence agency of the county to which the person has moved.

(2) For purposes of the family independence program and medical assistance under this act, a resident of this state is a person who is living in this state voluntarily with the intention of making his or her home in this state and not for a temporary purpose and who is not receiving assistance from another state. For purposes of medical assistance, a resident of this state also includes a person and the dependents of a person who, at the time of application, is living in this state, is not receiving assistance from another state, and entered the state with a job commitment or seeking employment in this state. For purposes of determining eligibility to receive assistance under this act, excluding recipients of supplemental security income under title XVI of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1381 to 1382, and 1383 to 1383d or state supplementation under this act, the continued absence of a recipient from this state, unless the absence is temporary or intent to return is established as provided by applicable federal regulations, shall constitute abandonment by the recipient of residence in this state. Any existing rule that has been promulgated under this act that defines temporary absence for the purpose of eligibility for family independence assistance or medical assistance, or that provides for continuation of eligibility if the absence is not temporary, is not applicable.

(3) For purposes of medical assistance eligibility the requirements in subsection (2) apply except as otherwise provided in federal regulations for the administration of the medical assistance program under title XIX of the social security act, 42 U.S.C. 1396 to 1396g and 1396i to 1396v.

(4) The residence of a husband shall not be considered to be the residence of the wife if they are living separate and apart. If a husband and wife are living separate and apart, each may have a separate residence dependent upon proof of the fact and not upon legal presumption. This subsection shall not be construed to prohibit a person from acquiring or retaining a legal residence.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1945, Act 121, Eff. Sept. 6, 1945;—CL 1948, 400.32;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1980, Act 122, Imd. Eff. May 21, 1980;—Am. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

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400.33 Repealed. 1968, Act 268, Eff. Nov. 15, 1968.

Compiler's note: The repealed section pertained to funeral expenses of social welfare recipient; recovery; recovery from estate of deceased or surviving spouse.

Popular name: Act 280

400.34, 400.34a Repealed. 1965, Act 305, Imd. Eff. July 22, 1965.

Compiler's note: The repealed sections gave state preferred claim against deceased's estate for funeral expenses paid by state.

Popular name: Act 280

400.35 Records; confidentiality; rules for use.

Sec. 35. Notwithstanding section 2(6), records relating to categorical assistance, including medical assistance, shall be confidential and shall not be open to inspection except as prescribed in section 64. The state department of social services may promulgate and enforce rules for the use of the records as may be necessary for purposes related to federal, state, or local public assistance, pursuant to Act No. 306 of the Public Acts of 1969, as amended.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.35;—Am. 1950, Ex. Sess., Act 42, Eff. Oct. 1, 1950;—Am. 1966, Act 321, Eff. Sept. 1, 1966;—Am. 1978, Act 224, Imd. Eff. June 13, 1978.

Popular name: Act 280

Administrative rules: R 400.1 et seq. of the Michigan Administrative Code.

400.36 County department; compliance with state requirements as to payment of assistance.

Sec. 36. When assistance is given to any person under the provisions of this act with respect to old age assistance, aid to dependent children, aid to the blind, and aid to the permanently and totally disabled, the county department of social welfare shall comply with all requirements of the state department.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.36;—Am. 1950, Ex. Sess., Act 42, Eff. Oct. 1, 1950;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.37 Application for assistance; investigation, hearing, appeal.

Sec. 37. Whenever an application made for assistance, the county department of social welfare shall make a thorough investigation and report to the state department in the manner prescribed by it, giving its recommendation of the amount of assistance, if any, to be allowed. If the application be disallowed, or if the applicant is dissatisfied with the amount of assistance he is receiving, or is to receive, he may demand, in writing, a hearing of his case, as provided for in section 9 or section 65. The applicant or recipient may appeal to the circuit court of the county in which he resides, which court shall have power to review questions of law involved in any final decision or determination of the state department. Said petition shall be filed within 30 days of the receipt of such decision or determination. The petitioner shall not be required to furnish any bond and costs shall not be taxed against him. If the court shall decide in favor of the petitioner, assistance shall be paid from the first day of the month following the date of the application therefor or of the date of the original application for the relief in question.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1945, Act 225, Imd. Eff. May 18, 1945;—CL 1948, 400.37;—Am. 1950, Ex. Sess., Act 42, Eff. Oct. 1, 1950;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.38 Assistance; determination of amount; authorizations; warrants, delivery.

Sec. 38. Upon receipt of the recommendations of the county department of social services, the state department shall determine the amount of categorical assistance to be allowed monthly, if any, and the date for which the first payment shall be made, to be payable as the state department shall decide. If a person has been authorized to receive a payment in respect to his requirements for any month for categorical assistance, no assistance shall be allowed nor shall eligibility exist for him for that month for any other categorical assistance. The state department shall cause to be made due record of all authorizations of assistance with the address of the recipient and shall furnish the county department of social services with a copy thereof. Whenever payment of assistance is made, warrants shall be drawn upon the appropriation made therefor, or other moneys available for these forms of assistance, and delivered to the recipients, or third parties acting responsibly in their behalf or the providers of goods or services authorized by the state department in accordance with such regulations as may be made by the state department.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.38;—Am. 1951, Act 264, Eff. Sept. 28, 1951;—Am. 1965, Act

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401, Imd. Eff. Oct. 27, 1965;—Am. 1968, Act 232, Imd. Eff. June 26, 1968.

Popular name: Act 280

400.39 Payment of assistance to applicant or recipient; cancellation of assistance checks.

Sec. 39. All old age assistance, aid to dependent children, aid to the blind, and aid to the permanently and totally disabled, given under this act shall be paid directly to the applicant or recipient except that (1) if a legal guardian has been duly appointed for such applicant or recipient, the assistance may be paid to such guardian for the benefit of such applicant or recipient, or (2) if the state department has entered into a contractual arrangement or agreement or has authorized goods or services from a provider including hospitalization or medical care in behalf of the applicant or recipient, a portion of the assistance as determined by the state department may be paid directly to the contractor or provider, or (3) if necessary, as determined by the state department and in conformance with the rules of the department of health, education and welfare and such rules as shall be developed by the state department, the assistance may be paid to a third party interested in and acting responsibly in behalf of such applicant or recipient for the benefit of such applicant or recipient. (4) Any assistance checks not indorsed during the lifetime of the recipient shall be null and void and shall be returned to the state department and canceled.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.39;—Am. 1951, Act 264, Eff. Sept. 28, 1951;—Am. 1968, Act 232, Imd. Eff. June 26, 1968;—Am. 1972, Act 367, Imd. Eff. Jan. 9, 1973.

Popular name: Act 280

400.40 Repealed. 1995, Act 223, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to the financial report filed by a recipient.

Popular name: Act 280

400.41 Report by recipient on acquisition of property; recommendations of county department.

Sec. 41. If at any time after approval of a grant of assistance the recipient, or the spouse of the recipient, becomes possessed of any property or income of which the county department of social welfare has no knowledge, it shall be the duty of the recipient to notify said county department of social welfare which shall report and make recommendations to the state department which in turn may cancel, suspend or alter the certificate of allowance.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.41;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.42 Repealed. 1973, Act 189, Imd. Eff. Jan. 8, 1974.

Compiler's note: The repealed section pertained to payments to institutionalized persons.

Popular name: Act 280

400.43 Assistance; periodical review, power to alter or revoke, appeal.

Sec. 43. All assistance granted under this act shall be reconsidered from time to time, or as frequently as may be required by the state department. After further investigation by the county department of social welfare, the amount and manner of giving assistance may be changed, or the assistance may be withdrawn if the state department finds the recipient's circumstances have changed sufficiently to warrant such action. It shall be within the power of the state department at any time to cancel and revoke assistance for cause, and it may for cause suspend payments for assistance as it may deem proper, subject to appeal and hearing by the recipient as provided for in section 9. The provisions of this section shall be mandatory only with respect to old age assistance, aid to dependent children, aid to the blind, aid to the permanently and totally disabled or any other function financed in whole or in part by federal funds.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.43;—Am. 1950, Ex. Sess., Act 42, Eff. Oct. 1, 1950;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.43a Definitions; recovery of overpayments; overpayment as result of criminal act; waiver; report of cost effectiveness.

Sec. 43a. (1) As used in this section:

(a) “Overpayment” means the difference between the amount of assistance to which an individual is entitled under this act and the amount of assistance actually received by that individual.

(b) “Public assistance recipient” means an individual who is receiving, or who did receive, assistance

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under this act.

(2) The state department shall take all necessary steps to recover an overpayment made to a public assistance recipient, including, but not limited to, administrative action or action in a court of competent jurisdiction. Procedures for the recovery of overpayments made under federally assisted programs shall be consistent with federal law and regulations.

(3) This section does not limit or prevent the criminal prosecution of an individual who has received an overpayment as a result of fraud or other criminal act.

(4) In the case of an individual who is no longer a public assistance recipient, the state department may waive recovery of an overpayment if the cost of recovery is equal to or greater than the amount of the overpayment or if the error was made by the department. Except as prohibited by federal law or regulation, the state department may waive recovery of an overpayment if the recovery would result in undue hardship to the public assistance recipient, as determined by the state department.

(5) The state department shall report annually to the legislature on the cost effectiveness of the recovery of overpayments described in this section.

History: Add. 1993, Act 41, Imd. Eff. May 27, 1993.

Popular name: Act 280

400.43b Office of inspector general; establishment as criminal justice agency; duties.

Sec. 43b. An office of inspector general is established as a criminal justice agency in the family independence agency. The primary duty of the inspector general is to investigate cases of alleged fraud within the department. The inspector general shall also perform the following activities:

(a) Investigate fraud, waste, and abuse in the programs administered by the family independence agency.

(b) Make referrals for prosecution and disposition of appropriate cases as determined by the inspector general.

(c) Review administrative policies, practices, and procedures.

(d) Make recommendations to improve program integrity and accountability.

History: Add. 2002, Act 573, Eff. Dec. 1, 2002.

Popular name: Act 280

400.44 Fee for obtaining certain benefits; condition; amount; definitions.

Sec. 44. (1) The state department shall pay a fee to an attorney or other competent professional who represents a person in obtaining benefits from the federal social security administration in a proceeding establishing retroactive benefits for that person under the supplemental security income for the aged, blind, and disabled program, title XVI of the social security act, 42 U.S.C. 1381 to 1383c. The department shall pay a fee under this section only if the proceeding results in direct reimbursement to the department of interim assistance paid to the person for the period covered by the award. Direct reimbursement means a lump sum payment to the department from the social security administration or from the person who received the interim assistance. A fee shall not be paid under this section for a reimbursement that results from an initial determination only, and a fee paid shall not exceed the amount of interim assistance reimbursed to the state pursuant to that proceeding. The fee paid by the state under this section in any individual proceeding shall be determined based on the amount billed and the amount of reimbursed interim assistance. If the reimbursement for interim assistance is $500.00 or less, the fee shall be the lesser of the amount billed or the amount reimbursed to the department. If the reimbursement for interim assistance is $500.01 to $2,000.00, the fee shall be the lesser of the amount billed or $500.00. If the reimbursement for interim assistance exceeds $2,000.00, the fee shall be the lesser of the amount billed or 25% of the reimbursement. A fee paid under this section shall constitute full payment for services rendered.

(2) As used in this section:

(a) “Interim assistance” means general assistance paid to a person during the period covered by the award.

(b) “Other competent professional” means a person who has demonstrated a professional competence in, and a working knowledge of, social security law and regulations under titles II and XVI of the social security act, and who is trained to represent persons in appeals before the social security administration.

History: Add. 1987, Act 184, Imd. Eff. Nov. 30, 1987;—Am. 1990, Act 270, Imd. Eff. Nov. 28, 1990.

Compiler's note: Former MCL 400.44, which gave bureau of social security power to prescribe number of recipients in any year in which moneys for old age assistance were not adequate to provide reasonable assistance for all applications, was repealed by Act 264 of 1951, Eff. Sept. 28, 1951.

Popular name: Act 280

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400.45 Creation, powers, duties, and composition of county family independence agency; powers and duties of family independence agency board; offices; salary and expenses; prohibition; appointment and oath of board members; appointment and qualifications of directors, employees, and assistants; evaluation of county director; availability of writings to public.

Sec. 45. (1) A county family independence agency is created in each county of this state, which shall possess the powers granted and perform the duties imposed in this act. The county family independence agency shall consist of a county family independence agency board and the director of the county family independence agency, together with assistants and employees as may be necessary to operate the county family independence agency. As used in this act, references to "county department of social services" or "county department" mean the county family independence agency and references to "county social services board" and "county board" mean the county family independence agency board.

(2) The powers and duties of the county family independence agency board include all of the following:

(a) Supervision of and responsibility for the administration of the county infirmary and county medical care facility and child caring institution, except as provided in sections 55(c) and 58.

(b) Conduct, in conjunction with the family independence agency, an annual review of social service programs operating within the county.

(c) Development of policy and supervision of the administration of social service programs authorized by the county board of commissioners or financed solely from county funds or county administered funds.

(d) Development and administration of employment programs and work training projects complementary to and not in conflict with state programs.

(e) Review and submit recommendations on contracts involving programs administered by the family independence agency proposed to be entered into between the family independence agency and public or private agencies within the county including proposed purchases of service contracts from applicant agencies within the county eligible for funding under title XX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1397 to 1397f. A contract shall not be entered into between the family independence agency and a public or private agency within the county until the board has been provided an opportunity for review of the contract. The board shall be advised by the family independence agency within 30 days after contracts have been signed with an explanation of the differences between contracts recommended by the board and those actually entered into.

(f) Act as the agent for the county board of commissioners in the development of coordinated or consolidated approaches to the delivery of social services and cooperative service delivery arrangements between the family independence agency and each public and private social service agency within the county.

(g) Represent the county board of commissioners in all negotiations between the county and the family independence agency.

(h) Make annual policy recommendations to the Michigan county social services association on annual departmental appropriations, priorities for utilization of title XX funds, eligibility standards for general public relief and burial, employment programs, work training projects, and other related issues.

(3) The family independence agency shall provide suitable office accommodations for programs funded in whole or in part with state funds. The county family independence agency board shall review and recommend to the director proposed office sites within the county. The director shall notify the board before final site selection with an explanation of the selection of a site other than that proposed by the board.

(4) The salary and expenses of each member of the county board shall be fixed by the county board of commissioners according to the amount of time the member devotes to the performance of official duties. A member of the county board may not serve as the director or an employee of the county family independence agency. The members of the county boards shall be appointed at the annual October session of commissioners, and members shall qualify by taking and filing the oath of office with the county clerk, and shall assume their duties as prescribed by this act not later than November 1 of the year appointed.

(5) The director, employees, and assistants of the county family independence agency shall be appointed by the family independence agency from among persons certified as qualified by the state civil service commission. The county family independence agency board shall review the qualifications of and interview each applicant for the position of county family independence agency director. The county director shall be appointed from among persons certified as eligible and recommended by the family independence agency and by the county board. These appointment provisions do not apply under conditions of reduction in state work force, in which case the administrative employment preference rules for bumping promulgated by the Michigan civil service commission apply. The county board shall advise and make recommendations to the state director regarding the performance of the county director within 6 months after the appointment of the

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county director and annually after that time. A copy of each evaluation shall be provided to the county director.

(6) Except as prescribed in sections 35 and 64, a writing prepared, owned, used, in the possession of, or retained by the county family independence agency in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1945, Act 53, Eff. Sept. 6, 1945;—CL 1948, 400.45;—Am. 1965, Act 401, Imd. Eff. Oct. 17, 1965;—Am. 1966, Act 74, Imd. Eff. June 10, 1966;—Am. 1975, Act 237, Eff. Dec. 1, 1975;—Am. 1978, Act 224, Imd. Eff. June 13, 1978;—Am. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

400.46 County social services board; administration of powers and duties; appointment and terms of members; oath; vacancies; conducting business at public meeting; notice; quorum; meetings; chairperson; effect of failure to attend meetings; compensation and expenses; availability of writings to public.

Sec. 46. (1) The administration of the powers and duties of the county department shall be vested in a county social services board of 3 members, appointed from persons residing within the county and not holding an elective office, for 3-year terms as follows: 2 members shall be appointed by the county board of commissioners, and 1 member by the director of social services. Members appointed before October 27, 1965, shall continue in office until the expiration of their terms and until successors are appointed and qualified. Each member shall qualify by taking and filing with the county clerk the constitutional oath of office, and shall hold office until the appointment and qualification of a successor. Vacancies in the membership of the board shall be filled for the expiration of the unexpired term, in the same manner as provided for appointment of the original members.

(2) The business which the county social services board may perform shall be conducted at a public meeting of the county social services board held in compliance with Act No. 267 of the Public Acts of 1976. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. A majority of the board constitutes a quorum for the transaction of business. The board shall meet on the call of the chairperson, or on a written request to the chairperson signed by 2 members of the board, or at times and places as prescribed by the rules of the board. The board shall hold not less than 12 meetings each fiscal year with an interval of not more than 5 weeks between 2 meetings.

(3) At the first meeting following the appointment of a new member to the board, the members shall choose 1 member as chairperson, who shall continue to act as chairperson of the board until the selection of a successor.

(4) If a member of the county social services board, upon receiving notification, fails to attend 3 consecutive regularly scheduled meetings of the board, the county board of commissioners after notification from the county social services board of the failure of a member to attend without reasonable cause such as illness or other circumstances beyond the member's control shall by formal vote excuse the member or declare the office vacant. The vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment was made.

(5) Members of the board shall be reimbursed for necessary travel and other expenses, and shall be paid such amount as shall be fixed by the board of commissioners or board of county auditors.

(6) Except as prescribed in sections 35 and 64, a writing prepared, owned, used, in the possession of, or retained by the county social services board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1945, Act 53, Eff. Sept. 6, 1945;—CL 1948, 400.46;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1967, Act 60, Imd. Eff. June 20, 1967;—Am. 1978, Act 224, Imd. Eff. June 13, 1978.

Popular name: Act 280

400.47 Organization of district department of social welfare and medical relief; powers and duties vested in district social welfare board and medical advisory council; appointment, qualifications, and terms of members; applicability of references; chairperson; conducting business at public meeting; notice; availability of writings to public.

Sec. 47. (1) Two or more counties may organize a district department of social welfare and medical relief by a majority vote of the members elect of the county board of commissioners of each county. The administration of the powers and duties of the department shall be vested in a district social welfare board and medical advisory council. The district social welfare board and medical advisory council shall consist of

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members appointed from persons who are residents within the district, for 3-year terms as follows: 1 member shall be appointed by the state social welfare commission and the county board of commissioners of each county included in the district shall each appoint 2 members. Of the members first appointed the member appointed by the state social welfare commission shall be appointed for a term of 1 year; 1 member appointed by the county board of commissioners of each county shall be appointed for the term of 2 years, and 1 member for the term of 3 years. A reference in this act to a county department of social services or to a county social services board, shall be deemed to apply to a district department of social welfare or a district social welfare board, where a district has been created as provided in this section. A member of a district board shall not hold an elective office. The members of the district social welfare board shall choose a chairperson as provided in section 46.

(2) The business which a district social welfare board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(3) Except as prescribed in sections 35 and 64, a writing prepared, owned, used, in the possession of, or retained by a district department of social welfare or a district social welfare board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.47;—Am. 1978, Act 224, Imd. Eff. June 13, 1978.

Popular name: Act 280

400.48 Organization of counties into single administrative unit; appointment of director; pilot project; report.

Sec. 48. (1) The director of the family independence agency may organize 2 counties into a single administrative unit for purposes of administrative efficiency. The director of the single administrative unit shall be appointed by the family independence agency from among persons certified as eligible and recommended by the family independence agency and by all of the affected county boards. If the affected county boards are unable to reach agreement on recommended candidates within 3 months after being notified of a vacancy, the director of the single administrative unit shall be appointed by the family independence agency from among persons certified as eligible and recommended by the family independence agency and by 1 or more of the affected county boards.

(2) The director of the family independence agency may establish a pilot project combining Lapeer, Huron, and Tuscola counties into a single administrative unit. The director of the single administrative unit shall be appointed in accordance with subsection (1). Not later than 2 years after the effective date of the amendatory act that added this subsection, the department shall submit a report to the legislature on the effect of the pilot project.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 1996, Act 423, Imd. Eff. Nov. 22, 1996.

Compiler's note: Former MCL 400.48, which pertained to city department of social welfare, was repealed by Act 117 of 1968, Imd. Eff. June 11, 1968.

Popular name: Act 280

400.49 Director of county or district board; employment; duties; assistants; requirements; compensation and expenses; supplementary salary.

Sec. 49. Any county or district board shall employ a director, who shall be the executive officer and secretary of the board, and shall be responsible to the board for the performance of his duties associated with those social service functions financed by the county. The director and his assistants shall hold no partisan elective office, shall devote their entire time to the performance of the duties of their office, and shall receive such compensation as shall be fixed by the state civil service commission, together with their actual and necessary traveling and other expenses incurred in the discharge of their official duties. Unless disapproved by the state civil service commission, the county board, with the approval of the county board of commissioners, may provide a supplementary salary to that fixed by the state civil service commission in remuneration for those duties of the director and his assistants if deemed justifiable, associated with the administration of those forms of relief or other welfare programs not wholly or in part financed by federal funds. The cost shall be deemed for all purposes a proper county expense.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.49;—Am. 1953, Act 78, Eff. Oct. 2, 1953;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1966, Act 143, Imd. Eff. June 24, 1966;—Am. 1975, Act 237, Eff. Dec. 1, 1975.

Popular name: Act 280

400.50 County employee; unauthorized transfer of public relief recipient, misdemeanor.

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Sec. 50. Any county employee or officer who transports, brings or causes to be transported or brought, any other person receiving general relief, hospitalization or infirmary care, or in need of general relief, hospitalization or infirmary care from any county or from any city operating a separate department of social welfare under this act into any other county or city operating a separate department without legal authority and there leave the person receiving general relief or in need of general relief; or who induces such person by threat or other means to remove to another county or city operating a separate department, with the intent to make the county or city to which the removal is made chargeable with the support of the person receiving or in need of public assistance, is guilty of a misdemeanor.

History: Add. 1961, Act 184, Eff. Sept. 8, 1961.

Compiler's note: Former MCL 400.50, deriving from Act 280 of 1939 and authorizing employment of supervisor of bureau of social aid, was repealed by Act 95 of 1957.

Popular name: Act 280

400.51 County board; executive heads of institutions and assistants, appointment, compensation and expenses.

Sec. 51. The county board may appoint an executive head of any institution under the supervision and jurisdiction of the board, and may employ such assistants and employes and incur such other expenses as may be necessary to carry out the provisions of this act. The compensation of all assistants and employes, and the number thereof, shall be within the funds made available therefor. Such assistants and employes shall receive their actual and necessary traveling and other expenses incurred in the discharge of their official duties.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.51.

Popular name: Act 280

400.52 County department; rules and regulations; review, copies, filing; audit of case records; withholding fund.

Sec. 52. The governing board of each county, city and district department shall adopt rules and regulations governing the policies of the board, which rules and regulations shall not be in violation of any express provision of state law. Said rules and regulations shall be reviewed by such governing board at least once in each year. Copies of such rules and regulations shall be forthwith filed with the state department. The state department is hereby authorized to provide for the audit of the case records of the several county, city and district departments with respect to general public relief as defined in section 18, and is further authorized to withhold the distribution of state funds, otherwise required by section 18, in respect to cases for which the relief granted is deemed to be in violation of state law or the rules and regulations of the state department or of the respective boards and filed with the state department. The respective boards shall comply with and be governed by the rules and regulations of the state department only as to those forms of relief which are wholly or in part financed by federal funds.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.52;—Am. 1950, Ex. Sess., Act 29, Eff. Mar. 31, 1951;—Am. 1951, Act 127, Eff. Sept. 28, 1951;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

Administrative rules: R 400.1 et seq. and R 400.3501 et seq. of the Michigan Administrative Code.

400.53 County board; cooperation with state department.

Sec. 53. Said board shall cooperate with the state department of social welfare in handling the welfare and relief problems and needs of the people of its county, and to such end may adopt any plan or plans required or desirable in order to participate in the distribution of federal or state moneys, or in order to receive the assistance of the federal or state governments. The board may adopt any rules and regulations or do any act in order to enable participation of the county in any such plan or plans.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.53.

Popular name: Act 280

400.54 County board; prevention of social disabilities, restoration of individuals to self support.

Sec. 54. In the administration of the powers and duties assigned to the department, the board, shall, insofar as possible, place emphasis upon the prevention of social disabilities, the removal of causes of such disabilities, and the restoration of individuals to self support and to normal conditions of life.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.54.

Popular name: Act 280

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400.55 Administration of public welfare program by county department.

Sec. 55. The county department shall administer a public welfare program, as follows:

(a) To grant general assistance, including medical care as defined in this section and care in the county medical care facility, but not including hospitalization and infirmary care except for care in the county medical care facility or a county infirmary existing on January 1, 1981, to any person domiciled in the county who has a legal settlement in this state. General assistance may also be granted to a person who has a legal settlement in this state but no domicile in the county and a recoupment may be made when appropriate in the manner provided in cases of emergency hospitalization under this act. In a temporary emergency, general assistance may be given to indigents without a settlement in this state as the county department considers necessary, including, if other funds are not available for the purpose, all necessary expenses in transporting an indigent to his or her domicile in this state, or in another state or nation, when information reasonably tends to show that the person has a home available in his or her place of domicile in this state or a legal residence in another state or nation. A legal settlement in this state is acquired by an emancipated person who has lived continuously in this state for 1 year with the intent to make it his or her home and who, during the 1-year period has not received public assistance, other than assistance received during and as a direct result of a civil defense emergency, or support from relatives. Time spent in a public institution shall not be counted in determining settlement. A legal settlement shall be lost by remaining away from this state for an uninterrupted period of 1 year except that absence from this state for labor or other special or temporary purpose shall not occasion loss of settlement.

(b) To administer categorical assistance including medical care.

(c) To supervise and be responsible for the operation of the county infirmary and county medical care facility. In a county having a population of 1,000,000 or more which maintains a county infirmary or county hospital or a joint infirmary and hospital providing for mental patients, the institution and the admissions to the institution shall be subject to the control of a board to be known as the board of county institutions. The board shall consist of 5 members appointed by the county board of commissioners, except that in a county having a board of county auditors, 3 members of the board of county institutions shall be appointed by the county board of commissioners and 2 members shall be appointed by the board of county auditors. Each member of the board shall hold office for a term and receive compensation as the county board of commissioners provides by ordinance. In relation to the administration of the institutions the board shall have and succeed to all powers and duties formerly vested by law, general, local or special, in the superintendents of the poor in the county and the board of county institutions as constituted on April 13, 1943. The board of county institutions of the county may also maintain outpatient facilities for the treatment of needy persons suffering from mental disorders. The board shall also have the same powers as are given to the county board in section 78.

(d) To furnish in all cases, insofar as practicable, care and treatment which will tend to restore needy persons to a condition of financial and social independence.

(e) To require that each applicant shall furnish proof satisfactory to the county board that the applicant is entitled to the aid, assistance, or benefit sought.

(f) To investigate, in respect to each application for any form of public aid or assistance, the circumstances of the applicant, both at the time of application and periodically during the receipt of aid or assistance.

(g) To maintain adequate social and financial records pertaining to each recipient of aid or assistance and so far as is practicable engage in the prevention of social disabilities.

(h) Except as otherwise provided in this subdivision, to investigate, when requested by the probate court or the family division of circuit court, matters pertaining to dependent, neglected, and delinquent children and wayward minors under the court's jurisdiction, to provide supervision and foster care as provided by court order, and to furnish the court, on request, investigational service in respect to the hospitalization of children under the program of services for crippled children established under part 58 of the public health code, 1978 PA 368, MCL 333.5801 to 333.5879, which services shall include the follow-up investigation and continuing observations. If the county is a county juvenile agency as defined in section 2 of the county juvenile agency act, the county department's obligations under this subdivision are limited to public wards within the county's jurisdiction under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, and county juvenile agency services as defined in section 117a.

(i) To assist other departments, agencies, and institutions of the federal, state, and county governments, when so requested, in performing services in conformity with the purposes of this act.

(j) To assist in the development of sound programs and standards of child welfare, and promote programs and policies looking toward the prevention of dependency, neglect, and delinquency and other conditions affecting adversely the welfare of families and children.

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(k) To create within the county department a division of medical care. The county board may appoint a properly qualified and licensed doctor of medicine as the head of the division and an advisory committee. The advisory committee shall consist of 1 doctor of medicine, nominated by the county medical society; 1 dentist, nominated by the district dental society; and 1 pharmacist, nominated by the district pharmaceutical association, to assist in formulating policies of medical care and auditing and reviewing bills. “Medical care” as used in this act means medical care rendered under the supervision of a licensed physician in an organized out-patient department of a hospital licensed by the department of public health under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260, or home and office attendance by a physician, osteopathic physician and surgeon, or podiatrist licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838; and when prescribed by the physician, osteopathic physician and surgeon, or podiatrist, diagnostic services requiring the use of equipment not available in his or her offices, if the services do not require overnight care, dental service, optometric service, bedside nursing service in the home, or pharmaceutical service. The private physician-patient relationship shall be maintained. The normal relationships between the recipients of dental, optometric, nursing, and pharmaceutical services, and the services furnished by a physician, osteopathic physician and surgeon, podiatrist, or a chiropractor licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and the persons furnishing these services shall be maintained. This section shall not affect the office of a city physician or city pharmacist established under a city charter, a county health officer, or the medical superintendent of a county hospital. This section shall permit the use of a case management system, a patient care management system, or other alternative system for providing medical care.

(*l*) To cause to be suitably buried the body of a deceased indigent person who has a domicile in the county, when requested by the person's relative or friend, or of a stranger, when requested by a public official following an inquest.

(m) To administer additional welfare functions as are vested in the department, including hospitalization.

(n) To act as an agent for the state department in matters requested by the state department under the rules of the state department.

(o) To provide temporary general assistance for each family found ineligible for aid to dependent children assistance by reason of unsuitable family home as provided in section 56.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—Am. 1941, Act 343, Eff. Jan. 10, 1942;—Am. 1943, Act 85, Eff. July 30, 1943;—CL 1948, 400.55;—Am. 1951, Act 248, Imd. Eff. June 15, 1951;—Am. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961;—Am. 1962, Act 195, Imd. Eff. June 4, 1962;—Am. 1963, Act 141, Eff. Sept. 6, 1963;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1966, Act 258, Imd. Eff. July 11, 1966;—Am. 1980, Act 486, Imd. Eff. Jan. 20, 1981;—Am. 1987, Act 266, Imd. Eff. Dec. 28, 1987;—Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999.

Compiler's note: For transfer of policymaking, administration, and all related functions for the assistance to disabled persons' portion of the General Assistance Program provided for in MCL 400.55 of the Michigan Compiled Laws from the county departments to the Office of Income Assistance of the Family Services Administration of the Department of Social Services, see E.R.O. No. 1991-14, compiled at MCL 400.222 of the Michigan Compiled Laws.

Former law: See Act 85 of 1943.

Popular name: Act 280

Administrative rules: R 400.1 et seq. of the Michigan Administrative Code.

400.55a General assistance; eligibility of applicant; determination; failure of employable person to participate in approved project or to accept employment.

Sec. 55a. (1) In determining the eligibility of an applicant for general assistance, and before granting the assistance, except temporary assistance pending disposition of the case, the county and district departments of social services shall conform to the following:

(a) Require each applicant entitled to alimony or separate maintenance to seek the assistance of the friend of the court.

(b) Clear with the proper legal authorities the case of an applicant who is deserted by his or her spouse to determine the advisability of legal action to obtain support.

(c) If it is indicated that eligibility for benefits from other programs such as unemployment compensation, old-age and survivors insurance benefits, federal veterans' benefits, aid to families with dependent children, or supplemental security income exists, secure a clearance in writing with each appropriate agency.

(d) Require an employable person to work on a work relief or work training project, or other departmental-approved activity, if available, in return for assistance given. A person participating in a work relief or work training project shall be entitled to the benefits provided by Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws. All work relief or work training projects or other departmental-approved activities authorized by this section shall be subject to

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all of the following conditions:

(*i*) Any person required to work on an approved project or activity, upon claiming to be physically incapable to work when so assigned, shall be given a thorough medical examination by competent medical authorities to ascertain his or her ability to participate in the required project or activity.

(*ii*) Each person assigned to an approved project or activity may be required to register for employment with the Michigan employment security commission, if the service is available, and to investigate all bona fide employment opportunities.

(e) Determine that each employable applicant, mentally and physically able to work, is not currently refusing to accept available employment for which wages not less than the usual rate paid by that employer for the particular kind of employment are being offered.

(2) Any employable person who, without good cause, fails to participate in an approved project or activity or to accept available lawful employment for which wages, not less than the usual rate paid by that employer for that particular kind of employment are being offered, shall have his or her needs removed from the general assistance grant and shall not be eligible for general assistance for 3 months.

History: Add. 1951, Act 128, Eff. Sept. 28, 1951;—Am. 1964, Act 148, Eff. Aug. 28, 1964;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1980, Act 251, Eff. Dec. 12, 1980.

Compiler's note: Former MCL 400.55a, deriving from Act 20 of 1950, Ex. Sess., and pertaining to eligibility of applicants for general public relief, was held invalid in Op. Atty. Gen. 1951-1952, No. 1367.

Popular name: Act 280

400.55b Repealed. 1983, Act 213, Imd. Eff. Nov. 11, 1983.

Compiler's note: The repealed section pertained to the acquisition and holding of a legal settlement by an emancipated person.

Popular name: Act 280

400.55c Repealed. 1995, Act 223, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to the employment skills training program.

Popular name: Act 280

400.56 Repealed. 1995, Act 223, Eff. Mar. 28, 1996.

Compiler's note: The repealed section pertained to provisions applicable to aid to dependent children.

Popular name: Act 280

400.56a, 400.56b Repealed. 1964, Act 3, Imd. Eff. Mar. 13, 1964.

Compiler's note: The repealed sections defined “dependent child” and “unemployed parent” and provided for cooperative arrangements for job placement of unemployed parents.

Popular name: Act 280

400.56c-400.56g Repealed. 1995, Act 223, Eff. Mar. 28, 1996.

Compiler's note: The repealed sections pertained to requirements applicable to dependent children, job placement services, programs operated under provisions of title IV of social security act, and eligibility requirements for aid to dependent children.

Popular name: Act 280

400.56i Individuals having history of domestic violence; establishment and enforcement of standards and procedures; certification by governor; collection and compilation of data; annual report.

Sec. 56i. (1) The family independence agency shall establish and enforce standards and procedures to do all of the following:

(a) Screen and identify individuals who are receiving assistance under section 57b who have a history of domestic violence, while maintaining the confidentiality of that information.

(b) Refer those individuals identified under subdivision (a) to counseling and supportive services.

(c) In accordance with a determination of good cause, waive certain program requirements of the family independence program established in section 57a in cases where compliance with those requirements would make it more difficult for individuals receiving assistance to escape domestic violence or would unfairly penalize individuals who are or have been victimized by domestic violence or individuals who are at risk of further domestic violence.

(2) The family independence agency shall include in the state plan required for federal temporary assistance for needy families block grants a certification by the governor that the state has established and is enforcing the standards and procedures described in subsection (1).

(3) The family independence agency shall collect and compile data regarding administration of the waiver

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authorized under subsection (1)(c), including information regarding individuals screened and identified under subsection (1)(a) and information regarding individuals actually granted a waiver. The family independence agency shall annually report to the legislature on the information collected and compiled under this subsection.

History: Add. 1997, Act 162, Eff. Oct. 1, 1998.

Popular name: Act 280

400.57 Definitions.

Sec. 57. (1) As used in this section and sections 57a to 57u:

(a) "Adult-supervised household" means either of the following:

(*i*) The place of residence of a parent, stepparent, or legal guardian of a minor parent.

(*ii*) A living arrangement not described in subparagraph (*i*) that the department approves as a family setting that provides care and control of a minor parent and his or her child and supportive services including, but not limited to, counseling, guidance, or supervision.

(b) "Caretaker" means an individual who is acting as parent for a child in the absence or because of the disability of the child's parent or stepparent and who is the child's legal guardian, grandparent, great grandparent, great-great grandparent, sibling, stepsibling, aunt, great aunt, great-great aunt, uncle, great uncle, great-great uncle, nephew, niece, first cousin, or first cousin once-removed, a spouse of any person listed above, a parent of the putative father, or an unrelated individual aged 21 or older whose appointment as legal guardian of the child is pending.

(c) "Child" means an individual who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, who lives with a parent or caretaker, and who is either of the following:

(*i*) Under the age of 18.

(*ii*) Age 18 or 19, a full-time high school student, and reasonably expected to graduate from high school before the age of 20.

(d) "Family" means 1 or more of the following:

(*i*) A household consisting of a child and either of the following:

(A) A parent or stepparent of the child.

(B) A caretaker of the child.

(*ii*) A pregnant woman.

(*iii*) A parent of a child in foster care.

(e) "Family independence assistance" means financial assistance provided to a family under the family independence program.

(f) "Family independence assistance group" means all those members of a program group who receive family independence assistance.

(g) "Family independence program" means the program of financial assistance established under section 57a.

(h) "Family self-sufficiency plan" means a document described in section 57e that is executed by a family in return for receiving family independence assistance.

(i) "Minor parent" means an individual under the age of 18 who is not emancipated under 1968 PA 293, MCL 722.1 to 722.6, and who is either the biological parent of a child living in the same household or a pregnant woman.

(j) "Payment standard" means the standard upon which family independence program benefits are based if the family independence assistance group has no net income.

(k) "Program group" means a family and all those individuals living with a family whose income and assets are considered for purposes of determining financial eligibility for family independence assistance.

(*l*) "Recipient" means an individual receiving family independence assistance.

(m) "Substance abuse" means that term as defined in section 6107 of the public health code, 1978 PA 368, MCL 333.6107.

(n) "Substance abuse treatment" means outpatient or inpatient services or participation in alcoholics anonymous or a similar program.

(o) "Supplemental security income" means the program of supplemental security income provided under title XVI.

(p) "Work first" means the program of employment and training administered by the department of labor and economic growth for applicants and recipients of family independence assistance.

(2) A reference in this act to "aid to dependent children" or "aid to families with dependent children" means "family independence program assistance".

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History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 2006, Act 471, Imd. Eff. Dec. 20, 2006.

Compiler's note: Former MCL 400.57, which pertained to eligibility for aid to blind, was repealed by Act 189 of 1973, Imd. Eff. Jan. 8, 1974.

Popular name: Act 280

400.57a Family independence program; establishment and administration; purpose; establishment of certain requirements by agency; implementation of automated finger imaging system.

Sec. 57a. (1) The family independence agency shall establish and administer the family independence program to provide assistance to families who are making efforts to achieve independence.

(2) The family independence agency shall administer the family independence program to accomplish all of the following:

(a) Provide financial support to eligible families while they pursue self-improvement activities and engage in efforts to become financially independent.

(b) Ensure that recipients who are minor parents live in adult-supervised households in order to reduce long-term dependency on financial assistance.

(c) Assist families in determining and overcoming the barriers preventing them from achieving financial independence.

(d) Ensure that families pursue other sources of support available to them.

(3) The family independence agency shall establish income and asset levels for eligibility, types of income and assets to be considered in making eligibility determinations, payment standards, composition of the program group and the family independence assistance group, program budgeting and accounting methods, and client reporting requirements to meet the following goals:

(a) Efficient, fair, cost-effective administration of the family independence program.

(b) Provision of family independence assistance to families willing to work toward eventual self-sufficiency.

(4) Not later than October 1, 2001, the family independence agency shall implement an automated finger imaging system designed to prevent an individual from receiving cash assistance, food stamps, or both under more than 1 name. Beginning at the effective date of the establishment and implementation of the finger imaging system, an individual applying for cash assistance, food stamps, or both must provide the family independence agency with an automated finger image or images as a condition of eligibility. Finger imaging obtained pursuant to this subsection shall be used only for the purposes of reducing fraud in obtaining public benefits or assistance under this act.

(5) The family independence agency shall establish the automated finger image system that, at a minimum, includes the following:

(a) Confidentiality of the automated finger image records taken pursuant to this section.

(b) A system for administrative appeal of a matter relating to the taking or verification of an individual's automated finger image.

(c) A requirement to exempt children from providing the automated finger image unless there is a reasonable suspicion that the family group is committing fraud. For the purpose of this subdivision, “family group” means a family and all those individuals living with a family who apply for or receive cash assistance, food stamps, or both.

(d) A requirement to exempt individuals from whom the automated finger image technology is unable to obtain an accurate finger image.

(e) A requirement to exempt patients placed in nursing homes from providing the automated finger image.

(f) In addition to the population groups named in subdivisions (c), (d), and (e), authority to exempt certain other population groups from providing the automated finger image including, but not limited to, homebound recipients.

(6) The family independence agency shall remove an individual's finger image from the department's file if the individual has not received benefits or assistance from the family independence agency within the previous 12 months.

(7) The family independence agency may negotiate and enter into a compact or reciprocal agreement with another state department, the federal government, an agency of the federal government, or an agency of another state for the purpose of implementing and administering the finger imaging provisions of this section as long as the compact or reciprocal agreement is not inconsistent with the limitations of use and access contained in subsection (4).

(8) The family independence agency shall conduct semi-annual security reviews to monitor the automated finger imaging system to insure that all of the following occur:

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(a) All records maintained as part of the system are accurate and complete.

(b) Effective software and hardware designs have been instituted with security features to prevent unauthorized access to records.

(c) Access to record information is restricted to authorized personnel.

(d) System and operational programs are used that will prohibit inquiry, record updates, or destruction of records from a terminal other than automated finger imaging system terminals that are designated to permit inquiry, record updates, or destruction of records.

(e) System and operational programs are used to detect and report all unauthorized attempts to penetrate an automated finger imaging system, program, or file.

(9) Beginning December 31 of the first year the automated finger imaging system has been fully implemented, the family independence agency shall compile and report annually to the senate and house committees having jurisdiction over family independence agency matters the following information concerning the operation of the automated finger imaging system:

(a) An analysis of the costs and savings of the system including, but not limited to, administrative costs, operation costs, and actual savings due to confirmed fraud and fraud deterrence.

(b) The number of individuals who have applied for assistance under more than 1 name.

(c) The number of individuals refusing to provide a finger image and the reasons for the refusal.

(d) A detailed summary of the results of reviews required by subsection (8).

(10) Except as necessary to carry out a compact or agreement under subsection (7) or unless otherwise required by law, the family independence agency shall not sell, transfer, or release information identifying an individual named in the automated finger imaging system record to a third person, including, but not limited to, another state department or agency.

(11) A person shall not disclose information from the automated finger imaging system record in a manner that is not authorized by law or rule. A violation of this subsection is a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(12) At the time an individual applies for cash assistance, food stamps, or both, the family independence agency shall inform the individual of all of the following:

(a) The requirement to allow the department to take a finger image from the individual.

(b) The fact that the finger image may be compared to the finger images of other benefit recipients to prevent duplicate participation.

(c) The fact that the department is prohibited by law from using the finger image for a different purpose.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 1999, Act 26, Eff. Mar. 10, 2000.

Popular name: Act 280

400.57b Family independence assistance; eligibility requirements generally; requirements applicable to minor parent and minor parent's child; recipient applying for supplemental security income and seeking exemption from work first program; evaluation and assessment process; audit.

Sec. 57b. (1) Subject to section 57*l*, an individual who meets all of the following requirements is eligible for family independence assistance:

(a) Is a member of a family or a family independence assistance group.

(b) Is a member of a program group whose income and assets are less than the income and asset limits set by the department.

(c) In the case of a minor parent, meets the requirements of subsection (2).

(d) Is a United States citizen, a permanent resident alien, or a refugee.

(e) Is a resident of this state as described in section 32.

(f) Meets any other eligibility criterion required for the receipt of federal or state funds or determined by the department to be necessary for the accomplishment of the goals of the family independence program.

(2) A minor parent and the minor parent's child shall not receive family independence assistance unless they live in an adult-supervised household. The family independence assistance shall be paid on behalf of the minor parent and child to an adult in the adult-supervised household. Child care in conjunction with participation in education, employment readiness, training, or employment programs, which have been approved by the department, shall be provided for the minor parent's child. The minor parent and child shall live with the minor parent's parent, stepparent, or legal guardian unless the department determines that there is good cause for not requiring the minor parent and child to live with a parent, stepparent, or legal guardian. The department shall determine the circumstances that constitute good cause, based on a parent's, stepparent's, or guardian's unavailability or unwillingness or based on a reasonable belief that there is physical, sexual, or

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substance abuse, or domestic violence, occurring in the household, or that there is other risk to the physical or emotional health or safety of the minor parent or child. If the department determines that there is good cause for not requiring a minor parent to live with a parent, stepparent, or legal guardian, the minor parent and child shall live in another adult-supervised household. A local office director may waive the requirement set forth in this subsection with respect to a minor parent who is at least 17 years of age, attending secondary school full-time, and participating in a department service plan or a teen parenting program, if moving would require the minor parent to change schools.

(3) Beginning December 31, 2006, if a recipient who is otherwise eligible for family independence assistance under this section is currently applying for supplemental security income and seeking exemption from the work first program, the recipient shall be evaluated and assessed as provided in this section before a family self-sufficiency plan is developed under section 57e. Based on a report resulting from the evaluation and assessment, the caseworker shall make a determination and referral as follows:

(a) A determination that the recipient is eligible to participate in work first and a referral to the work first program.

(b) A determination that the recipient is exempt from work first participation under section 57f and a referral to a sheltered work environment or subsidized employment.

(c) A determination that the recipient is exempt from work first participation under section 57f and a referral to a legal services organization for supplemental security income advocacy.

(4) The department may contract with a legal services organization to assist recipients with the process for applying for supplemental security income. The department may also contract with a nonprofit rehabilitation organization to perform the evaluation and assessment described under subsection (3). If the department contracts with either a nonprofit legal or rehabilitation services organization, uniform contracts shall be used statewide that include, but are not limited to, uniform rates and performance measures.

(5) The auditor general shall conduct an annual audit of the evaluation and assessment process required under this section and submit a report of his or her findings to the legislature.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 1999, Act 9, Eff. Mar. 10, 2000;—Am. 2006, Act 468, Imd. Eff. Dec. 20, 2006.

Popular name: Act 451

400.57c Application for assistance by minor parent; duties of family independence agency.

Sec. 57c. If a minor parent applies for family independence assistance, the family independence agency shall do all of the following:

(a) Inform the minor parent of the eligibility requirements of section 57b(2) and the circumstances under which there is good cause for permitting the minor parent to live in an adult-supervised household other than the home of his or her parent or legal guardian.

(b) Complete a home visit and other appropriate investigation before requiring a minor parent to live with his or her parent, stepparent, or legal guardian.

(c) If applicable, assist the minor parent to find an adult-supervised household in which to live.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

400.57d Conduct weekly orientation sessions; development of family self-sufficiency plan; compliance required; penalties; reassessment of recipient's eligibility.

Sec. 57d. (1) The department and the department of labor and economic growth shall conduct weekly orientation sessions for family independence assistance applicants. After the department makes an initial determination that an adult or a child aged 16 or older who is not attending elementary or secondary school full-time may be eligible for family independence assistance and is not exempt from work first participation under section 57f, that individual shall participate in assigned work-related activities. The individual, the department, and a work first representative shall develop the family's family self-sufficiency plan in accordance with section 57e.

(2) If an applicant who is not exempt from work first participation under section 57f fails to cooperate with work first or other required employment and training activities, the family is ineligible for family independence assistance.

(3) The department shall impose penalties under section 57g if a recipient fails to comply with any of the following:

(a) Work first activities.

(b) Employment and training activities.

(c) Child support requirements.

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(4) The department shall impose penalties under section 57g if the individual fails to comply with the individual's family self-sufficiency plan's requirements.

(5) If the individual is complying with the family self-sufficiency plan, the department, a work first representative, and the recipient shall revise the family self-sufficiency plan if necessary and the family independence assistance group shall continue to receive family independence assistance so long as the recipients meet family independence assistance program requirements.

(6) The department shall reassess the recipient's eligibility for family independence assistance not later than 24 months after the date the application for family independence assistance was approved. At the time of a reassessment under this subsection, the recipient shall meet with his or her department caseworker and work first program caseworker and redevelop the family self-sufficiency plan.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 2001, Act 280, Eff. Mar. 22, 2002;—Am. 2005, Act 323, Imd. Eff. Dec. 27, 2005;—Am. 2007, Act 9, Imd. Eff. May 18, 2007.

Popular name: Act 280

400.57e Family self-sufficiency plan; execution; development; contents; identification of goals; monitoring compliance with plan.

Sec. 57e. (1) Each family receiving family independence assistance shall execute a family self-sufficiency plan outlining the responsibilities of members of the family independence program assistance group, the contractual nature of family independence program assistance, and the focus on the goal of attaining self-sufficiency. The family self-sufficiency plan shall be developed by the department and the adult family members of the family independence assistance program group with the details of work first participation to be included in the family self-sufficiency plan being developed by the department, the department of labor and economic growth, and the adult family members of the family independence assistance program group. Except as described in section 57b, the department shall complete a thorough assessment to facilitate development of the family self-sufficiency plan, including consideration of referral to a life skills program, and determination as to 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 under section 57f. The family self-sufficiency plan shall identify compliance goals that are to be met by members of the family independence assistance program group and goals and responsibilities of the members of the family independence assistance program group, the department, and the work first program. The family self-sufficiency plan shall reflect the individual needs and abilities of the particular family, and shall include at least all of the following:

(a) The obligation of each adult and each child aged 16 or older who is not attending elementary or secondary school full-time to participate in the work first program unless exempt under section 57f.

(b) The obligation of each minor parent who has not completed secondary school to attend school.

(c) Except as provided in section 57f(3), 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 department.

(d) The obligation to cooperate in the establishment of paternity and the procurement of child support, if applicable.

(e) The obligation of a recipient who fails to comply with compliance goals due to substance abuse to participate in substance abuse treatment and submit to any periodic drug testing required by the treatment program.

(f) If the recipient is determined to be eligible to participate in the work first program, the obligation that the requirements of the family self-sufficiency plan must, at a minimum, meet federal guidelines for work participation. Exceptions may be granted if it is determined that the recipient or a family member in the recipient's household has a disability that needs reasonable accommodation as required by section 504 of title V of the rehabilitation act of 1973, 29 USC 794, subtitle A of title II of the Americans with disabilities act of 1990, 42 USC 12131 to 12134, 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 the identified limitations into account.

(g) The obligation that the recipient must enroll in a GED preparation program, a high school completion program, or a literacy training program, if the department determines the resources are available and the assessment and plan demonstrate that these issues present a barrier to the recipient meeting the requirements in his or her family self-sufficiency plan. This basic educational skills training shall be combined with other occupational skills training, whenever possible, to assure that it can be counted toward federal work participation requirements.

(h) Any other obligation the department determines is necessary to enable the family to achieve

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independence.

(2) The department shall monitor each family's compliance with the family self-sufficiency plan.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 2001, Act 280, Eff. Mar. 22, 2002;—Am. 2006, Act 469, Imd. Eff. Dec. 20, 2006.

Popular name: Act 280

****** 400.57f SUBDIVISIONS (3)(c), (e), AND (f) DO NOT APPLY AFTER MARCH 31, 2007: See MCL 400.14i ******

****** ***** 400.57f THIS SECTION DOES NOT APPLY AFTER SEPTEMBER 30, 2011: See subsection (7) of this section ***** ******

400.57f Agreement with department of labor and economic growth; participation in work first program; exemptions; temporary exemptions; disabled individual; rules; section inapplicable after September 30, 2011.

Sec. 57f. (1) The department shall enter into an agreement with the department of labor and economic growth to facilitate the administration of work first. The department shall make information on the program available to the legislature.

(2) Except as provided in section 57b, at the time the department determines that an individual is eligible to receive family independence assistance under this act, the department shall determine whether that individual is eligible to participate in the work first program or if the individual is exempt from work first participation under this section. The particular activities in which the recipient is required or authorized to participate, the number of hours of work required, and other details of work first shall be developed by the department and the department of labor and economic growth and shall be set forth in the recipient's family self-sufficiency plan. If a recipient has cooperated with work first, the recipient may enroll in a program approved by the local workforce development board. Any and all training or education with the exception of high school completion, GED preparation, and literacy training must be occupationally relevant and in demand in the labor market as determined by the local workforce development board and may be no more than 2 years in duration. Participants must make satisfactory progress while in training or education.

(3) The following individuals are exempt from participation in work first:

(a) A child under the age of 16.

(b) A child aged 16 or older, or a minor parent, who is attending elementary or secondary school full-time.

(c) The parent of a child under the age of 3 months. The family independence agency may require a parent exempted from participation in work first under this subdivision to participate in family services, including, but not limited to, instruction in parenting, nutrition, and child development beginning 6 weeks after the birth of his or her child until the child is 3 months old as fulfillment of that parent's social contract obligation under section 57e(1)(c).

(d) An individual aged 65 or older.

(e) A recipient of supplemental security income.

(f) An individual who meets 1 or more of the following criteria to the extent that the individual, based on medical evidence and an assessment of need by the department, is severely restricted in his or her ability to participate in employment or training activities:

(*i*) A recipient of social security disability, or medical assistance due to disability or blindness.

(*ii*) An individual suffering from a physical or mental impairment that meets federal supplemental security income disability standards, except that no minimum duration is required.

(*iii*) The spouse of an individual described in subparagraph (*i*) or (*ii*) who is the full-time caregiver of that individual.

(*iv*) A parent or caretaker of a child who is suffering from a physical or mental impairment that meets the federal supplemental security income disability standards, except that no minimum duration is required.

(g) Beginning April 1, 2007, the parent of a child under the age of 3 months. The department may require a parent exempted from participation in work first under this subdivision to participate in family services, including, but not limited to, instruction in parenting, nutrition, and child development beginning 6 weeks after the birth of his or her child until the child is 3 months old as fulfillment of that recipient's family self-sufficiency plan obligation under section 57e(1)(c).

(h) Beginning April 1, 2007, a recipient of supplemental security income.

(i) Beginning April 1, 2007, an individual who meets 1 or more of the following criteria to the extent that the individual, based on medical evidence and an assessment of need by the department, is severely restricted in his or her ability to participate in employment or training activities:

(*i*) A recipient of social security disability, or medical assistance due to disability or blindness.

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(*ii*) An individual suffering from a physical or mental impairment that meets federal supplemental security income disability standards, except that no minimum duration is required.

(*iii*) The spouse of an individual described in subparagraph (*i*) or (*ii*) who is the full-time caregiver of that individual.

(*iv*) A parent or caretaker of a child who is suffering from a physical or mental impairment that meets the federal supplemental security income disability standards, except that no minimum duration is required.

(*v*) An individual with low intellectual capacity or learning disabilities that impede comprehension and prevent success in acquiring basic reading, writing, and math skills, including, but not limited to, an individual with an intelligence quotient less than 80.

(*vi*) An individual with documented chronic mental health problems that cannot be controlled through treatment or medication.

(*vii*) An individual with physical limitations on his or her ability to perform routine manual labor tasks, including, but not limited to, bending or lifting, combined with intellectual capacity or learning disabilities.

(4) In addition to those individuals exempt under subsection (3), the department may grant a temporary exemption from participation in work first, not to exceed 90 days, to an individual who is suffering from a documented short-term mental or physical illness, limitation, or disability that severely restricts his or her ability to participate in employment or training activities. An individual with a documented mental or physical illness, limitation, or disability that does not severely restrict his or her ability to participate in employment or training activities shall be required to participate in work first at a medically permissible level.

(5) An individual is not disabled for purposes of this section if substance abuse is a contributing factor material to the determination of disability.

(6) The department may promulgate rules in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, identifying exemptions under this section. The director of the department may grant exemptions for extenuating circumstances beyond the exemptions provided for in this section. The department shall annually provide to the legislature, at the same time as the governor's departmental budget proposal, a report of the number of exemptions issued under this section and the individual reason for those exemptions.

(7) This section does not apply after September 30, 2011.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 2001, Act 280, Eff. Mar. 22, 2002;—Am. 2006, Act 468, Imd. Eff. Dec. 20, 2006.

Compiler's note: For transfer of certain powers and duties vested in the department of career development or its director, relating to powers and duties of state board of education or superintendent of public instruction to the department of labor and economic growth, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 280

****** 400.57g This section does not apply after September 30, 2011: See subsection (17) ******

400.57g Failure to comply with rules or provisions; penalties; “noncompliance” defined; termination; "willingness to comply" defined; report; applicability of subsections (1) to (8); applicability of subsections (10) to (15); penalties after April 1, 2007; notice; good cause defined; notification; meeting; termination of benefits; section inapplicable after September 30, 2011.

Sec. 57g. (1) The department shall develop a system of penalties to be imposed if a recipient fails to comply with applicable rules or the provisions of this section. Penalties may be cumulative and may include reduction of the grant, removal of an individual from the family independence assistance group, and termination of assistance to the family.

(2) A penalty shall not be imposed if the recipient has demonstrated that there was good cause for failing to comply. The department shall determine the circumstances that constitute good cause based on factors that are beyond the control of a recipient.

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

(4) The system of penalties developed under subsection (1) shall include both of the following:

(a) Family independence program benefits shall be terminated if a recipient fails, without good cause, to comply with applicable child support requirements including efforts to establish paternity and obtain child support. The assistance group is ineligible for family independence program assistance for not less than 1 calendar month. After assistance has been terminated for not less than 1 calendar month, assistance may be restored if the noncompliant recipient complies with child support requirements including the action to

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establish paternity and obtain child support.

(b) If good cause is not determined to exist, assistance shall be terminated. After termination, the assistance group is ineligible for family independence program assistance for not less than 1 calendar month.

(5) For the purposes of subsections (1) to (8), "noncompliance" means 1 or more of the following:

(a) A recipient quits a job.

(b) A recipient is fired for misconduct or for absenteeism without good cause.

(c) A recipient voluntarily reduces the hours of employment or otherwise reduces earnings.

(d) A recipient does not participate in work first activities.

(6) If a recipient does not meet the recipient's individual social contract requirements, the department may impose a penalty.

(7) After termination for noncompliance, the assistance group is ineligible for family independence program assistance for not less than 1 calendar month. After assistance has been terminated for not less than 1 calendar month, family independence program assistance may be approved if the recipient completes a willingness to comply test. For purposes of this section, "willingness to comply" means participating in work first or other self-sufficiency activities for up to 40 hours within 10 working days. At the time any penalty is imposed under this section, the department shall provide the recipient written notice of his or her option to immediately reapply for family independence program benefits and that he or she may complete a "willingness to comply test" during the penalty period.

(8) The department shall submit a report for the period between February 1, 2002 and December 31, 2002 to the legislature, the house and senate fiscal agencies, and the appropriate house and senate standing committees that handle family and children's issues, that contains all of the following information for that time period:

(a) The number of sanctions imposed and reapplications made.

(b) The number of family independence program cases reopened.

(c) The number of referrals to emergency shelters by the department.

(d) The number of sanctions imposed on families with at least 1 disabled parent.

(e) The number of sanctions imposed on families with disabled children.

(9) Subsections (1) to (8) do not apply after March 31, 2007. Subsections (10) to (15) apply beginning April 1, 2007.

(10) Beginning April 1, 2007, if a recipient does not meet his or her individual family self-sufficiency plan requirements and is therefore noncompliant, the department shall impose the penalties described under this section. The department shall implement a schedule of penalties for instances of noncompliance as described in this subsection. The penalties shall be as follows:

(a) For the first instance of noncompliance, the family is ineligible to receive family independence program assistance for not less than 3 calendar months.

(b) For the second instance of noncompliance, the family is ineligible to receive family independence program assistance for not less than 3 calendar months.

(c) For the third instance of noncompliance, the family is ineligible to receive family independence program assistance for 12 calendar months.

(11) For the purposes of subsections (10) to (16), "noncompliance" means 1 or more of the following:

(a) A recipient quits a job.

(b) A recipient is fired for misconduct or absenteeism.

(c) A recipient does not participate in work first activities.

(d) A recipient is noncompliant with his or her family self-sufficiency plan.

(12) For any instance of noncompliance, the recipient shall receive not less than 12 days' notice before the penalties prescribed in this section are imposed. If the recipient demonstrates good cause for the noncompliance during this period and if the family independence specialist caseworker and the work first program caseworker agree that good cause exists for the recipient's noncompliance, a penalty shall not be imposed. For the purpose of this subsection, good cause is 1 or more of the following:

(a) The recipient suffers from a temporary debilitating illness or injury or an immediate family member has a debilitating illness or injury and the recipient is needed in the home to care for the family member.

(b) The recipient lacks child care as described in section 407(e)(2) of the personal responsibility and work opportunity reconciliation act of 1996, Public Law 104-193, 42 USC 607(e)(2).

(c) Either employment or training commuting time is more than 2 hours per day or is more than 3 hours per day when there are unique and compelling circumstances, such as a salary at least twice the applicable minimum wage or the job is the only available job placement within a 3-hour commute per day, not including the time necessary to transport a child to child care facilities.

(d) Transportation is not available to the recipient at a reasonable cost.

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(e) The employment or participation involves illegal activities.

(f) The recipient is physically or mentally unfit to perform the job, as documented by medical evidence or by reliable information from other sources.

(g) The recipient is illegally discriminated against on the basis of age, race, disability, gender, color, national origin, or religious beliefs.

(h) Credible information or evidence establishes 1 or more unplanned or unexpected events or factors that reasonably could be expected to prevent, or significantly interfere with, the recipient's compliance with employment and training requirements.

(i) The recipient quit employment to obtain comparable employment.

(13) For all instances of noncompliance resulting in termination of family independence assistance for any period of time described in subsection (10), the period of time the recipient is ineligible to receive family independence program assistance applies toward the recipient's 48-month cumulative lifetime total.

(14) Beginning April 1, 2007, for the first instance that a family independence specialist caseworker determines a recipient to be noncompliant, all of the following shall occur:

(a) The department shall notify the recipient in writing within 3 business days of determining that the recipient is noncompliant. The notification shall include all of the following:

(*i*) The reason the recipient has been determined to be noncompliant.

(*ii*) The penalty that will be imposed for the noncompliance.

(*iii*) An opportunity for the recipient to meet in person with the family independence specialist caseworker within 10 business days of the determination that the recipient is noncompliant.

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

(c) If the recipient fails to meet with the family independence specialist caseworker within 10 business days of the determination that the recipient is noncompliant, the recipient is subject to the provisions of subsection (10)(a).

(d) If the recipient fails to verify compliance under subdivision (b), the recipient is subject to the provisions of subsection (10)(a).

(15) The meeting described in subsection (14) is only available for the first time a family independence specialist caseworker determines the recipient to be noncompliant regardless of whether that recipient becomes subject to the provisions of subsection (10)(a).

(16) Family independence program benefits shall be terminated if a recipient fails, without good cause, to comply with applicable child support requirements including efforts to establish paternity and obtain child support. The assistance group is ineligible for family independence program assistance for not less than 1 calendar month. After assistance has been terminated for not less than 1 calendar month, assistance may be restored if the noncompliant recipient complies with child support requirements including the action to establish paternity and obtain child support.

(17) This section does not apply after September 30, 2011.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996;—Am. 2001, Act 280, Eff. Mar. 22, 2002;—Am. 2006, Act 468, Imd. Eff. Dec. 20, 2006;—Am. 2007, Act 9, Imd. Eff. May 18, 2007.

Popular name: Act 280

400.57h Direct payments to child care provider.

Sec. 57h. If the family independence agency determines that a recipient's failure to pay the child care provider from child care payments made to the recipient by the family independence agency constitutes money mismanagement, future child care payments shall be paid directly to the child care provider.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

400.57i Rent vendoring program; certification by landlord that requirements met; violation of housing code; termination of participation; eviction prohibited.

Sec. 57i. (1) If a landlord or provider of housing participates in the family independence agency rent vendoring program, the landlord shall certify that the dwelling unit being provided meets all of the following requirements:

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(a) The dwelling unit does not have a condition that would facilitate the spread of a communicable disease. As used in this subdivision, “communicable disease” means that term as defined in section 5101 of the public health code, 1978 PA 368, MCL 333.5101.

(b) The dwelling unit is fit for human habitation.

(c) The dwelling unit is not dangerous to life or health due to lack of repair of, a defect in, or the construction of a drainage source or device, plumbing, lighting, ventilation, or a heating source or device.

(2) If the family independence agency is notified by an enforcing agency that a landlord or provider of housing has a violation of a housing code that constitutes a hazard to the health or safety of the occupants, the family independence agency shall terminate that landlord's or provider's participation in the rent vendoring program for the dwelling unit until the violation is corrected.

(3) A landlord or provider of housing shall not evict an occupant from a dwelling unit based solely on termination of the landlord's or provider's participation in the rent vendoring program due to action taken by the family independence agency under subsection (2). An occupant who is evicted in violation of this subsection may bring an action in any court having jurisdiction to recover treble damages, costs of the action, and reasonable attorney fees.

History: Add. 2000, Act 478, Imd. Eff. Jan. 11, 2001.

Popular name: Act 280

400.57k Individual development account for postsecondary education, business capitalization, or first-time home purchase; definitions.

Sec. 57k. (1) The department shall operate a program allowing an individual eligible for family independence assistance to establish an individual development account for postsecondary education, business capitalization, or a first-time home purchase in accordance with this section. The department shall disregard all savings deposited, including accrued interest, in an individual development account and individual or family development account in determining the individual's eligibility for family independence assistance and the amount of the grant the individual receives.

(2) An individual who is eligible to receive family independence assistance, or another person on behalf of that individual, may establish an individual development account for the purpose of accumulating funds for a qualified purpose described in subsection (3). An individual shall only contribute money to the individual development account that is derived from earned income, as that term is defined in section 911(d)(2) of the internal revenue code. The individual shall withdraw money from the individual development account only for a qualified purpose described in subsection (3).

(3) An individual who has established an individual development account under this section may withdraw and expend funds from the individual development account only for payment toward postsecondary education or business capitalization, or for payment of qualified acquisition costs with respect to a qualified principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the qualified acquisition costs are due.

(4) The department shall operate the program authorized by this section in coordination with the individual or family development account program of the Michigan state housing development authority established under the individual or family development account program act.

(5) As used in this section:

(a) "Date of acquisition" means the date on which a qualified first-time homebuyer enters into a binding contract to acquire, construct, or reconstruct the qualified first-time homebuyer's principal residence.

(b) "Individual development account" means a trust created or organized in the United States that is funded through periodic contributions by the establishing individual in accordance with this section and that may be matched by or through a qualified entity for a qualified purpose described in subsection (3).

(c) "Individual or family development account" means that term as defined in the individual or family development account program act.

(d) "Qualified acquisition costs" means the costs of acquiring, constructing, or reconstructing a qualified principal residence. The term includes any usual or reasonable settlement, financing, or other closing costs.

(e) "Qualified entity" means either of the following:

(*i*) A not-for-profit organization described in section 501(c)(3) of the internal revenue code and exempt from taxation under section 501(a) of the internal revenue code.

(*ii*) A state or local governmental agency acting in cooperation with an organization described in subparagraph (*i*).

(f) "Qualified first-time homebuyer" means a taxpayer and, if married, the taxpayer's spouse who has no present ownership interest in a principal residence during the 3-year period ending on the date of acquisition of the qualified principal residence to which this section applies.

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(g) "Qualified principal residence" means a principal residence within the meaning of former section 1034 of the internal revenue code, the qualified acquisition costs of which do not exceed 100% of the average area purchase price applicable to that residence, determined in accordance with paragraphs (2) and (3) of section 143(e) of the internal revenue code.

History: Add. 1998, Act 361, Imd. Eff. Oct. 20, 1998;—Am. 2004, Act 445, Imd. Eff. Dec. 27, 2004;—Am. 2006, Act 512, Imd. Eff. Dec. 29, 2006.

Popular name: Act 280

400.57*l* Assistance eligibility; substance abuse testing as condition; pilot program; statewide implementation; positive test; retest; noncompliance; penalty; exemption; notice of test implementation; report; applicability to individual 65 years or older.

Sec. 57*l*. (1) Subject to subsection (2), the family independence agency may require substance abuse testing as a condition for family independence assistance eligibility under this act.

(2) The family independence agency shall implement a pilot program of substance abuse testing as a condition for family independence assistance eligibility in at least 3 counties, including random substance abuse testing. It is the intent of the legislature that a statewide program of substance abuse testing of family independence assistance recipients, including random substance abuse testing, be implemented before April 1, 2003. However, statewide implementation of the substance abuse testing program shall not begin until all of the following have been completed:

(a) The pilot programs have first been evaluated by the department and the evaluation has been submitted to the legislature.

(b) The evaluation under subdivision (a) includes at least the factors enumerated in subsection (5)(a) through (d) as well as an analysis of the pilot program.

(c) Six months have passed since the evaluation required in subdivision (a) has been submitted to the legislature.

(3) An individual described in section 57b shall not be considered to have tested positive for substance abuse until the sample has been retested to rule out a false positive by gas chromatography with mass spectrometry, gas chromatography, high performance liquid chromatography, or an equally, or more, specific test using the same sample obtained for the original test. An individual described in section 57b who tests positive for substance abuse under this section shall agree to and participate in substance abuse assessment and comply with a required substance abuse treatment plan. Failure to comply with a substance abuse assessment or treatment plan shall be penalized in the same manner as a work first program violation imposed under section 57d or 57g. An individual is exempt from substance abuse testing authorized by this section if the individual is participating in a substance abuse rehabilitation program that the individual was ordered to participate in by a circuit court that has established procedures to expedite the closing of criminal cases involving a crime established under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461.

(4) Before implementing substance abuse testing under this section, the family independence agency shall notify the senate and house of representatives standing committees having jurisdiction over this act and the senate and house of representatives appropriations subcommittees having jurisdiction over the family independence agency budget of the planned implementation.

(5) If the family independence agency implements substance abuse testing as authorized and required by this section, the family independence agency shall submit an annual report on the testing program to the senate and house of representatives standing committees having jurisdiction over this act and the senate and house of representatives appropriations subcommittees having jurisdiction over the family independence agency budget. The annual report shall include at least all of the following information for the preceding year:

(a) The number of individuals tested, the substances tested for, the results of the testing, and the number of referrals for treatment.

(b) The costs of the testing and the resulting treatment.

(c) Sanctions, if any, that have been imposed on recipients as a result of the testing program.

(d) The percentage and number of households receiving family independence assistance that include an individual who has tested positive for substance abuse under the program and that also include an individual who has been named as a perpetrator in a case classified as a central registry case under the child protection law, 1975 PA 238, MCL 722.621 to 722.638.

(6) The substance abuse testing authorized and required by this section does not apply to an individual 65 years old or older.

History: Add. 1999, Act 17, Imd. Eff. Apr. 28, 1999.

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Popular name: Act 280

400.57o Determination of continued family independence assistance financial eligibility; increasing amount of disregarded earned income; study of impact and cost; report.

Sec. 57o. The department shall study the impact and cost of increasing the amount of earned income that is disregarded in determining a program group member's income for continued family independence assistance financial eligibility. The department shall prepare and provide to the senate and house appropriations committees, the senate and house appropriations subcommittees on the department of human services, the senate and house fiscal agencies, and the senate and house policy staff, by April 1, 2006, a written report of the department's findings from the study.

History: Add. 2005, Act 324, Imd. Eff. Dec. 27, 2005.

Popular name: Act 280

****** 400.57p THIS SECTION DOES NOT APPLY AFTER SEPTEMBER 30, 2011: See subsection (2) of this section ******

400.57p Family independence assistance; months counted toward cumulative total in lifetime; exceptions; section inapplicable after September 30, 2011.

Sec. 57p. (1) Beginning April 1, 2007, any month in which any of the following occur shall not be counted toward the cumulative total of 48 months in a lifetime for family independence assistance:

(a) The recipient has been temporarily exempted from work first under section 57f(3)(g) and (4).

(b) The recipient is employed and meeting the requirements of his or her family self-sufficiency plan.

(c) The unemployment rate in the county in which the recipient resides is 25% above the state average for unemployment.

(d) Compliance with certain family independence program requirements are waived under section 56i(1)(c).

(2) This section does not apply after September 30, 2011.

History: Add. 2006, Act 471, Imd. Eff. Dec. 20, 2006.

400.57q Earned income disregard; incremental increase; plan.

Sec. 57q. The department shall develop and implement a plan to incrementally increase the earned income disregard for family independence program recipients from $200.00 plus 20% to not more than 67% of earned income by September 30, 2010.

History: Add. 2006, Act 468, Imd. Eff. Dec. 20, 2006.

Popular name: Act 208

****** 400.57r This section does not apply after September 30, 2011: See subsection (2) ******

400.57r Family independence assistance benefits; extension; section inapplicable after September 30, 2011.

Sec. 57r. (1) Beginning October 1, 2007, if the department determines that an individual is eligible to participate in the work first program and resides in a county in which a jobs, education and training (JET) program is available, family independence assistance shall be paid to that individual for not longer than a cumulative total of 48 months during that individual's lifetime. If the recipient is meeting all the requirements outlined in his or her family self-sufficiency plan, has not received more than 2 penalties under section 57g after October 1, 2007, has not received any penalties under section 57g in the preceding 12 months, and labor market conditions or employment barriers prevent employment placement, the recipient may apply to the department for an extension of family independence assistance benefits for a period not to exceed 12 months over the 48-month cumulative lifetime total. Nothing in this subsection prevents the department from providing assistance to individuals who are determined to be exempt from work first participation under section 57f.

(2) This section does not apply after September 30, 2011.

History: Add. 2006, Act 468, Imd. Eff. Dec. 20, 2006;—Am. 2007, Act 9, Imd. Eff. May 18, 2007.

Popular name: Act 208

400.57s Payment of $10.00 per month for 6 months to certain individuals.

Sec. 57s. The department shall pay $10.00 per month for 6 months to individuals who leave family independence programs due to no longer meeting the financial eligibility criteria based on earned income, if those individuals continue to meet the federal guidelines for work participation.

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History: Add. 2006, Act 471, Imd. Eff. Dec. 20, 2006.

400.57t Jobs, education and training (JET) program; implementation.

Sec. 57t. The department shall implement the jobs, education and training (JET) program statewide by September 30, 2007.

History: Add. 2006, Act 468, Imd. Eff. Dec. 20, 2006.

Popular name: Act 208

400.57u Reports.

Sec. 57u. (1) The department shall provide a report of exemptions under section 57f by district office and by criteria.

(2) The department shall provide a report by district office on the number of sanctions issued, the number of compliance exceptions granted, and the success rate of recipients given the compliance exception under section 57g.

(3) The department shall require district managers to track performance of caseworkers with regard to sanctions under section 57g.

(4) The department shall require reporting by county office on referrals to nonprofit rehabilitation organizations under section 57b and the following:

(a) Referrals pending less than 90 days.

(b) Referrals pending 90 to 180 days.

(c) Referrals pending 180 to 365 days.

(5) The department shall require a quarterly report on cases in which the recipient has applied for supplemental security income under section 57b as follows:

(a) The number of cases assessed.

(b) The number of cases referred to work first.

(c) The number of cases placed in subsidized employment.

(d) The number of cases referred to legal services advocacy programs and the number of cases granted supplemental security income.

(6) The department shall report the progress of the plan required under section 57q and its implementation progress annually by April 1.

(7) Except for the reporting requirement provided in subsection (6), all the reports required under this section shall be provided on a quarterly basis to all of the following:

(a) The senate and house standing committees dealing with appropriations for human services.

(b) The senate and house fiscal agencies.

(c) The majority leader of the senate and the speaker of the house of representatives.

History: Add. 2006, Act 468, Imd. Eff. Dec. 20, 2006.

Popular name: Act 208

400.58 County medical care facility; program of care and treatment; medical treatment and nursing care; special treatment; building; review of proposals and plans; inspection; enforcement.

Sec. 58. (1) A county board may, with the approval of the county board of commissioners, supervise and be responsible for the operation of a county medical care facility in, auxiliary to, or independent of the county infirmary. If a county has a board of county institutions, a county medical care facility shall be supervised and operated by the board of county institutions, and all references in this section to the county board means, for that county, the board of county institutions. The county board in a county that has established a county medical care facility may collect from any available source for the cost of care given in the facility and the collections shall be deposited in the social welfare fund created under section 73a. The facility shall provide a program of planned and continuing medical treatment and nursing care under the general direction and supervision of a licensed physician employed full or part-time who shall be known as the medical director.

(2) Medical treatment and nursing care provided in a county medical care facility shall consist of services given to persons suffering from prolonged illness, defect, infirmity, or senility, or recovering from injury or illness. The services provided shall include some or all of the procedures commonly employed, such as physical examination, diagnosis, minor surgical treatment, administration of medicines, providing special diets, giving bedside care, and carrying out any required treatment prescribed by a licensed physician that are within the ability of the facility to provide.

(3) Services provided in a county medical care facility shall be consistent with the needs of the type of patient admitted and cared for, professionally supervised and planned, and provided on a continuing basis. A

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person shall not be admitted or retained for care if he or she requires special medical or surgical treatment or treatment for a psychosis, tuberculosis, or contagious disease, except that the facility may contain a supervised psychiatric ward for the temporary detention of mentally ill patients if the ward has been inspected and approved by the department of community health and certified by the department of community health to the county board, and if no other facility for temporary detention of mentally ill patients exists in the county. A county department may provide for the support of poor persons who may be feeble-minded or mentally ill at some other place or places and in a manner that best promotes the interests of the county and the comfort and recovery of such persons, at the expense of the county.

(4) A county board, in seeking approval to establish, extend, and operate a county medical care facility in an existing building, shall apply in writing to the department. The county board shall include with the application a proposed plan with specifications, including standards of operation, for the examination and recommendations of the department.

(5) A county board of commissioners may determine to erect a county infirmary or county medical care facilities for the reception and care of the poor and unfortunate of the county. The county medical care facilities may be on different sites than the county infirmary. On filing the determination with the county clerk, the county board of commissioners may direct the county board to purchase 1 or more tracts of land, not exceeding 320 acres, and to erect on the land 1 or more suitable buildings for the county infirmary or county medical care facilities. Before any county infirmary or county medical care facility is erected or any existing buildings are remodeled, added to, or substantially altered under this section, before plans for the county infirmary or county medical care facilities are finally accepted, and before any contract is entered into for construction, the plans shall be submitted to the department for examination and approval. The determination reached shall be certified to the county clerk and presented to the county board of commissioners at the next regular meeting of the county board of commissioners. A county infirmary or county medical care facility shall not be constructed unless the plans have been certified under this subsection. A contract for the erection of a county infirmary or county medical care facility is not valid or binding unless the plans referred to in the contract and actually followed in the construction have been approved. Money shall not be paid from county funds for construction until the plans have been approved and the determination filed.

(6) The department shall review the proposals and plans of a county board submitted in connection with an application for the establishment, extension, and operation of a county medical care facility or county infirmary and shall consult with and give advice to the county department as to plans, procedures, and programs required for the proper establishment, extension, and operation of the county medical care facility or county infirmary.

(7) The department shall approve the county medical care facilities by proper notice to the county department. After approval, the department shall inspect the facility as frequently as it considers necessary, but at least once each year. A county department shall comply with any reasonable order issued by the department. The county department may appeal an order in writing, within 30 days of receiving the order, to the director of the department.

(8) Any reasonable order of the department for the establishment, extension, operation, or closing of a county infirmary or county medical care facility may be enforced by mandamus or injunction in the circuit court for the county where the facility is located in proceedings instituted by the attorney general on behalf of the department.

(9) A county medical care facility shall not be opened for operation until it has been inspected and approved in writing to the department by the bureau of fire services created in section 1b of the fire protection code, 1941 PA 207, MCL 29.1b, and the department of community health. The county department shall comply with any reasonable directive issued by the bureau of fire services or the department of community health with regard to the fire safety and sanitation of the county infirmary or county medical care facility. A directive may be enforced by the department in the same manner as are orders of the department. After receiving the approval of the department, the county department shall represent the facility to the public as the county medical care facility and shall make reasonable and continuing effort to divorce the facility from an association in the public mind with the words "poor house" or "poor farm".

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.58;—Am. 1954, Act 125, Eff. Aug. 13, 1954;—Am. 1957, Act 170, Eff. Sept. 27, 1957;—Am. 2006, Act 200, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Popular name: Act 280

400.58a County medical care facility; admittance.

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Sec. 58a. Only those persons may be admitted to the county medical care facility who require the individualized medical care, treatment and supervision provided by the facility and who do not require major surgery, treatment for psychosis, treatment for tuberculosis, contagious disease or other specialized hospital care. The facility is designed to care especially for persons, otherwise eligible for admission, who are 65 years of age or older, including persons who evidence the general manifestations of senility without the presence of a psychosis and the need of treatment therefor; or who, being of lesser age, are blind, chronically ill or disabled: Provided, That the provisions of this amendatory act with respect to special medical or surgical treatment shall not apply to those counties where such medical or surgical treatment is being provided on the effective date of this act.

History: Add. 1954, Act 125, Eff. Aug. 13, 1954.

Popular name: Act 280

400.58b County medical care facility; eligibility for care; state aid recipient; admission of patients; state and federal aid for capital expenditures; special tax.

Sec. 58b. The state department in accordance with its rules and regulations may pay for medical care that a recipient of aid to the blind, aid to disabled, aid to dependent children, or old age assistance, receives in the county medical care facility. Other persons admitted to care in the facility shall be charged for the cost of their care to the extent of their financial ability as determined by the county department and such financial ability shall not preclude their eligibility for such care. Prior consideration shall be given to any person who comes within the definition of a "poor person" set forth in section 1 of chapter 1 of Act No. 146 of the Public Acts of 1925, as amended, being section 401.1 of the Compiled Laws of 1948. No poor persons as so defined shall be refused admittance to a county medical care facility if there are then within such county medical care facility persons who are not senile and who are paying the total cost of their care.

Any county department which shall accept state financial aid for capital expenditures related to the establishment, extension or improvement of its facilities shall accept for care any patient eligible for admission as provided in section 58a, and having a domicile in the county and any patient for whom care is requested by the state department because of being found in the county without either a known domicile in the state or a place of residence outside the state to which he may be returned.

Direct state financial aid to meet part of the cost of capital expenditures for the establishment, extension or improvement of a county medical care facility may be provided from the general funds of the state or from such federal funds as may be made available in the following manner: The county social welfare board with the approval of the county board of supervisors will make an application to the state department as otherwise provided in section 58 but shall make in addition, a showing of need, in the same manner as provided in section 18, that it is unable to meet all of the capital expenses of a county medical care facility. The state department shall determine the percentage of the total capital cost of the facility which the county will be unable to meet and shall request from the legislature an appropriation from the general fund of the state or such federal funds as may be made available for this purpose to meet this amount. Requests of the legislature from the state department for such appropriations shall be separate items for each medical care facility. The amount of state aid actually granted the county by the state department shall not exceed (1) the amount appropriated by the legislature in respect to the amount of the item in the budget, or (2) the percentage of state aid required as previously determined by the state department, whichever is the lesser.

To defray the cost of construction in the establishment or extension of the medical care facility, the board of supervisors may raise in any 1 year a sum not exceeding .1 mill of each dollar of assessed valuation of the county, such tax to be regarded as a special tax collected in the same manner as other county charges, and moneys received therefrom shall be transmitted to the treasurer of the county who shall deposit same in a special fund to be used solely for the purposes for which the tax is spread. Money expended for construction in the establishment or extension of the facility shall be paid out by the county treasurer on the order of the county social welfare board.

History: Add. 1954, Act 125, Eff. Aug. 13, 1954;—Am. 1957, Act 286, Imd. Eff. June 13, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961;—Am. 1965, Act 221, Imd. Eff. July 16, 1965;—Am. 1966, Act 228, Eff. Aug. 1, 1966.

Popular name: Act 280

400.58c County medical care facility; patients with contagious disease, isolation.

Sec. 58c. Notwithstanding any other provision of this act, patients suffering from contagious diseases may be admitted to any county medical care facility where the facility is constructed or operated with the approval of the state department of social welfare and is able to provide an isolated area for such care approved by the state health commissioner.

History: Add. 1961, Act 176, Eff. Sept. 8, 1961.

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Popular name: Act 280

400.59 Applications for aid, relief or assistance; forms, ascertainment of settlement, charge to county of domicile; temporary relief to persons with no settlement.

Sec. 59. All applications for aid, relief or assistance provided under this act shall be made to the county department of social welfare in such manner and upon such forms as may be prescribed by the state department. When any person applies for or requires public aid as a poor person under this act other than hospitalization or those forms of aid financed in whole or in part by federal funds, the county department shall ascertain the legal settlement and domicile of the person. The county department shall ascertain the settlement and domicile of other persons when requested by the county health department or by the state health commissioner. Except as otherwise provided in this act, general relief granted to persons with a legal settlement in this state may be charged to the county of domicile. The sending of notices, billings and appeals in respect to charges to the county of domicile, shall be made in accordance with regulations of the commission. Wherever in this act a chargeback or return to the county or city of "settlement" or "legal settlement" is authorized a chargeback or return to the county or city of "domicile" shall be deemed to be intended. Hospitals, jails, nursing homes, convalescent homes, homes for the aged and prisons are not places of domicile. General relief and hospitalization granted to persons who, while receiving assistance under this act, move into a county to receive care in a home for the aged, convalescent home or other institution shall be a charge against the county of their domicile just prior to the move regardless of other provisions of this act and even though domicile in the home for the aged or other institutions is intended. Temporary relief granted to persons with no settlement in this state shall be at the expense of the county where found. In the case of persons illegally brought or induced to come into the county, necessary relief shall be a charge against the county where they were living when transported or induced to move.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.59;—Am. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

Administrative rules: R 400.1 et seq. of the Michigan Administrative Code.

400.59a Return of person to county of residence; deportation to another nation; expense; reimbursement from county of residence.

Sec. 59a. The county or city department of social welfare, as part of its general relief program, may provide funds and necessary attendants for the return of a person to his place of residence as authorized in section 55, or to a new place of residence under the conditions of sections 59 or 59f. State or county funds shall not be used for the return of a person to another nation who may be deported under federal law.

If the probable place of legal settlement is in Michigan and the probable place of domicile is in some other county of this state, the county department where application for aid was made, within 60 calendar days following the application, shall give notice and necessary information in writing to the county department of the county of probable domicile on forms prescribed for that purpose by the state department. If it appears that domicile may lie in any 1 of 2 or more counties notices shall be sent to all such counties. If the notice is not given to the county of probable domicile within 60 days following the application for aid, the county granting relief to the applicant shall have no claim whatsoever irrespective of any other provisions of this act, for reimbursement for the relief granted the applicant prior to 60 calendar days preceding the date the notice is given to the county of probable domicile.

History: Add. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.59b Notification of county of residence; denial of settlement, notice.

Sec. 59b. Counties receiving notices shall acknowledge their receipt and within 60 calendar days thereafter shall make an investigation of the case and acknowledge that settlement lies in Michigan and domicile within the county or present to the county department granting relief detailed evidence, together with and supporting a denial of the settlement or domicile or both. If the county department receiving a denial is not satisfied with the evidence supporting it, appeal may be made to the director of the state department. If the notice of denial is not given to the county department granting relief within 60 calendar days after the county of probable domicile receives notice, the county department granting relief, irrespective of any other provisions of this act, shall be reimbursed by the county receiving the notice for all relief granted the applicant prior to the date the notice of denial is given. In the case of 2 or more counties having received notices under section 59a and none having acknowledged settlement and domicile, the failure to acknowledge may be treated as a denial for

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the purpose of an appeal to the director.

History: Add. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961.

Popular name: Act 280

400.59c Domicile and legal settlement cases; appeal, determination by state department.

Sec. 59c. Upon receiving an appeal, the director shall set a time and place for a hearing and designate an employee of the state department to serve as referee at the hearing. If the appealing county waives its right to a personal appearance at the hearing, the notice to the denying county shall so state and the denying county shall decide whether or not to do likewise. If it so decides, the designated referee shall advise the director of the department as to his findings in respect to settlement and domicile from written evidence submitted by the contending counties.

History: Add. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961.

Popular name: Act 280

400.59d Domicile and legal settlement cases; appeal; insufficient evidence.

Sec. 59d. The decision of the director may be in favor of either of the contending counties or that domicile lies in neither of the counties or that settlement does not lie in this state or that there is insufficient evidence on which to make a finding of settlement. The decision of the director shall be final. If the decision is that there is insufficient evidence for a determination, all the proceedings of both counties shall be set aside and the county granting relief may proceed anew as if no notice had been sent under sections 59a and 59b.

History: Add. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961.

Popular name: Act 280

400.59e Domicile and legal settlement cases; notices, evidence, bills for aid; rules and regulations.

Sec. 59e. The state department shall make suitable rules and regulations governing the sending and form of notices and evidence in domicile and legal settlement cases, and the sending of bills for aid granted as provided in section 68a of this act, to insure prompt and economical administration of the accounting for and collection of the aid granted. When settlement is found in this state and the county of domicile is finally determined by the director of the state department to be some county other than the initiating county, the county of domicile shall be charged for all aid granted in accordance with law by the county department where application was made during the 1 year preceding the date of determination.

History: Add. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961.

Popular name: Act 280

400.59f Joint plan for economic rehabilitation of aid recipient; removal from county of settlement.

Sec. 59f. The county department of the county of domicile or the county department granting aid may request joint planning with another county department if it appears to the requesting county that the person receiving aid should remove to or remain in the other county. The joint plan shall consider the relative possibilities of economic rehabilitation of the person in each of the 2 counties but if these appear approximately equal, the departments shall consult the wishes of the person. If, as the result of the joint planning, the 2 county departments determine that a person should be removed, the plan shall be presented to the person who will be informed that as soon as a suitable living arrangement can be made in the other county, he will be removed. If he declines to accept the plan, aid shall not be continued. He may re-apply for aid after 30 days.

History: Add. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961.

Popular name: Act 280

400.59g Joint plan for economic rehabilitation of aid recipient; disagreement, appeal to director.

Sec. 59g. (1) If the 2 counties concerned find themselves unable to agree on a joint plan, either may appeal to the director of the state department to make a determination of which plan is most in the public interest in the case. The director shall have the same power and shall proceed to act on such appeals in the same manner as on appeals under sections 59c, 59d and 59e of this act.

(2) If the plan so determined provides that the person shall continue to live in the county granting relief, the relief shall be granted at the expense of that county.

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History: Add. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961.

Popular name: Act 280

400.60 Fraudulent device to obtain relief; liability; misdemeanor; penalty; information to be provided by recipients.

Sec. 60. (1) Any person who by means of willful false statement or representation, by impersonation or other fraudulent device, or by using an access device obtains or attempts to obtain, or aids or abets any person to obtain or attempt to obtain, (a) assistance or relief to which the person is not entitled; or (b) a larger amount of assistance or relief than that to which the person is justly entitled; or any officer or employee of a county, city, or district family independence agency who authorizes or recommends relief to persons known to the officer or employee to be ineligible or to have fraudulently created their eligibility; or any person who knowingly buys or aids or abets in buying or in disposal of the property of a person receiving assistance or relief without the consent of the director or supervisor of the state department shall, if the amount involved shall be of the value of $500.00 or less, be deemed guilty of a misdemeanor and shall, if the amount involved shall be of the value of more than $500.00, be deemed guilty of a felony, and upon conviction shall be punished as provided by the laws of this state. The amount involved as used in this subsection shall be defined as the difference between the lawful amount of assistance or aid and the amount of assistance or aid actually received. If anyone receives assistance or relief through means enumerated in this section, in which prosecution is deemed unnecessary, the state department or county departments may take the necessary steps to recover from the recipient the amount involved, plus interest at 5% per annum. On conviction of the violation of the provisions of this section of any officer or employee of any county, city, or district department of social welfare, the officer or employee shall be removed or dismissed from office. For the purpose of this subsection, “access device” means that term as it is defined in section 300a of the Michigan penal code, 1931 PA 328, MCL 750.300a.

(2) There is imposed upon every person receiving relief under this act either upon the person's own application or by the person's inclusion, to his or her knowledge, in the application of another the continuing obligation to supply to the department issuing the relief: (a) the complete circumstances in regard to the person's income from employment or from any other source or the existence of income, if known to the person, of other persons receiving relief through the same application; (b) information regarding each and every offer of employment for the person or, if known to him or her, of the other persons receiving relief through the same application; (c) information concerning changes in the person's circumstances or those of other persons receiving relief through the same application which would decrease the need for relief; and (d) the circumstances or whereabouts, known to the person, of relatives legally responsible for the person's support or for the support of other persons receiving relief through the same application if changes in those circumstances or whereabouts could affect the amount of assistance available from those relatives or affect their legal liability to furnish support. Any person who shall neglect or refuse to submit to the department issuing relief the information required by this section, if the amount of relief granted as a result of the neglect or refusal is less than $500.00, is guilty of a misdemeanor, and if the amount of relief granted as a result of the neglect or refusal is $500.00 or more, is guilty of a felony, and upon conviction shall be punished as provided by the laws of this state.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.60;—Am. 1950, Ex. Sess., Act 18, Eff. Mar. 31, 1951;—Am. 1969, Act 179, Imd. Eff. Aug. 5, 1969;—Am. 1999, Act 194, Imd. Eff. Dec. 1, 1999.

Popular name: Act 280

400.60a Program of computer data matching; development and implementation; report.

Sec. 60a. (1) The department shall develop and implement a program of computer data matching by which the department shall compare its computer records concerning applicants for, and recipients of, assistance under this act with the computer records of financial institutions, to determine if the applicants or recipients have assets or income in excess of the eligibility limits established by the state department for assistance under this act.

(2) Not later than May 1, 1986, the state department shall report to the chairpersons of the house and senate committees primarily responsible for legislation concerning social services and the chairpersons of the house and senate appropriations committees. The report shall describe the state department's implementation of this section and shall include a summary of the results of the computer data matching program.

History: Add. 1985, Act 140, Imd. Eff. Oct. 28, 1985.

Popular name: Act 280

400.61 Violations; penalties; cessation of payments during imprisonment.

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Sec. 61. (1) Except as provided in subsections (2) and (3), a person who violates this act for which a penalty is not specifically provided is guilty of a misdemeanor and, upon conviction, shall be sentenced as provided in the laws of this state. If a person receiving aid, relief, or assistance is convicted of an offense under this act, or of another crime or offense and punished by imprisonment for 1 month or longer, the county board may direct that payments for aid, relief, or assistance under this act shall cease and shall not be made during the period of that person's imprisonment.

(2) A member of the Michigan social welfare commission, a county social services board, or the parole and review board who intentionally violates section 2(3), 46(2), or 121(2), shall be subject to the penalties prescribed in Act No. 267 of the Public Acts of 1976.

(3) If the Michigan social welfare commission, a county department of social services, a county social services board, district department of social welfare, district social welfare board, or the parole and review board arbitrarily and capriciously violates section 2(6), 45(6), 46(6), or 64(3) the commission, department, or board shall be subject to the penalties prescribed in Act No. 442 of the Public Acts of 1976.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.61;—Am. 1978, Act 224, Imd. Eff. June 13, 1978.

Popular name: Act 280

400.62 Relief or assistance; effect of amendment or repeal; no claim for compensation.

Sec. 62. All aid and relief granted under this act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing act that may hereafter be passed, and no recipient thereof shall have any claim for compensation, or otherwise, by reason of his aid or relief being affected in any way by any amending or repealing act.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.62.

Popular name: Act 280

400.63 Aid, relief, or assistance; nonassignability; breach of lease agreement; conveyance of amount to judgment creditor; federal waiver; processing fee; biennial report; “recipient” defined.

Sec. 63. (1) Except as provided in subsection (2), all aid, relief, or assistance given under this act is absolutely inalienable by any assignment, sale, garnishment, execution, or otherwise, and in the event of bankruptcy, shall not pass to or through any trustee or other person acting on behalf of creditors.

(2) To the extent allowed by law, if a judgment is entered against a recipient for damages arising from the recipient's breach of an oral or written lease agreement for rental housing and the judgment creditor submits a certified copy of the judgment to the department, the department shall deduct up to 10% of each cash grant for which the department determines the recipient is eligible and convey that amount to the judgment creditor until the judgment is satisfied. This subsection applies only to a lease agreement for property that has not been found to be in violation of an applicable housing code by a state or local agency authorized to enforce housing laws. This subsection does not create a cause of action against the department for damages caused by a recipient's breach of a lease agreement.

(3) If a federal waiver is necessary to implement subsection (2), the department shall promptly seek the waiver. In the absence of a necessary waiver, the department shall apply this section only to recipients of assistance programs financed entirely by state or local revenues.

(4) The judgment creditor shall pay a $1.00 processing fee to the department for each payment made under subsection (2). The department may deduct the processing fee from each payment made to the judgment creditor.

(5) The department shall include in its biennial report required under section 17 the number of cases and the dollar amounts deducted under subsection (2). The report shall include statewide totals and information broken down by county.

(6) As used in this section, “recipient” means an individual receiving direct cash assistance under this act.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.63;—Am. 1995, Act 235, Eff. Mar. 28, 1996.

Popular name: Act 280

400.63a Contract awards to specific organizations.

Sec. 63a. The family independence agency shall not award contracts to specific organizations that have not been competitively bid unless the award is permissible under state contracting procedures.

History: Add. 1995, Act 223, Eff. Mar. 28, 1996.

Popular name: Act 280

400.64 Application and records considered public records; inspection; public access;

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uttering, publishing, or using names, addresses, or other information; confidentiality; alphabetical index file; inquiry as to name or amount of assistance; making available certain information to public utility or municipality; disclosure of information; violation; penalty; notice of aid to deserted or abandoned child.

Sec. 64. (1) Notwithstanding sections 2(6), 35, 45(6), and 46(6), applications and records concerning an applicant for or recipient of aid or relief under the terms of this act, except medical assistance, shall be considered public records and shall be open to inspection by persons authorized by the federal or state government, the state department of social services, or the officials of the county, city, or district involved, in connection with their official acts and by the general public as to the names of recipients and the amounts of aid or relief granted. General public access shall be restricted to persons who present a signed application containing the name, the address, and the occupation of the persons signing the application. A person shall not utter or publish the names, addresses, or other information regarding applicants or recipients except in cases where fraud is charged or wrongful grant of aid is alleged. A person shall not use the names, addresses, or other information regarding applicants or recipients for political or commercial purposes.

(2) Records relating to persons applying for, receiving or formerly receiving medical services under the categorical assistance programs of this act shall be confidential and shall be used only for purposes directly and specifically related to the administration of the medical program.

(3) In each county, the department of social services shall maintain an alphabetical index file in its office of cases receiving assistance through the department. When a citizen makes a personal visit to an office during regular office hours, and makes inquiry as to the name or amount of assistance being received by a person, the requester shall be given the information requested in the manner prescribed by the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(4) Subject to restrictions prescribed by federal regulations governing aid to families with dependent children or other federal programs, rules of the state department of social services, or otherwise, for preventing the disclosure of confidential information to any person not authorized by law to receive the confidential information, the state department of social services shall make available to a public utility regulated by the Michigan public service commission or a municipality information concerning applicants for, and recipients of, public assistance, the disclosure of which is necessary and the use of which is strictly limited to the purpose of a public utility's administering a program created by statute or by order of the Michigan public service commission and intended to assist applicants for, or recipients of, public assistance in defraying their energy costs.

(5) The state department may disclose information regarding applicants for, and recipients of, assistance under this act in connection with the administration of assistance under this act, including the implementation and administration of section 60a, to the extent that such disclosure in regard to applicants for and recipients of federally funded assistance is in accordance with applicable federal law and regulations regarding disclosure of confidential information concerning applicants for or recipients of federally funded assistance.

(6) Except as prescribed in section 61(2) and 61(3), a person who violates this section shall upon conviction be guilty of a misdemeanor, punishable by imprisonment for not more than 2 years, or by a fine of not more than $1,000.00, or both. If an employee of the state violates this section, the employee shall also be subject to dismissal from state employment subject to rules as established by the civil service commission.

(7) The county department of social services shall cause prompt notice to be given to appropriate law enforcement officials of the furnishing of aid to dependent children in each case where a child has been deserted or abandoned by a parent and aid is being furnished to the child.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.64;—Am. 1952, Act 267, Eff. Sept. 18, 1952;—Am. 1953, Act 197, Eff. Oct. 2, 1953;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1968, Act 169, Imd. Eff. Jan. 17, 1968;—Am. 1978, Act 224, Imd. Eff. June 13, 1978;—Am. 1978, Act 576, Imd. Eff. Jan. 2, 1979;—Am. 1984, Act 26, Eff. Apr. 12, 1984;—Am. 1985, Act 140, Imd. Eff. Oct. 28, 1985.

Popular name: Act 280

400.65 Hearings within county department; rules for procedure; review by board.

Sec. 65. The board shall prescribe rules and regulations for the conduct of hearings within the county department, and provide adequate procedure for a fair hearing of appeals and complaints by any applicant for or recipient of aid, relief, or assistance under the jurisdiction of the board. Such hearing may be conducted by the director or by any agent designated by him, but shall be subject to a review by the board, upon filing of a request in writing.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.65;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

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Popular name: Act 280

400.66 Finality of decision as to relief or medical care; investigation by department.

Sec. 66. As to those forms of relief which are in no part financed by state or federal funds, the decision of the county or district department of social services as to the denial, granting, form, and amount of that relief shall be final, except as provided in section 66i. In a county that establishes a patient care management system under section 66j, the decision of the county as to the denial, granting, form, and amount of medical care shall be final. This section does not prevent the state department from making investigations, collecting statistics, and otherwise gaining information concerning the administration of welfare in any county or district as the state department considers advisable.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.66;—Am. 1962, Act 195, Imd. Eff. June 4, 1962;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965;—Am. 1975, Act 237, Eff. Dec. 1, 1975;—Am. 1979, Act 216, Eff. Oct. 1, 1980;—Am. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.66a Hospitalization for recipient; rules of financial eligibility; reimbursement; "hospitalization" defined; filing agreement, statement, or schedule of charges; report of treatment; statement of expenses; charges for special nurses; expenses after discharge.

Sec. 66a. The county social welfare boards shall make provision for hospitalization which is necessary and not more advantageously provided to the recipient under other law or provided under other sections of this act for every person found in their respective counties under rules of financial eligibility established by the boards and shall be reimbursed 100% by the state for the monthly net cost of the hospitalization for nonresidents of the state. The county department, in its discretion, may direct that the patient be conveyed to the university hospital at Ann Arbor or any other hospital for hospitalization. As used in this act, "hospitalization" means medical, surgical, or obstetrical care in the university hospital or in a hospital licensed under article 17 of Act No. 368 of the Public Acts of 1978, as amended, being sections 333.20101 to 333.22190 of the Michigan Compiled Laws, together with necessary drugs, x-rays, physical therapy, prosthesis, transportation, and nursing care incidental to the medical, surgical, or obstetrical care, but shall not include medical care as defined in section 55. Before a patient shall be admitted except in an emergency, to any hospital other than the university hospital, a definite agreement, statement, or schedule of charges, expenses, and fees to be received by the hospital and physicians or surgeons performing necessary services under this act shall be filed with the county department of the county in which the hospital is located and approved by the county department, except as provided for in section 66i. The hospital shall, at the conclusion of the treatment, make a report of the treatment and an itemized statement of the expenses of the treatment to the county department which issued the order, but charges for special nurses shall not be made without the consent of the county social welfare director. The expenses for sending the patient home or to other institutions after being discharged from the hospital may be paid by the hospital and charged in the regular bill for maintenance unless different instructions have been received from the county department which issued the order for admission.

History: Add. 1957, Act 286, Imd. Eff. June 13, 1957;—Am. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1979, Act 216, Eff. Oct. 1, 1980.

Popular name: Act 280

400.66b Hospitalization; application; emergency care, intercounty payments; arbitration of payment disputes.

Sec. 66b. The county social welfare board shall require the county department to act promptly on all applications for hospitalization and shall provide for retroactive authorizations for emergency care in accordance with rules which the board shall establish including one defining "emergency". When the person hospitalized in an emergency is found to be eligible for hospitalization at public expense under section 66a of this act and is found to be a transient in the county with a domicile elsewhere in the state, the county in which his domicile is located shall be responsible for the cost of hospitalization to the county department which has authorized the care. When a patient is taken without authorization in an emergency across a county line to a hospital in a county other than the county of domicile of the patient, the county department in which the emergency occurred shall be responsible, in accordance with its own rules governing emergency care, to the hospital for the expense of the emergency care subject to reimbursement by the county of domicile as provided by this section. The state department shall provide rules governing intercounty payments and shall arbitrate and decide disputes arising thereunder.

History: Add. 1957, Act 286, Imd. Eff. June 13, 1957.

Popular name: Act 280

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Administrative rules: R 400.1 et seq. of the Michigan Administrative Code.

400.66c Hospitalization; reimbursement of county expense.

Sec. 66c. The county department shall enter into an agreement signed by the patient or a legally responsible relative or guardian for reimbursement of the net cost to the county in furnishing such hospitalization: Provided, That such an agreement between the patient and the county department shall be deemed to be in existence in respect to an emergency hospitalization. The spouse, parent and adult child or any such patient being of sufficient ability shall be jointly and severally liable to the county department for the reimbursement of the expenses incurred by the county in furnishing such hospitalization to the extent that such expenses are not reimbursed from another source. Such liability may be enforced in an action at law.

History: Add. 1957, Act 286, Imd. Eff. June 13, 1957.

Popular name: Act 280

400.66d Finality of determination of ineligibility for hospitalization.

Sec. 66d. The determination that a person is ineligible for hospitalization under section 66a or 66j made by the county responsible for care shall be final.

History: Add. 1957, Act 286, Imd. Eff. June 13, 1957;—Am. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.66e Receipt of authorized patients by university hospital; duties of admitting officer; treatment; compensation; insurance; affidavit of expenses; report on condition of patient and expense incurred.

Sec. 66e. The admitting officer of the university hospital, upon receiving a patient with an authorization issued by a county department of social services under this act, may provide a bed in the hospital and designate the clinic of the hospital to which such person shall be assigned for treatment. The physician or surgeon in charge of the patient shall proceed with proper care to perform such operation and bestow such treatment upon the patient as in his judgment shall be necessary. No compensation shall be charged or received by the admitting officer, or by the medical faculty or by the physician, surgeon or nurses of the university hospital who shall treat and care for the patients, other than the salaries received by them provided by the board of regents of the university. If any such patient has medical or surgical insurance coverage the university hospital may then charge for the service of its medical and surgical staff in amounts not to exceed the amounts available from such insurance coverage. The superintendent shall make and file with the county board of social services an affidavit containing so far as possible an itemized statement of all expenses of hospitalization incurred at said hospital in care of patients admitted under this act in accordance with the usual rates therefor fixed by the regents of the university. He shall also make reports at suitable intervals to the county department which issued the order, stating the condition of the patient and the expense incurred. No county shall be liable for expenses incurred after the expiration date of the order of the county department unless a new order is obtained.

History: Add. 1957, Act 286, Imd. Eff. June 13, 1957;—Am. 1971, Act 146, Imd. Eff. Nov. 12, 1971.

Popular name: Act 280

400.66f Repealed. 1971, Act 146, Imd. Eff. Nov. 12, 1971.

Compiler's note: The repealed section pertained to payments for county patients.

Popular name: Act 280

400.66g Expenses of medical or surgical treatment and hospital care of child; reimbursement of health care provider.

Sec. 66g. The expenses of the medical or surgical treatment and hospital care of any child born in the hospital of any woman sent to a hospital under this act, as long as it is considered necessary and proper in the judgment of the hospital physicians to keep the child in the hospital, shall be included in the expense as provided in this act, unless the child is eligible for hospitalization under this act or some other law of this state. A health care provider shall not be granted reimbursement for hospitalization or continued hospitalization of a person under this act unless in the judgment of the admitting or attendant physician there is a reasonable probability of the person being benefited by such hospitalization. This section does not prevent reimbursement from being denied or reduced as provided in section 66k.

History: Add. 1957, Act 286, Imd. Eff. June 13, 1957;—Am. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

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Popular name: Act 280

400.66h Hospitalization; consent to surgical operation, medical treatment; first aid.

Sec. 66h. Nothing in this act shall be construed as empowering any physician or surgeon, or any officer or representative of the state or county departments of social welfare, in carrying out the provisions of this act, to compel any person, either child or adult, to undergo a surgical operation, or to accept any form of medical treatment contrary to the wishes of said person. If the person for whom surgical or medical treatment is recommended is not of sound mind, or is not in a condition to make decisions for himself, the written consent of such person's nearest relative, or legally appointed guardian, or person standing in loco parentis, shall be secured before such medical or surgical treatment is given. This provision is not intended to prevent temporary first aid from being given in case of an accident or sudden acute illness where the consent of those concerned cannot be immediately obtained.

History: Add. 1957, Act 286, Imd. Eff. June 13, 1957.

Popular name: Act 280

400.66i Reimbursement of hospital and state; reimbursement principles; eligibility information as basis of reimbursement; county reimbursement rate; annual adjustment; nonresidents; rules of financial eligibility.

Sec. 66i. (1) Except as provided in subsection (4), the state department, on behalf of a county, shall reimburse the hospital in accordance with established hospital reimbursement principles under title XIX of the social security act, 42 U.S.C. 1396 to 1396d, 1396f to 1396s. However, if state law provides for a different level of reimbursement, the state, on behalf of the county, shall reimburse the hospital at that level of reimbursement. Reimbursement will be based on eligibility information provided to the state department by the county department.

(2) Except as provided in subsection (4), a county department of social services shall reimburse the state an amount equal to the sum of the following:

(a) The total amount the state department approves for payment under subsection (1) to a hospital owned by that county.

(b) The total amount the state department approves for payment to all other hospitals, on behalf of the county, less either $100.00 per day of hospital care or an amount per day established by state law for the county, whichever is higher.

(3) Subsection (2)(b) does not require a county department to reimburse the state under that subdivision when the amount of payments made to the hospitals described in subsection (2)(b), on behalf of the county, is less than either $100.00 per day of hospital care or an amount established by state law for the county, whichever is higher. In addition, subsection (2) does not require the county department to reimburse the state for the cost of the hospitalization for nonresidents of this state.

(4) If the total payments to hospitals by the state department for hospitalization of persons determined by the county department of a county to be eligible for hospitalization under section 66a were less than $2,000,000.00 during the county's full fiscal year immediately before October 1, 1982, the county department of social services of that county may elect to reimburse hospitals directly in accordance with reimbursement principles established by the county department. A county department which elects to reimburse hospitals directly shall notify the state department before the beginning of the county's fiscal year in which the election is to become effective. If the county's fiscal year in which the election is to become effective begins in 1983 or a subsequent year, the notice to the state department shall be made at least 60 days before the beginning of the county's fiscal year.

(5) The rules of financial eligibility established pursuant to section 66a in a county on whose behalf the state makes payments to hospitals under subsection (1) shall not be made less restrictive than the rules in effect in the county during the county department's fiscal year ending in 1979.

History: Add. 1979, Act 216, Eff. Oct. 1, 1980;—Am. 1982, Act 255, Eff. Oct. 1, 1982;—Am. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.66j Patient care management system; establishment; certification; procedures; recertification; rates of reimbursement and length of hospital stay; contracts; report; system.

Sec. 66j. (1) As an alternative to sections 55(k), 66a, and 66i, a county other than a county described in subsection (2) may establish a patient care management system as described in this section and sections 66k to 66p.

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(2) If a county intending to establish a patient care management system is one in which the total payments to hospitals in the county for the county's resident county hospitalization program was less than $10,000,000.00 during the county's full fiscal year immediately preceding the effective date of this section, the county shall apply to the state department for certification of its proposed patient care management system, and the state department shall approve or disapprove the application based upon minimum standards that are established by the state department for county patient care management systems and are based upon this section and sections 66k to 66n. The department shall submit recommended procedures to the appropriate standing committees of the legislature for approval in order to allow other counties to adopt a patient care management system pursuant to this act. Such procedures shall be submitted by January 1, 1989. If a county's original application for certification of a patient care management system is approved under this section, the county shall apply to the state department in each subsequent year for recertification of its patient care management system according to the standards established under this subsection. The application for recertification shall be submitted not later than April 1 of each year, and shall be considered automatically approved by the state department unless denied by the state department, based upon the standards established under this section, within 30 days after being received by the state department. An approval or disapproval of a patient care management system by the state department may be reversed by the legislature by subsequent appropriations legislation or other legislation. An original application for certification or an application for recertification shall be in a form as prescribed by the department.

(3) Under a patient care management system, a county shall establish sufficient rates of reimbursement and appropriate length of stay for inpatient treatments for hospitals and other health care providers and shall contract with hospitals and other health care providers for medical care of persons determined to be eligible by the county. The county shall enter into sufficient contracts to assure that persons determined to be eligible by the county have access to hospital services, physician services, and other medical services considered appropriate by the county board of social services.

(4) A county that establishes a patient care management system annually shall submit a report to the state department containing information on the number of patients served, the services rendered for those patients, the amount of funds spent for those services and the terms of the contracts entered into pursuant to subsection (3). The report shall be submitted not later than 90 days after the end of the county's fiscal year. A county's expenditures for the operation and administration of a patient care management system are subject to audit by the state.

(5) A county that establishes a patient care management system shall create a system to provide the data specified in subsection (4) and to keep track of records of admissions, diagnoses, treatments, and payment records for individuals eligible under the patient care management system.

History: Add. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.66k Office; creation; purpose; duties; powers; appeals procedure.

Sec. 66k. (1) A county that establishes a patient care management system shall establish an office to which inquiries may be directed by health care providers under the system concerning the eligibility of patients and past admissions.

(2) An office created pursuant to subsection (1) shall be notified by health care providers of a patient's status and shall give or deny authorization for treatment on a timely basis. The office also shall review or provide for the review of utilization of services by patients and by health care providers under the patient care management system. An office may contract for the performance of its duties, subject to supervision of the contractor by the office.

(3) An office created pursuant to subsection (1) may do any of the following:

(a) Deny reimbursement to a health care provider for services determined by the office to be medically unnecessary for the treatment of a patient.

(b) Establish and publish medical protocols that permit either or both of the following:

(*i*) The denial of reimbursement to a health care provider if the services needed by an individual may be provided at another facility under the patient care management system at a lower cost and the patient is physically able to be transferred to that facility.

(*ii*) Reimbursement of the health care provider for the services rendered at the rate of reimbursement for that service at a facility which provides that service at a lower cost.

(4) An office created pursuant to subsection (1) shall implement an appeals procedure for providers of health care who are denied reimbursement, or who receive a lower rate of reimbursement, pursuant to subsection (3).

(5) An office created pursuant to subsection (1) shall develop and implement an appeals procedure for

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recipients of medical services under a patient care management system, by which a person can appeal the denial to him or her of any or all medical services provided under a patient care management system.

History: Add. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.66*l* Guidelines for referrals to substance abuse prevention services or substance abuse treatment and rehabilitation services.

Sec. 66*l*. (1) A county that operates a patient care management system shall develop guidelines for referring to appropriate substance abuse prevention services or substance abuse treatment and rehabilitation services an individual whose need for medical care, in whole or in part, is caused by substance abuse.

(2) As used in this section, “substance abuse”, “substance abuse prevention services”, and “substance abuse treatment and rehabilitation services” mean those terms as defined in section 6107 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.6107 of the Michigan Compiled Laws.

History: Add. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.66m Invoices for reimbursement.

Sec. 66m. In a county operating a patient care management system, health care providers shall submit invoices for reimbursement to the office established by the county under section 66k in a manner prescribed by the office. An invoice that is approved for payment by an office shall be paid not later than 60 days after the invoice is received by the office, unless a different time period is established by contract between a health care provider and the county as part of a patient care management system.

History: Add. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.66n Appropriations.

Sec. 66n. (1) If a patient care management system is established in a county in which the total payments to hospitals in the county for the county's resident county hospitalization program exceeded $10,000,000.00 during the county's full fiscal year immediately before the effective date of this section, the state shall appropriate for fiscal year 1988-89 the aggregate amount to the county which the state had appropriated under this act in fiscal year 1987-88 as separate amounts for programs of resident county hospitalization and medical care for general assistance recipients in the county. Funds appropriated to a county under this section shall only be used for a patient care management system as prescribed in sections 66j to 66n, and shall only be made available to the county if the county appropriates and expends for its residential county hospitalization program in the county's fiscal year 1988-89 not less than $15,500,000.00. The ratio of the state's appropriation of $19,500,000.00 to the county appropriation of $15,500,000.00 for the resident county hospitalization program of a county described in this subsection shall be maintained for subsequent fiscal year appropriations by the county, unless the state appropriation is less than $19,500,000.00 in a subsequent year, in which case the county appropriation may decrease in order to maintain the ratio from the base year of $19,500,000.00 state funds to $15,500,000.00 county funds.

(2) If a patient care management system is established in any county other than a county described in subsection (1), the state shall appropriate to the county for the state fiscal year following the fiscal year in which the patient care management system is established the aggregate amount which the state had appropriated under this act in the preceding fiscal year as separate amounts for programs of resident county hospitalization and medical care for general assistance recipients in the county. Funds appropriated to a county under this section shall only be used for a patient care management system as prescribed in sections 66j to 66n. Not more than 3% of the funds appropriated to a county under this subsection, and not more than 3% of the county funds appropriated for those same purposes, shall be used for administration of the patient care management system.

(3) For fiscal years following the year in which an aggregate amount is appropriated as prescribed in either subsection (1) or (2), that part of the aggregate amount appropriated that is attributable to former state payments to that county for medical care for general assistance recipients shall be adjusted by any changes in the county's general assistance caseload during the fiscal year immediately preceding the fiscal year in which the appropriation is to be made.

(4) If the cost of medical care in a county under a patient care management system exceeds the amount appropriated to the county under this section in any fiscal year, the county shall be liable for the difference.

(5) Not less than $5,000,000.00 of the funds appropriated under this section to a county described in subsection (1) shall be set aside annually by the county to meet the inpatient hospitalization expenses of

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persons who are not general assistance recipients as of the date they are admitted to the hospital. If less than the entire $5,000,000.00 is spent in any year for the care of those persons, the remainder may be used for other expenses of the patient care management system.

(6) Any state or local appropriations for a patient care management system that are not expended in the year for which they were appropriated shall be placed by the county in a special fund to be used exclusively for the purposes of the patient care management system in subsequent years.

(7) The state treasurer shall not release funds appropriated to a county for a patient care management system unless the county to which the appropriation is to be made certifies annually to the state administrative board that the county meets the requirements established by this act for a patient care management system, and the state administrative board concurs annually with that certification.

History: Add. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.67 Relief financed by federal funds; denial or revocation of application, appeal, hearing, investigation; decision.

Sec. 67. If any application for aid financed in whole or in part by federal funds is not acted upon by the county department of social welfare within a reasonable time after the filing of the application, or is denied or revoked, in whole or in part, the applicant may appeal to the state department in the manner and form prescribed by the state department and an opportunity for a fair hearing shall be granted by said department as provided in section 9. The state department may also, upon its own motion, review any decision of a county department of social welfare, and may consider any such application upon which a decision has not been made by the county department of social welfare within a reasonable time. The state department may make such additional investigation as it may deem necessary, and shall make such decision as to the granting of aid financed in whole or in part by federal funds and the amount thereof to be granted the applicant as in its opinion is justified and in conformity with the laws of this state. In such cases the decisions of the state department shall be binding upon the county department of social welfare involved and shall be complied with by such county department.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.67;—Am. 1957, Act 95, Eff. Sept. 27, 1957;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

Administrative rules: R 400.1 et seq. of the Michigan Administrative Code.

400.68 Application by county board for state and federal moneys.

Sec. 68. The county board shall apply to the state department of social welfare at such time, on such forms, and in such manner, as the state department shall prescribe for the allocation and distribution under section 18 of this act of state or federal moneys available for the several forms of public aid and relief, and with respect to such application shall be governed by the requirements and rules and regulations of the state department.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.68.

Popular name: Act 280

Administrative rules: R 400.1 et seq. and R 400.3501 et seq. of the Michigan Administrative Code.

400.68a County of settlement; itemized statement of relief expense; items of undetermined value.

Sec. 68a. The county department furnishing general relief, including medical care, hospitalization or infirmary care to any poor person at the expense of another county in this state, shall present to the department of social welfare of the county liable for the aid and infirmary care, from time to time as the case might be, a sworn, itemized statement of the expense which shall be allowed and paid by the department of social welfare of the county liable therefor, within 60 days after being presented. No item of the itemized statement of expense shall be a proper and collectible charge against the county which has been determined to be or has agreed to be liable therefor unless submitted within 180 days from the end of the month during which services covered by the item were rendered. In the case of an item, the exact amount of which the county department furnishing care is unable to determine during the 180 days period or prior thereto, notice of the existence of such an item of undetermined amount shall be given the county liable during the 180 days whereupon the county furnishing care shall have an additional 180 days in which to include the amount of the item in an itemized statement.

History: Add. 1957, Act 292, Eff. Sept. 27, 1957.

Popular name: Act 280

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400.69 Estimate of funds for social welfare; accounting as to receipts and expenditures; district department of social welfare.

Sec. 69. The county social welfare board shall prepare and submit to the county board of supervisors, at the annual meeting of said board of supervisors or at such other time as the said board of supervisors shall request, an estimate of the funds necessary to carry out the provisions of this act, including funds needed for the several institutions under the jurisdiction of the county social welfare board. The county social welfare board shall also render an account of all moneys received and expended by them. In the case of a district department of social welfare the district social welfare board shall submit such an estimate to the board of supervisors of each county forming a part of such district.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.69;—Am. 1957, Act 292, Eff. Sept. 27, 1957.

Popular name: Act 280

400.70 Appropriation for expenses by county board of supervisors.

Sec. 70. The county board of supervisors shall, within its discretion, make such appropriations as are necessary to maintain the various welfare services within the county, as provided in this act, and to defray the cost of administration of these services. In the case of a district department of social welfare the county board of supervisors of each county forming a part of said district shall appropriate funds necessary to care for the welfare services of such county, and the administrative expenses of the district department shall be defrayed by all of the counties in said district in the proportion that the population of each county, according to the last federal census, bears to the population of the entire district.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.70;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.71 Distinction between township, city, and county poor; abolition.

Sec. 71. Except in respect to a city maintaining a separate department of social welfare under section 48 of this act, the distinction between township, city and county poor is abolished.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.71;—Am. 1957, Act 292, Eff. Sept. 27, 1957;—Am. 1961, Act 184, Eff. Sept. 8, 1961;—Am. 1964, Act 201, Eff. Jan. 1, 1965.

Popular name: Act 280

400.72 Repealed. 1968, Act 117, Imd. Eff. June 11, 1968.

Compiler's note: The repealed section pertained to social welfare moneys in county with city maintaining own department; distribution of expense; levy of taxes.

Popular name: Act 280

400.73 Repealed. 1975, Act 237, Eff. Jan. 1, 1976.

Compiler's note: The repealed section pertained to county treasurer as custodian of moneys.

Popular name: Act 280

400.73a County treasurer as custodian of moneys; creation of social welfare fund; deposits; requirements; financial practices.

Sec. 73a. (1) The county treasurer is designated as the custodian of all moneys provided for the use of the county department of social services. The treasurer shall create and maintain a social welfare fund. The following moneys, exclusive of funds which must be deposited in the child care fund, shall be deposited in the social welfare fund:

(a) All moneys raised by the county for the use of the county department of social services.

(b) All funds made available to the county department of social services by the state and federal governments.

(c) All refunds and collections arising out of reimbursements to the county department of social services.

(d) All funds made available to the county department from any other source whatsoever.

(2) Money in the social welfare fund shall remain separate and apart from all other funds of the county and shall not be transferred to or commingled with other funds of the county. The fund shall be used exclusively for carrying out the purposes authorized by this act.

(3) The state department shall prescribe, with respect to the social welfare fund, such subaccounts and expenditure classifications as the state department deems suitable, to comply with requirements to secure federal funds, to facilitate uniform reporting, and for other purposes. The state department may promulgate rules, plans, procedures, and controls with respect to accounting, disbursements, and any other kind of

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element of financial transactions in connection with the social welfare fund. The county board of commissioners may establish further financial practices not inconsistent with the above. The state department shall prescribe the manner and extent to which the county department shall keep on file vouchers or other authorizations to show the items and reasons for which money is disbursed.

History: Add. 1975, Act 237, Eff. Dec. 1, 1975.

Popular name: Act 280

400.74 Child care and social welfare funds; disbursement; bond; purchases made locally.

Sec. 74. All moneys in the child care fund provided for the use of the county department and all moneys in the social welfare fund shall be disbursed on the order or warrant of the county department, over the signature of a person or persons designated by the board. The board shall require a suitable and adequate bond from all persons designated to sign such orders conditioned for the proper handling of all such disbursements.

All purchases by the board shall, insofar as possible, be placed with business concerns located within the county for which such board is appointed and shall be spread equitably among business concerns.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.74;—Am. 1955, Act 113, Eff. Oct. 14, 1955.

Popular name: Act 280

400.75 County board of auditors; authority.

Sec. 75. In any county now or hereafter having a county board of auditors, such board may discharge such of the custodial, auditing, disbursement, and accounting functions set forth in sections 72, 73 and 74 hereof, and such of the budget making functions set forth in section 69 hereof, as is permitted by existing law, whether general, local or special.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.75.

Popular name: Act 280

400.76 Liability of relatives for support; action for reimbursement of county granting aid; duties of prosecuting attorney; reciprocal enforcement.

Sec. 76. (1) This act shall not be construed to relieve the liability for support by relatives under the provisions of chapter 1 of Act No. 146 of the Public Acts of 1925, as amended, being sections 401.1 to 401.21 of the Compiled Laws of 1948, but shall be construed as superseding the definition of settlement contained in section 1 of chapter 1. The terms of chapter 1 with respect to liability for support by relatives may be invoked in connection with any form of public aid or relief administered under this act.

(2) The social welfare board of the county of legal settlement of a recipient of any form of aid granted under this act, or a social welfare board granting aid, may maintain an action in the circuit court for the county the board represents, or the circuit court for the county in which the defendant resides or is found: (a) Against the county, township or city neglecting or refusing to allow and pay a bill owing under this act and presented more than 90 days prior to the commencement of the action; or (b) Against a recipient of emergency hospitalization or his relatives who are neglecting or refusing to acknowledge responsibility for reimbursement of the county for the costs of the emergency hospitalization; or (c) Against a recipient of hospitalization or his relatives legally liable for his support to enforce its agreement with the recipient or relatives for reimbursement of the county for hospitalization expenses.

(3) The prosecuting attorney shall represent the county social welfare board in such actions, service or process of courts of like jurisdiction in any county in this state, and such service and return thereof in accordance with law shall give the court in which the action is commenced full jurisdiction to hear and determine the cause. If any legally responsible relative of a poor person receiving or having received any form of public welfare support in this state lives or can be found in some other state which has enacted a uniform reciprocal enforcement of support law, suitable action may be initiated in Michigan by the prosecuting attorney against the legally responsible relative under the provisions of Act No. 8 of the Public Acts of 1952, as amended, being sections 780.151 to 780.172 of the Compiled Laws of 1948.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.76;—Am. 1957, Act 292, Eff. Sept. 27, 1957.

Popular name: Act 280

400.77 Reimbursement of county for welfare relief; relatives or estate; agreements; hospital care, exception; county employees; collection by counties.

Sec. 77. The county department of social welfare is hereby authorized and empowered to collect and receive funds to reimburse the county for expenditures made on behalf of recipients of any form of aid or relief, or hospital care provided at county expense, from such recipients, their relatives legally responsible under the laws of this state for the support of such recipients, or from the estates of recipients, in accordance

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with the laws of this state, and the rules and regulations of the state department of social welfare, which funds, reimbursed for direct relief, shall be disbursed to carry out the provisions of this act. Agreements for the reimbursement of the county department of social welfare for relief granted to persons or families in their own homes may be required in the cases of applicants whose need for relief is based in whole or in part on inability to obtain funds, moneys, moneys which may be received, income or assets unavailable at the time of application for or grant of relief: Provided, however, That earnings from wages or salaries not due or owing at the time of application for or grant of relief shall not be included in reimbursement agreements. Reimbursements for any form of hospital care provided at county expense shall be collected and paid over by the department of social welfare to the county treasurer for deposit to the fund from which such expenditure was made: Provided, That no county department of social welfare nor any other agency of county government shall collect or receive reimbursements for hospitalization or other treatment for tuberculosis, whether there is an agreement to reimburse the county or not, unless such reimbursement has been ordered by the state commissioner of health or is found acceptable by him as a voluntary reimbursement as provided in section 3a of Act No. 314 of the Public Acts of 1927, as added, being section 329.403a of the Compiled Laws of 1948, and no county department of social welfare shall collect or receive reimbursements for hospitalization or other treatment for any other communicable disease or diseases. Nothing in this section shall be construed to affect the civil service status, if any, of county employees now engaged in collecting reimbursements for the county for any form of aid, relief or hospital care, under the supervision of any other county department. All such employees, and all collection records and files in the county on cases investigated by the department of social welfare prior to the effective date hereof, shall be transferred to and be under the supervision, control and jurisdiction of the board of social welfare in such county.

If a county has acknowledged liability or has reimbursed another county for the cost of any form of aid, relief or hospital care provided at county expense, the county so reimbursed shall credit or remit, as the case may be, to the paying county within 60 days, any additional collections thereon from any other source. It shall be the duty of each county department of social welfare to continue to collect according to its best judgment and ability, if so requested by the county which has acknowledged or paid for any form of aid, relief or hospital care provided at county expense.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.77;—Am. 1949, Act 307, Eff. Sept. 23, 1949;—Am. 1950, Ex. Sess., Act 30, Eff. Mar. 31, 1951;—Am. 1951, Act 126, Eff. Sept. 28, 1951.

Popular name: Act 280

400.77a Old age assistance, aid to dependent children, welfare relief; inconsequential earnings.

Sec. 77a. Under such rules and regulations as the state department of social welfare shall promulgate, inconsequential earnings shall not affect the determination of any amount of assistance to be paid by the state for old age assistance, aid to dependent children or matched by the state in connection with the granting of welfare relief.

History: Add. 1952, Act 235, Eff. Sept. 18, 1952.

Popular name: Act 280

400.77b Repealed. 1973, Act 189, Imd. Eff. Jan. 8, 1974.

Compiler's note: The repealed section pertained to liability of relative for support.

Popular name: Act 280

400.78 Grants and gifts; acceptance by county board; use of funds; duty of prosecuting attorney.

Sec. 78. The county board may receive on behalf of the county any grant, devise, bequest, donation, gift or assignment of money, bonds or choses in action, or of any property, real or personal, and accept the same, so that the right and title to the same shall pass to the board. All such bonds, notes or choses in action, or the proceeds thereof when collected, and all other property or things of value so received by the board shall be used for the purposes set forth in the grant, devise, bequest, donation, gift, or assignment: Provided, That such purposes shall be within the powers conferred on said board. Whenever it shall be necessary to protect or assert the right or title of the board to any property so received or derived as aforesaid, or to collect or reduce into possession any bond, note, bill or chose in action, the prosecuting attorney is directed to take the necessary and proper proceedings and to bring suits in the name of the board on behalf of the county in any court of competent jurisdiction, state or federal, and to prosecute all such suits.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.78.

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Popular name: Act 280

400.79 Prosecuting attorney; duty to give counsel to board or director.

Sec. 79. It shall be the duty of the prosecuting attorney of each county to give his counsel and advice to the board or director whenever the board or director may deem it necessary for the proper discharge of the duties imposed upon them in this act.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.79.

Popular name: Act 280

400.80 County social welfare board; reports to state department.

Sec. 80. It shall be the duty of the county social welfare board to report to the state department monthly, and in such form as the state department shall furnish and prescribe, the activities of the county department. The board shall also make such other and additional reports as shall be required by the state department.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.80;—Am. 1957, Act 95, Eff. Sept. 27, 1957.

Popular name: Act 280

400.81 County board; seal; publication of rules and regulations; records and papers as evidence; body corporate, powers.

Sec. 81. The board may devise a seal, and the rules and regulations of the board may be published over the seal of the board. Copies of all records and papers in the office of the county department, certified by a duly authorized agent of the board shall be evidence in all cases equally, and with the like effect, as the originals. The board shall be a body corporate, and is hereby authorized to lease any lands under its jurisdiction and to do any other act or thing necessary in carrying out the provisions of this act.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.81.

Popular name: Act 280

400.82 County board; case examinations, witnesses, attendance and testimony; circuit court enforcement.

Sec. 82. Any member of the board, the director, or supervisor may issue a subpoena requiring any person to appear before the board, director, or supervisor as the case may be, and be examined with reference to any matter within the scope of the inquiry or investigation being conducted and to produce any books, records or papers. Any member of the board, the director, supervisor or any duly authorized agent of the board or director, may administer an oath to a witness in any matter. In case of disobedience of a subpoena, the board, director or supervisor may invoke the aid of the circuit court of the county in which said board is created in requiring the attendance and testimony of witnesses and the production of books, papers and documents. Such circuit court may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear, and to produce books, records and papers if so ordered and give evidence touching the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.82.

Popular name: Act 280

400.83 Obtaining information from financial institution, department of treasury, employment security commission, employer, or former employer; demand or subpoena; definition; computer data matching system; confidentiality.

Sec. 83. (1) The director of the state department of social services or the director of any county department of social services may demand and receive from any financial institution, the Michigan department of treasury, the Michigan employment security commission, employer, or former employer doing business in this state, information with respect to the transactions with any such institution, dates of employment, number of hours worked and rate of pay of an applicant for or recipient of any form of aid or relief under this act. The officers and employees of the institution or employer shall furnish the information on the written demand of the director. A demand directed to a financial institution or an employer shall be in the form of a subpoena issued by the director under section 8 when the identification of applicants and recipients to the financial institution or employer is by means of computer tape or other data process media. The institution or employer shall furnish the information within 15 days after the demand or subpoena is received by the institution or employer.

(2) As used in this section, “financial institution” means a state bank, a national banking association, a state or federal savings and loan association, a federal savings bank, or a state or federal credit union.

(3) The director of the state department shall cooperate with the Michigan employment security

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commission in the development of a computer data matching system by which records of the department of social services concerning applicants for, and recipients of, assistance under this act shall be compared with claimant and wage information requested on at least a quarterly basis from, and furnished by, the Michigan employment security commission pursuant to sections 11 and 13 of the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, being sections 421.11 and 421.13 of the Michigan Compiled Laws. The computer data matching system shall be used only to determine or verify eligibility of an individual for aid or assistance administered under this act or the amount or type of assistance for which the individual is eligible; to investigate or prosecute instances of alleged fraud; or to establish and collect child support obligations or locate individuals owing child support obligations.

(4) The information obtained under subsection (3) shall be considered confidential and shall not be disclosed by officers or employees of the department of social services to any person or agency except as provided in section 11(b)(2) of Act No. 1 of the Public Acts of the Extra Session of 1936.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.83;—Am. 1976, Act 345, Eff. Mar. 31, 1977;—Am. 1985, Act 140, Imd. Eff. Oct. 28, 1985;—Am. 1985, Act 161, Eff. Dec. 26, 1985.

Popular name: Act 280

400.84 State department; jurisdiction over district and county departments, rules and regulations.

Sec. 84. In respect to matters in which a district department of social welfare differs from a county department of social welfare, the state department shall have the power to promulgate rules and regulations relating to organization, operation and procedure affecting such district or city department, which rules and regulations shall be binding upon all persons and authorities concerned.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.84;—Am. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.85 County superintendents of poor; transfer of powers and duties to county department of social welfare.

Sec. 85. The powers and duties now vested by law in the county superintendents of the poor, except as otherwise provided in subdivision (c) of section 55 of this act, are hereby transferred to and vested in the several county departments of social welfare herein created. Whenever reference is made to the above offices in any law of the state, or whenever reference is made to the supervisor of any township or ward, or to the director of poor of any city, with respect to the powers and duties transferred to the county department of social welfare, reference shall be deemed to be intended to be made to the said county board of social welfare.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.85;—Am. 1957, Act 292, Eff. Sept. 27, 1957.

Popular name: Act 280

400.86 County departments; powers and duties transferred.

Sec. 86. All of the powers and duties prescribed in any law of this state incidental of the transfer of the powers and duties herein provided for shall be transferred to and be vested in the several county departments of social welfare.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.86.

Popular name: Act 280

400.87 Veterans' relief act not repealed.

Sec. 87. The provisions of this act shall not be construed to repeal or supersede the provisions of Act No. 214 of the Public Acts of 1899, as amended, being sections 35.21 to 35.27 of the Compiled Laws of 1948.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.87;—Am. 1957, Act 95, Eff. Sept. 27, 1957.

Popular name: Act 280

400.88 Repealed. 1957, Act 95, Eff. July 1, 1957.

Compiler's note: The repealed section required that state welfare commission members be appointed, stated effective date of several provisions, and authorized temporary continuance of existing agencies.

Popular name: Act 280

400.90 Political activity or use of position by officers and employes prohibited; penalty.

Sec. 90. No member of the state commission or of any county social welfare board and no executive official or employe of the state or any county welfare department shall participate in any form of political activity other than may be appropriate to the exercise of the individual's rights, duties and privileges or use his

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official position for any political purpose. Any employe of any department violating this provision shall be subject to discharge or such other disciplinary action as may be provided by the rules and regulations of the state department.

History: 1939, Act 280, Imd. Eff. June 16, 1939;—CL 1948, 400.90.

Popular name: Act 280

400.100 Retirement system service credits; continuation by employees of city or county department when transferred to state department.

Sec. 100. Persons who were employees of a city or county department of social welfare immediately prior to the effective date of this amendatory act, who (1) were members of a city or county retirement system and (2) become members of the state employees' retirement system, shall be entitled to benefits provided by Act No. 88 of the Public Acts of 1961, as amended, entitled "An act to provide for the preservation and continuity of retirement system service credits for public employees who transfer their employment between units of government", notwithstanding that the city or county might not have adopted the said Act No. 88. Whenever the service requirements for benefits to be paid under Act No. 240 of the Public Acts of 1943, as amended, to the said persons who become members of the state employees' retirement system are lower than the service requirements in the said Act No. 88, the provisions of the said Act No. 240 shall apply with respect to the said persons.

History: Add. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.101 Distribution of general relief funds; effective date; state civil service system, membership.

Sec. 101. The distribution of state funds provided in section 18 shall be effective October 1, 1965 and the director and all employees and assistants in counties and cities in which section 23a is not applicable shall become members of the state civil service system on or before July 1, 1967.

History: Add. 1965, Act 401, Imd. Eff. Oct. 27, 1965.

Popular name: Act 280

400.102 Nonduty disability retirement allowance or death benefits; eligibility, conditions.

Sec. 102. Whenever the combined state and city or the combined state and county service of an employee covered by section 100 of this act shall equal or exceed the minimum years of service required by the several units of government under their respective system to be eligible for nonduty disability retirement allowance or benefit, or, for the dependents of such an employee to be eligible for benefits in the event of the nonduty death of such an employee, the state and the city or the county, shall grant such disability or death allowance or benefit upon the following conditions:

(a) That the employee has not withdrawn his accumulated contributions from the retirement system of the city or the county.

(b) That the years of service with the granting unit of government only be used for computing the amount of the retirement allowance or benefit.

(c) That the average final compensation earned from the state, county or city, shall be used for determining the amount of the allowance or grant unless otherwise provided in the charter of any other city affected by this act.

If any retirement system does not provide for a nonduty disability retirement allowance or benefit or for nonduty death benefit, then neither the employee nor his dependents shall receive such allowance or benefit from such retirement system nor shall an employee or his dependents receive any retirement allowance or benefit from more than 1 retirement system covering the same service credit period. The provisions of this section shall not apply to any city or county that does not have a retirement system.

History: Add. 1966, Act 249, Imd. Eff. July 11, 1966.

Popular name: Act 280

400.103 Agreements as to eligibility for supplementary benefits and medical assistance.

Sec. 103. (1) A person receiving benefits under title 16 of the social security act or a person who, except for the amount of his income is otherwise eligible to receive benefits, may receive supplementary benefits from the state department in accordance with rules of the state department and to the extent appropriations are available.

(2) The director may enter into an agreement with the secretary of the federal department of health, education and welfare pursuant to title 16 of the social security act, in which the secretary will, on behalf of

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the state, determine eligibility and make state supplementary payments to eligible persons.

(3) The director may enter into an agreement with the secretary, pursuant to title 16 of the social security act, in which the secretary will determine eligibility for medical assistance in the case of aged, blind, or disabled persons under the state's plan approved under title 19.

History: Add. 1973, Act 189, Imd. Eff. Jan. 8, 1974.

Popular name: Act 280

400.105 Program for medical assistance for medically indigent; establishment; administration; responsibility for determination of eligibility; delegation of authority; definitions.

Sec. 105. (1) The state department shall establish a program for medical assistance for the medically indigent under title XIX. The director of the state department shall administer the program established by the state department and shall be responsible for determining eligibility under this act. Except as otherwise provided in this act, the director may delegate the authority to perform a function necessary or appropriate for the proper administration of the program.

(2) As used in this section and sections 106 to 112, “peer review advisory committee” means an entity comprising professionals and experts who are selected by the director and nominated by an organization or association or organizations or associations representing a class of providers.

(3) As used in sections 106 to 112, “professionally accepted standards” means those standards developed by peer review advisory committees and professionals and experts with whom the director is required to consult.

(4) As used in this section and sections 106 to 112, “provider” means an individual, sole proprietorship, partnership, association, corporation, institution, agency, or other legal entity, who has entered into an agreement of enrollment specified by the director pursuant to section 111b(1)(c).

History: Add. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1967, Act 289, Imd. Eff. Aug. 1, 1967;—Am. 1980, Act 321, Imd. Eff. Dec. 12, 1980.

Popular name: Act 280

400.105a Written information setting forth eligibility requirements for participation in program of medical assistance and describing separation of assets and income policy; updating; contents; copies.

Sec. 105a. (1) The department shall develop written information that sets forth the eligibility requirements for participation in the program of medical assistance administered under this act. The written information shall be updated not less than every 2 years.

(2) The department shall provide copies of the written information described in subsection (1) to all of the following persons, agencies, and health facilities:

(a) A person applying to the department for participation in the program of medical assistance administered under this act who is considering institutionalization for the person or person's family member in a nursing home or home for the aged.

(b) Each nursing home in the state.

(c) Each hospital in the state.

(d) Each adult foster care facility in the state.

(e) Each area agency on aging.

(f) The office of services to the aging.

(g) Local health departments.

(h) Community mental health boards.

(i) Medicaid and medicare certified home health agencies.

(j) County medical care facilities.

(k) Appropriate department of social services personnel.

(*l*) Any other person, agency, or health facility determined to be appropriate by the department.

History: Add. 1988, Act 438, Eff. Mar. 30, 1989.

Popular name: Act 280

400.105b Medical assistance recipients who practice positive health behaviors; creation of incentives; creation of pay-for-performance incentives for contracted medicaid health maintenance organizations; establishment of preferred product and service formulary program for durable medical equipment; financial support for electronic health records;

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federal waiver request; conflict with federal statute or regulation prohibited.

Sec. 105b. (1) The department of community health shall create incentives for individual medical assistance recipients who practice specified positive health behaviors. The incentives described in this subsection may include, but are not limited to, expanded benefits and incentives relating to premiums, co-pays, or benefits. The positive health behaviors described in this subsection may include, but are not limited to, participation in health risk assessments and health screenings, compliance with medical treatment, attendance at scheduled medical appointments, participation in smoking cessation treatment, exercise, prenatal visits, immunizations, and attendance at recommended educational health programs.

(2) The department of community health shall create pay-for-performance incentives for contracted medicaid health maintenance organizations. The medicaid health maintenance organization contracts shall include incentives for meeting health outcome targets for chronic disease states, increasing the number of medical assistance recipients who practice positive health behaviors, and meeting patient compliance targets established by the department of community health. Priority shall be given to strategies that prevent and manage the 10 most prevalent and costly ailments affecting medical assistance recipients.

(3) The department of community health shall establish a preferred product and service formulary program for durable medical equipment. The department of community health shall work with the centers for medicare and medicaid services to determine if a joint partnership with medicare is possible in establishing the program described in this subsection as a means of achieving savings and efficiencies for both the medicaid and medicare programs. The preferred product and service formulary program for durable medical equipment shall require participation from the department of community health and shall permit the contracted medicaid health maintenance organizations and provider organizations to participate.

(4) The department of community health shall seek financial support for electronic health records, including, but not limited to, personal health records, e-prescribing, web-based medical records, and other health information technology initiatives using medicaid funds.

(5) The department of community health shall include in any federal waiver request that is submitted with the intent to secure federal matching funds to cover the medically uninsured nonmedicaid population in the state language to allow the department of community health to establish, at a minimum, the programs required under subsections (1) and (2).

(6) The department of community health shall not implement incentives under this section that conflict with federal statute or regulation.

History: Add. 2007, Act 100, Imd. Eff. Oct. 1, 2007.

Popular name: Act 280

400.106 "Medically indigent individual," "Medicaid contracted health plan," "medical institution," and "Title XVI" defined; notice of legal action; recovery of expenses by state department or medicaid contracted health plan; priority against proceeds.

Sec. 106. (1) A medically indigent individual is defined as:

(a) An individual receiving family independence program benefits or an individual receiving supplemental security income under title XVI or state supplementation under title XVI subject to limitations imposed by the director according to title XIX.

(b) Except as provided in section 106a, an individual who meets all of the following conditions:

(*i*) The individual has applied in the manner the family independence agency prescribes.

(*ii*) The individual's need for the type of medical assistance available under this act for which the individual applied has been professionally established and payment for it is not available through the legal obligation of a public or private contractor to pay or provide for the care without regard to the income or resources of the patient. The state department is subrogated to any right of recovery that a patient may have for the cost of hospitalization, pharmaceutical services, physician services, nursing services, and other medical services not to exceed the amount of funds expended by the state department for the care and treatment of the patient. The patient or other person acting in the patient's behalf shall execute and deliver an assignment of claim or other authorizations as necessary to secure the right of recovery to the department. A payment may be withheld under this act for medical assistance for an injury or disability for which the individual is entitled to medical care or reimbursement for the cost of medical care under sections 3101 to 3179 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179, or under another policy of insurance providing medical or hospital benefits, or both, for the individual unless the individual's entitlement to that medical care or reimbursement is at issue. If a payment is made, the state department, to enforce its subrogation right, may do either of the following: (a) intervene or join in an action or proceeding brought by the injured, diseased, or disabled individual, the individual's guardian, personal representative, estate,

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dependents, or survivors, against the third person who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled individual; (b) institute and prosecute a legal proceeding against a third person who may be liable for the injury, disease, or disability, or against contractors, public or private, who may be liable to pay or provide medical care and services rendered to an injured, diseased, or disabled individual, in state or federal court, either alone or in conjunction with the injured, diseased, or disabled individual, the individual's guardian, personal representative, estate, dependents, or survivors. The state department may institute the proceedings in its own name or in the name of the injured, diseased, or disabled individual, the individual's guardian, personal representative, estate, dependents, or survivors. As provided in section 6023 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6023, the state department, in enforcing its subrogation right, shall not satisfy a judgment against the third person's property that is exempt from levy and sale. The injured, diseased, or disabled individual may proceed in his or her own name, collecting the costs without the necessity of joining the state department or the state as a named party. The injured, diseased, or disabled individual shall notify the state department of the action or proceeding entered into upon commencement of the action or proceeding. An action taken by the state or the state department in connection with the right of recovery afforded by this section does not deny the injured, diseased, or disabled individual any part of the recovery beyond the costs expended on the individual's behalf by the state department. The costs of legal action initiated by the state shall be paid by the state. A payment shall not be made under this act for medical assistance for an injury, disease, or disability for which the individual is entitled to medical care or the cost of medical care under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941; except that payment may be made if an appropriate application for medical care or the cost of the medical care has been made under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, entitlement has not been finally determined, and an arrangement satisfactory to the state department has been made for reimbursement if the claim under the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, is finally sustained.

(*iii*) The individual has an annual income that is below, or subject to limitations imposed by the director and because of medical expenses falls below, the protected basic maintenance level. The protected basic maintenance level for 1-person and 2-person families shall be at least 100% of the payment standards generally used to determine eligibility in the family independence program. For families of 3 or more persons, the protected basic maintenance level shall be at least 100% of the payment standard generally used to determine eligibility in the family independence program. These levels shall recognize regional variations and shall not exceed 133-1/3% of the payment standard generally used to determine eligibility in the family independence program.

(*iv*) The individual, if a family independence program related individual and living alone, has liquid or marketable assets of not more than $2,000.00 in value, or, if a 2-person family, the family has liquid or marketable assets of not more than $3,000.00 in value. The state department shall establish comparable liquid or marketable asset amounts for larger family groups. Excluded in making the determination of the value of liquid or marketable assets are the values of: the homestead; clothing; household effects; $1,000.00 of cash surrender value of life insurance, except that if the health of the insured makes continuance of the insurance desirable, the entire cash surrender value of life insurance is excluded from consideration, up to the maximum provided or allowed by federal regulations and in accordance with state department rules; the fair market value of tangible personal property used in earning income; an amount paid as judgment or settlement for damages suffered as a result of exposure to agent orange, as defined in section 5701 of the public health code, 1978 PA 368, MCL 333.5701; and a space or plot purchased for the purposes of burial for the person. For individuals related to the title XVI program, the appropriate resource levels and property exemptions specified in title XVI shall be used.

(*v*) The individual is not an inmate of a public institution except as a patient in a medical institution.

(*vi*) The individual meets the eligibility standards for supplemental security income under title XVI or for state supplementation under the act, subject to limitations imposed by the director according to title XIX; or meets the eligibility standards for family independence program benefits; or meets the eligibility standards for optional eligibility groups under title XIX, subject to limitations imposed by the director according to title XIX.

(2) As used in this act:

(a) "Medicaid contracted health plan" means a managed care organization with whom the state department contracts to provide or arrange for the delivery of comprehensive health care services as authorized under this act.

(b) "Medical institution" means a state licensed or approved hospital, nursing home, medical care facility, psychiatric hospital, or other facility or identifiable unit of a listed institution certified as meeting established

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standards for a nursing home or hospital in accordance with the laws of this state.

(c) "Title XVI" means title XVI of the social security act, 42 USC 1381 to 1382j and 1383 to 1383f.

(3) An individual receiving medical assistance under this act or his or her legal counsel shall notify the state department when filing an action in which the state department may have a right to recover expenses paid under this act. If the individual is enrolled in a medicaid contracted health plan, the individual or his or her legal counsel shall provide notice to the medicaid contracted health plan in addition to providing notice to the state department.

(4) If a legal action in which the state department, a medicaid contracted health plan, or both has a right to recover expenses paid under this act is filed and settled after November 29, 2004 without notice to the state department or the medicaid contracted health plan, the state department or the medicaid contracted health plan may file a legal action against the individual or his or her legal counsel, or both, to recover expenses paid under this act. The attorney general shall recover any cost or attorney fees associated with a recovery under this subsection.

(5) The state department has first priority against the proceeds of the net recovery from the settlement or judgment in an action settled in which notice has been provided under subsection (3). A medicaid contracted health plan has priority immediately after the state department in an action settled in which notice has been provided under subsection (3). The state department and a medicaid contracted health plan shall recover the full cost of expenses paid under this act unless the state department or the medicaid contracted health plan agrees to accept an amount less than the full amount. If the individual would recover less against the proceeds of the net recovery than the expenses paid under this act, the state department or medicaid contracted health plan, and the individual shall share equally in the proceeds of the net recovery. As used in this subsection, "net recovery" means the total settlement or judgment less the costs and fees incurred by or on behalf of the individual who obtains the settlement or judgment.

History: Add. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1967, Act 289, Imd. Eff. Aug. 1, 1967;—Am. 1970, Act 160, Imd. Eff. Aug. 2, 1970;—Am. 1973, Act 189, Imd. Eff. Jan. 8, 1974;—Am. 1976, Act 284, Imd. Eff. Oct. 20, 1976;—Am. 1978, Act 623, Imd. Eff. Jan. 6, 1979;—Am. 1982, Act 405, Eff. Mar. 30, 1983;—Am. 1990, Act 145, Imd. Eff. June 27, 1990;—Am. 2003, Act 33, Imd. Eff. July 2, 2003;—Am. 2004, Act 409, Imd. Eff. Nov. 29, 2004;—Am. 2006, Act 144, Imd. Eff. May 22, 2006.

Compiler's note: For transfer of powers and duties of the home help program and the physical disabilities program from the family independence agency to the director of the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 280

400.106a Short title; medical assistance to individuals with earned income; establishment of program; limitation; eligibility; premium; report of earned income changes; report to governor; waiver; definitions.

Sec. 106a. (1) This section shall be known and may be cited as the “Michigan freedom to work for individuals with disabilities law”.

(2) The department of community health shall establish a program to provide medical assistance to individuals who have earned income and who meet all of the following eligibility criteria:

(a) The individual has been found to be disabled under the federal supplemental security income program or the social security disability income program, or would be found to be disabled except for earnings in excess of the substantial gainful activity level as established by the United States social security administration.

(b) The individual is at least 16 years of age and younger than 65 years of age.

(c) The individual has an unearned income level of not more than 100% of the current federal poverty guidelines.

(d) The individual is a current medical assistance recipient under section 106 or meets income, asset, and eligibility requirements for the medical assistance program under section 106.

(e) The individual is employed on a regular and continuing basis.

(3) The program is limited to the medical assistance services made available to recipients under the medical assistance program administered under section 105 and does not include personal assistance services in the workplace.

(4) Without losing eligibility for medical assistance, an individual who qualifies for and is enrolled under this program is permitted to do all of the following:

(a) Accumulate personal savings and assets not to exceed $75,000.00.

(b) Accumulate unlimited retirement and individual retirement accounts.

(c) Have temporary breaks in employment that do not exceed 24 months if the temporary breaks are the result of an involuntary layoff or are determined to be medically necessary.

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(d) Work and have income that exceeds the amount permitted under section 106, but shall not have unearned income that exceeds 100% of the federal poverty guidelines.

(5) The department of community health shall establish a premium that is based on earned income for individuals enrolled in the program subject to all of the following provisions:

(a) The premium shall be based on the enrolled individual's annualized earned income above 250% of the current federal poverty guidelines for a family of 1.

(b) Individuals with an earned income of between 250% of the federal poverty guidelines for a family of 1 and $75,000.00 shall pay a sliding fee scale premium starting at $600.00 annually and increasing to 100% of the average medical assistance recipient cost as determined by the department of community health for individuals with annual income of $75,000.00 or more.

(c) The premium sliding fee scale shall have no more than 5 tiers.

(d) The premium for an enrolled individual shall generally be assessed on an annual basis based on the annual return required to be filed under the internal revenue code of 1986 or other evidence of earned income and shall be payable on a monthly basis. The premium shall be adjusted during the year when a change in an enrolled individual's rate of annual income moves the individual to a different premium tier.

(6) An enrolled individual has an affirmative duty to report earned income changes that would result in a different premium within 30 days to the department of community health.

(7) The department of community health shall report to the governor and the legislature within 2 years of the effective date of the amendatory act that added this section regarding all of the following:

(a) The effectiveness of the program in achieving its purposes.

(b) The number of individuals enrolled in the program.

(c) The costs and benefits of the program.

(d) The opportunities and projected costs of expanding the program to working individuals with disabilities who are not currently eligible for the program.

(e) Additional services that should be covered under the program to assist working individuals with disabilities in obtaining and maintaining employment.

(8) If the terms of this section are inconsistent with federal regulations governing federal financial participation in the medical assistance program, the department of community health may to the extent necessary waive any requirement set forth in subsections (1) to (5).

(9) The program established in this section shall be implemented on or before January 1, 2004.

(10) As used in this section:

(a) “Earned income” and “unearned income” mean those terms as used by the family independence agency in determining eligibility for the medical assistance program administered under this act.

(b) “Federal poverty guidelines” means the poverty guidelines published annually in the federal register by the United States department of health and human services under its authority to revise the poverty line under section 673(2) of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902.

History: Add. 2003, Act 32, Imd. Eff. July 2, 2003.

Popular name: Act 280

400.107 Medically indigent; financial eligibility; income.

Sec. 107. In establishing financial eligibility for the medically indigent as defined in section 106, income shall be disregarded in accordance with standards established for the related categorical assistance program. For medical assistance only, income shall include the amount of contribution that an estranged spouse or parent for a minor child is making to the applicant according to the standards of the state department, or according to a court determination, if there is a court determination. Nothing in this section eliminates the responsibility of support established in section 76 for cash assistance received under this act.

History: Add. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1967, Act 289, Imd. Eff. Aug. 1, 1967;—Am. 2006, Act 144, Imd. Eff. May 22, 2006.

Popular name: Act 280

400.108 Medical and dental services to which medically indigent entitled; certification; medicaid.

Sec. 108. A medically indigent person as defined under subdivision (1) of section 106, is entitled to all the services enumerated in subsections (a), (b), (c), (d), (e) and (f) of section 109. A medically indigent person as defined under subdivision (2) of section 106 is entitled to medical services enumerated in subsections (a), (c) and (e) of section 109. He shall also be entitled to the services enumerated in subsections (b), (d) and (f) of section 109 to the extent of appropriations made available by the legislature for the fiscal year. Medical

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services shall be rendered upon certification by the attending licensed physician and dental services shall be rendered upon certification of the attending licensed dentist that a service is required for the treatment of an individual. The services of a medical institution shall be rendered only after referral by a licensed physician or dentist and certification by him that the services of the medical institution are required for the medical or dental treatment of the individual, except that referral is not necessary in case of an emergency. Periodic recertification that medical treatment which extends over a period of time is required in accordance with regulations of the state department shall be a condition of continuing eligibility to receive medical assistance. To comply with federal statutes governing medicaid, the state department shall provide such early and periodic screening, diagnostic and treatment services to eligible children as it deems necessary.

History: Add. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1967, Act 289, Imd. Eff. Aug. 1, 1967;—Am. 1972, Act 367, Imd. Eff. Jan. 9, 1973.

Popular name: Act 280

400.109 Medical services provided under act; notice and approval of proposed change in method or level of reimbursement; definitions.

Sec. 109. (1) The following medical services may be provided under this act:

(a) Hospital services that an eligible individual may receive consist of medical, surgical, or obstetrical care, together with necessary drugs, X-rays, physical therapy, prosthesis, transportation, and nursing care incident to the medical, surgical, or obstetrical care. The period of inpatient hospital service shall be the minimum period necessary in this type of facility for the proper care and treatment of the individual. Necessary hospitalization to provide dental care shall be provided if certified by the attending dentist with the approval of the department of community health. An individual who is receiving medical treatment as an inpatient because of a diagnosis of tuberculosis or mental disease may receive service under this section, notwithstanding the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, and 1925 PA 177, MCL 332.151 to 332.164. The department of community health shall pay for hospital services in accordance with the state plan for medical assistance adopted under section 10 and approved by the United States department of health and human services.

(b) An eligible individual may receive physician services authorized by the department of community health. The service may be furnished in the physician's office, the eligible individual's home, a medical institution, or elsewhere in case of emergency. A physician shall be paid a reasonable charge for the service rendered. Reasonable charges shall be determined by the department of community health and shall not be more than those paid in this state for services rendered under title XVIII.

(c) An eligible individual may receive nursing home services in a state licensed nursing home, a medical care facility, or other facility or identifiable unit of that facility, certified by the appropriate authority as meeting established standards for a nursing home under the laws and rules of this state and the United States department of health and human services, to the extent found necessary by the attending physician, dentist, or certified Christian Science practitioner. An eligible individual may receive nursing services in a short-term nursing care program established under section 22210 of the public health code, 1978 PA 368, MCL 333.22210, to the extent found necessary by the attending physician when the combined length of stay in the acute care bed and short-term nursing care bed exceeds the average length of stay for medicaid hospital diagnostic related group reimbursement. The department of community health shall not make a final payment pursuant to title XIX for benefits available under title XVIII without documentation that title XVIII claims have been filed and denied. The department of community health shall pay for nursing home services in accordance with the state plan for medical assistance adopted according to section 10 and approved by the United States department of health and human services. A county shall reimburse a county maintenance of effort rate determined on an annual basis for each patient day of medicaid nursing home services provided to eligible individuals in long-term care facilities owned by the county and licensed to provide nursing home services. For purposes of determining rates and costs described in this subdivision, all of the following apply:

(*i*) For county owned facilities with per patient day updated variable costs exceeding the variable cost limit for the county facility, county maintenance of effort rate means 45% of the difference between per patient day updated variable cost and the concomitant nursing home-class variable cost limit, the quantity offset by the difference between per patient day updated variable cost and the concomitant variable cost limit for the county facility. The county rate shall not be less than zero.

(*ii*) For county owned facilities with per patient day updated variable costs not exceeding the variable cost limit for the county facility, county maintenance of effort rate means 45% of the difference between per patient day updated variable cost and the concomitant nursing home class variable cost limit.

(*iii*) For county owned facilities with per patient day updated variable costs not exceeding the concomitant nursing home class variable cost limit, the county maintenance of effort rate shall equal zero.

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(*iv*) For the purposes of this section: "per patient day updated variable costs and the variable cost limit for the county facility" shall be determined pursuant to the state plan for medical assistance; for freestanding county facilities the "nursing home class variable cost limit" shall be determined pursuant to the state plan for medical assistance and for hospital attached county facilities the "nursing class variable cost limit" shall be determined pursuant to the state plan for medical assistance plus $5.00 per patient day; and "freestanding" and "hospital attached" shall be determined in accordance with the federal regulations.

(*v*) If the county maintenance of effort rate computed in accordance with this section exceeds the county maintenance of effort rate in effect as of September 30, 1984, the rate in effect as of September 30, 1984 shall remain in effect until a time that the rate computed in accordance with this section is less than the September 30, 1984 rate. This limitation remains in effect until December 31, 2012. For each subsequent county fiscal year the maintenance of effort may not increase by more than $1.00 per patient day each year.

(*vi*) For county owned facilities, reimbursement for plant costs will continue to be based on interest expense and depreciation allowance unless otherwise provided by law.

(d) An eligible individual may receive pharmaceutical services from a licensed pharmacist of the person's choice as prescribed by a licensed physician or dentist and approved by the department of community health. In an emergency, but not routinely, the individual may receive pharmaceutical services rendered personally by a licensed physician or dentist on the same basis as approved for pharmacists.

(e) An eligible individual may receive other medical and health services as authorized by the department of community health.

(f) Psychiatric care may also be provided pursuant to the guidelines established by the department of community health to the extent of appropriations made available by the legislature for the fiscal year.

(g) An eligible individual may receive screening, laboratory services, diagnostic services, early intervention services, and treatment for chronic kidney disease pursuant to guidelines established by the department of community health. A clinical laboratory performing a creatinine test on an eligible individual pursuant to this subdivision shall include in the lab report the glomerular filtration rate (eGFR) of the individual and shall report it as a percent of kidney function remaining.

(2) The director shall provide notice to the public, in accordance with applicable federal regulations, and shall obtain the approval of the committees on appropriations of the house of representatives and senate of the legislature of this state, of a proposed change in the statewide method or level of reimbursement for a service, if the proposed change is expected to increase or decrease payments for that service by 1% or more during the 12 months after the effective date of the change.

(3) As used in this act:

(a) "Title XVIII" means title XVIII of the social security act, 42 USC 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

(b) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396r-6 and 1396r-8 to 1396v.

(c) "Title XX" means title XX of the social security act, 42 USC 1397 to 1397f.

History: Add. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1967, Act 289, Imd. Eff. Aug. 1, 1967;—Am. 1970, Act 160, Imd. Eff. Aug. 2, 1970;—Am. 1972, Act 367, Imd. Eff. Jan. 9, 1973;—Am. 1977, Act 79, Imd. Eff. Aug. 2, 1977;—Am. 1980, Act 321, Imd. Eff. Dec. 12, 1980;—Am. 1980, Act 391, Imd. Eff. Jan. 7, 1981;—Am. 1984, Act 408, Imd. Eff. Dec. 28, 1984;—Am. 1990, Act 193, Imd. Eff. July 24, 1990;—Am. 1990, Act 261, Imd. Eff. Oct. 15, 1990;—Am. 1994, Act 352, Imd. Eff. Dec. 22, 1994;—Am. 1995, Act 277, Imd. Eff. Jan. 8, 1996;—Am. 1996, Act 473, Imd. Eff. Dec. 26, 1996;—Am. 1997, Act 173, Imd. Eff. Dec. 30, 1997;—Am. 2000, Act 168, Imd. Eff. June 20, 2000;—Am. 2002, Act 673, Imd. Eff. Dec. 26, 2002;—Am. 2006, Act 327, Imd. Eff. Aug. 10, 2006;—Am. 2006, Act 576, Imd. Eff. Jan. 3, 2007.

Compiler's note: For transfer of powers and duties of the home help program and the physical disabilities program from the family independence agency to the director of the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 280

400.109a Abortion as service provided with public funds to welfare recipient; prohibition; exception; policy.

Sec. 109a. Notwithstanding any other provision of this act, an abortion shall not be a service provided with public funds to a recipient of welfare benefits, whether through a program of medical assistance, general assistance, or categorical assistance or through any other type of public aid or assistance program, unless the abortion is necessary to save the life of the mother. It is the policy of this state to prohibit the appropriation of public funds for the purpose of providing an abortion to a person who receives welfare benefits unless the abortion is necessary to save the life of the mother.

History: Add. 1987, Act 59, Eff. Dec. 12, 1988.

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Constitutionality: The Michigan Supreme Court considered an argument by plaintiffs in Doe v Department of Social Services, 439 Mich 650 (1992), that the state's refusal to pay for a therapeutic abortion violates the equal protection guarantee of the Michigan Constitution. Plaintiffs argued that S 400.109a provides unequal treatment to two classes of indigent, pregnant women — those who choose childbirth and those who chose abortion. The trial court in the case granted defendant's motion for summary disposition and dismissed the suit. The court of appeals reversed, 187 Mich App 493 (1991), concluding that (1) the equal protection guarantee in the Michigan Constitution provided greater protection than the corresponding guarantee in the federal constitution and (2) that the statute directly interferes with the women's right to an abortion. The Michigan Supreme Court reversed the court of appeals, holding that (1) there is no evidence of an intent in the Michigan Constitution to provide broader protection than its federal counterpart and (2) the state's decision to fund childbirth, but not abortion, does not impinge upon the exercise of a fundamental right. The Michigan Supreme Court, in upholding the validity of the statute under rational basis test, concluded that Michigan's Constitution permits the state to fund childbirth expenses even though it does not fund abortions.

Compiler's note: This added section was proposed by initiative petition pursuant to Const 1963, art 2, § 9. On June 17, 1987, the initiative petition was approved by an affirmative vote of the majority of the Senators elect and filed with the Secretary of State. On June 23, 1987, the initiative petition was approved by an affirmative vote of the majority of the Members elect of the House of Representatives and filed with the Secretary of State. The Legislature did not vote pursuant to Const 1963, art 4, § 27, to give immediate effect to this enactment.

In Frey v Director, Department of Social Services, 162 Mich App 586; 413 NW2d 54 (1987), the Michigan Court of Appeals held that Const 1963, art 4, § 27, applies to initiative laws and that without the required two-thirds vote of each house of the Legislature, as provided by Const 1963, art 4, § 27, Act 59 of 1987 could not take effect until the expiration of 90 days from the end of the session at which it was passed.

In affirming the decision of the Court of Appeals in Frey, the Michigan Supreme Court held that when a law is proposed by initiative and enacted by the Legislature without change or amendment within forty days as required by Const 1963, art 2, § 9, it takes effect ninety days after the end of the session in which it was passed unless two-thirds of the members of each house of the Legislature, as provided by art 4, § 27, vote to give the law immediate effect. Act 59 of 1987, not having received votes in favor of immediate effect by two-thirds of the elected members of each house, may not take effect until ninety days after the end of the session in which it was enacted. Frey v Director, Department of Social Services, 429 Mich 315; 414 NW2d 873 (1987).

On March 1, 1988, petitions to invoke the power of referendum with regard to Act 59 of 1987 were filed with the Secretary of State. On April 13, 1988, the Board of State Canvassers certified the validity of a sufficient number of petition signatures to invoke the referendum. In a letter opinion to C. Patrick Babcock, Director, Department of Social Services, dated March 28, 1988, the Attorney General addressed the following question: "[I]f the filing of petitions, which include, if they are valid, a sufficient number of signatures to properly invoke a referendum, stays the effective date of Act 59 of 1987, which will otherwise become effective on March 30, 1988?" The Attorney General concluded that "when a petition seeking referendum, which on its face meets legal requirements, is filed the signatures appearing on that petition are presumed valid and the statute at issue is stayed or suspended until either the petitions are found to be invalid or a vote of the people occurs."

Act 59 of 1987, as enacted by the Legislature, was submitted to the people by referendum petition and approved by a majority of the votes cast at the general election held November 8, 1988. The Board of State Canvassers officially declared the vote to be 1,959,727 (for) and 1,486,371 (against) on December 2, 1988.

Popular name: Act 280

400.109b Modification of formula for indigent care volume price adjustor.

Sec. 109b. Beginning October 1, 1988, the formula for the indigent care volume price adjustor shall be modified in such a manner as to distribute, in addition to the $30,000,000.00 appropriated for indigent care in fiscal year 1987-88, not less than $24,000,000.00 annually to hospitals that provide a large proportion of their services to indigent persons.

History: Add. 1987, Act 266, Imd. Eff. Dec. 28, 1987.

Popular name: Act 280

400.109c Home or community-based services; eligibility; safeguards; written plan of care; available services; per capita expenditure; waiver; rules; report; changing plan of care; hearing; appeal; expansion of program; implementation of program by state department and office of services to the aging.

Sec. 109c. (1) The state department shall include, as part of its program of medical services under this act, home- or community-based services to eligible persons whom the state department determines would otherwise require nursing home services or similar institutional care services under section 109. The home- or community-based services shall be offered to qualified eligible persons who are receiving inpatient hospital or nursing home services as an alternative to those forms of care.

(2) The home- or community-based services shall include safeguards adequate to protect the health and welfare of participating eligible persons, and shall be provided according to a written plan of care for each person. The services available under the home- or community-based services program shall include, at a minimum, all of the following:

(a) Home delivered meals.

(b) Chore services.

(c) Homemaker services.

(d) Respite care.

(e) Personal care.

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(f) Adult day care.
(g) Private duty nursing.
(h) Mental health counseling.
(i) Caregiver training.
(j) Emergency response systems.
(k) Home modification.
(*l*) Transportation.
(m) Medical equipment and supply services.

(3) This section shall be implemented so that the average per capita expenditure for home- or community-based services for eligible persons receiving those services does not exceed the estimated average per capita expenditure that would have been made for those persons had they been receiving nursing home services, inpatient hospital or similar institutional care services instead.

(4) The state department shall seek a waiver necessary to implement this program from the federal department of health and human services, as provided in section 1915 of title XIX, 42 U.S.C. 1396n. The department shall request any modifications of the waiver that are necessary in order to expand the program in accordance with subsection (9).

(5) The state department shall establish policy for identifying the rules for persons receiving inpatient hospital or nursing home services who may qualify for home- or community-based services. The rules shall contain, at a minimum, a listing of diagnoses and patient conditions to which the option of home- or community-based services may apply, and a procedure to determine if the person qualifies for home- or community-based services.

(6) The state department shall provide to the legislature and the governor an annual report showing the detail of its home- and community-based case finding and placement activities. At a minimum, the report shall contain each of the following:

(a) The number of persons provided home- or community-based services who would otherwise require inpatient hospital services. This shall include a description of medical conditions, services provided, and projected cost savings for these persons.

(b) The number of persons provided home- or community-based services who would otherwise require nursing home services. This shall include a description of medical conditions, services provided, and projected cost savings for these persons.

(c) The number of persons and the annual expenditure for personal care services.

(d) The number of hearings requested concerning home- or community-based services and the outcome of each hearing which has been adjudicated during the year.

(7) The written plan of care required under subsection (2) for an eligible person shall not be changed unless the change is prospective only, and the state department does both of the following:

(a) Not later than 30 days before making the change, except in the case of emergency, consults with the eligible person or, in the case of a child, with the child's parent or guardian.

(b) Consults with each medical service provider involved in the change. This consultation shall be documented in writing.

(8) An eligible person who is receiving home- or community-based services under this section, and who is dissatisfied with a change in his or her plan of care or a denial of any home- or community-based service, may demand a hearing as provided in section 9, and subsequently may appeal the hearing decision to circuit court as provided in section 37.

(9) The state department shall expand the home- and community-based services program by increasing the number of counties in which it is available, in conformance with this subsection. The program may be limited in total cost and in the number of recipients per county who may receive services at 1 time. Subject to obtaining the waiver and any modifications of the waiver sought under subsection (4), the program shall be expanded as follows:

(a) Not later than 1 year after the effective date of this subsection, home- and community-based services shall be available to eligible applicants in those counties that, when combined, contain at least 1/4 of the population of this state.

(b) Not later than 2 years after the effective date of this subsection, home- and community-based services shall be available to eligible applicants in those counties that, when combined, contain at least 1/2 of the population of this state.

(c) Not later than 3 years after the effective date of this subsection, home- and community-based services shall be available to eligible applicants in those counties that, when combined, contain at least 3/4 of the population of this state.

(d) Not later than 4 years after the effective date of this subsection, home- and community-based services

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shall be available to eligible applicants on a statewide basis.

(10) The state department shall work with the office of services to the aging in implementing the home- and community-based services program, including the provision of preadmission screening, case management, and recipient access to services.

History: Add. 1988, Act 410, Imd. Eff. Dec. 27, 1988;—Am. 1994, Act 302, Imd. Eff. July 14, 1994.

Compiler's note: For transfer of powers and duties of the home help program and the physical disabilities program from the family independence agency to the director of the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 280

400.109d Services relating to performing abortions; prohibitions.

Sec. 109d. (1) The legislature finds that the use of medicaid funds for elective abortions has been clearly rejected by the people of Michigan through Act No. 59 of the Public Acts of 1987, initiated by the citizens under the rights of the people reserved in the Michigan constitution, approved by a majority of this legislature, affirmed by the citizens at large through a statewide referendum, and sustained by the Michigan supreme court.

(2) In light of evidence that abortion providers, in conjunction with third party payors, may have devised and implemented plans for reimbursing services in violation of the intent of Act No. 59 of the Public Acts of 1987, the legislature finds the enactment of section 109e a necessary clarification of, and enforcement mechanism for, Act No. 59 of the Public Acts of 1987.

(3) The legislature finds that any practice of separating or unbundling services directly related to the performance of an abortion for the purposes of seeking medicaid reimbursement, with those funds thereby subsidizing in whole or in part the cost of performing an abortion, is an inappropriate use of taxpayer funds in light of Act No. 59 of the Public Acts of 1987.

(4) Recognizing that certain services related to performing an abortion can also be part of legitimate and routine obstetric care, section 109e should not be construed to affect diagnostic testing or other nonabortion procedures. Only physicians who actually perform abortions, and particularly those who perform abortions but do not provide prenatal care or obstetric services, should view themselves as potentially affected by section 109e. Unacceptable requests for reimbursement include those services which would not have been performed, but for the preparation and performance of a planned or requested abortion.

History: Add. 1996, Act 124, Eff. Mar. 31, 1997.

Popular name: Act 280

400.109e Definitions; reimbursement for performance of abortion; prohibition; violation; penalty; enforcement; scope of section.

Sec. 109e. (1) As used in this section:

(a) “Abortion” means the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Abortion does not include the use or prescription of a drug or device intended as a contraceptive.

(b) “Health care professional” means an individual licensed or registered under article 15 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.16101 to 333.18838 of the Michigan Compiled Laws.

(c) “Health facility or agency” means a health facility or agency licensed under article 17 of Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws.

(2) A health care professional or a health facility or agency shall not seek or accept reimbursement for the performance of an abortion knowing that public funds will be or have been used in whole or in part for the reimbursement in violation of section 109a of Act No. 280 of the Public Acts of 1939, being section 400.109a of the Michigan Compiled Laws, as added by Act No. 59 of the Public Acts of 1987.

(3) A person who violates this section is liable for a civil fine of up to $10,000.00 per violation. The department of community health shall investigate an alleged violation of this section and the attorney general, in cooperation with the department of community health, may bring an action to enforce this section.

(4) Nothing in this section restricts the right of a health care professional to discuss abortion or abortion services with a patient who is pregnant.

(5) This section does not create a right to an abortion.

(6) Notwithstanding any other provision of this section, a person shall not perform an abortion that is prohibited by law.

History: Add. 1996, Act 124, Eff. Mar. 31, 1997.

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Popular name: Act 280

400.109f Medicaid-covered specialty services and supports; management and delivery; specialty prepaid health plans.

Sec. 109f. (1) The department of community health shall support the use of medicaid funds for specialty services and supports for eligible medicaid beneficiaries with a serious mental illness, developmental disability, serious emotional disturbance, or substance abuse disorder. Medicaid-covered specialty services and supports shall be managed and delivered by specialty prepaid health plans chosen by the department of community health with advice and recommendations from the specialty services panel created in section 109g. The specialty services and supports shall be carved out from the basic medicaid health care benefits package.

(2) Specialty prepaid health plans shall be considered medicaid managed care organizations as described in section 1903(m)(1)(A) of title XIX of the social security act, 42 USC 1396b, and shall be responsible for providing defined inpatient services, outpatient hospital services, physician services, other specified medicaid state plan services, and additional services approved by the centers for medicare and medicaid services under section 1915(b)(3) of title XIX of the social security act, 42 USC 1396n. As medicaid managed care organizations, specialty prepaid health plans are subject to the quality assurance assessment fee described in section 224b of the insurance code of 1956, 1956 PA 218, MCL 500.224b.

History: Add. 2000, Act 410, Imd. Eff. Jan. 8, 2001;—Am. 2005, Act 84, Imd. Eff. July 19, 2005.

Popular name: Act 280

400.109g Specialty services panel; creation; purpose; membership; qualifications; terms; vacancy; conflict of interest; advisory capacity; meetings.

Sec. 109g. (1) The governor shall create a specialty services panel within the department of community health to review and make determinations regarding applications for participation submitted by community mental health services programs or other managing entities.

(2) The specialty services panel shall consist of the following members, appointed by the governor:

(a) The director of the department of community health or his or her representative.

(b) Two members who represent the department of community health, excluding an individual appointed under subdivision (a).

(c) The director of the department of management and budget or his or her representative.

(d) Four members who represent primary consumers or family members.

(e) Five members who represent other stakeholders, including, but not limited to, 1 representative each from the statewide advocacy organizations representing adults with serious mental illness, children with serious emotional disturbance, individuals with substance abuse disorders, and individuals with developmental disabilities. At least 1 member appointed under this subdivision shall be a county commissioner.

(3) No member appointed under subsection (2)(d) or (e) shall provide direct services or represent providers who provide services for reimbursement under this act to an individual who qualifies for specialty services.

(4) Members of the specialty services panel shall serve for terms of 4 years or until a successor is appointed, whichever is later, except that, of the members first appointed, 4 shall serve for 1 year, 5 shall serve for 2 years, and 4 shall serve for 3 years.

(5) If a vacancy occurs on the specialty services panel, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.

(6) A member of the specialty services panel shall make known any matter in which that member has a potential conflict of interest.

(7) The specialty services panel shall remain in existence to serve in an advisory capacity to the director of the department of community health regarding performance and quality relating to medicaid specialty services and supports. The panel shall meet no less than 2 times a year. The panel shall have access to all aggregate quality management information gathered by the department of community health relating to the managing entities.

History: Add. 2000, Act 409, Imd. Eff. Jan. 8, 2001.

Compiler's note: For abolishment of the specialty services panel and transfer of its powers and duties to the department of community health, see E.R.O. No. 2007-13, compiled at MCL 333.26326.

Popular name: Act 280

400.109h Prior authorization for certain prescription drugs not required; drugs under contract between department and health maintenance organization; definitions.

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Sec. 109h. (1) If the department of community health develops a prior authorization process for prescription drugs as part of the pharmaceutical services offered under the medical assistance program administered under this act, it shall not require prior authorization for the following single source brand name, generic equivalent of a multiple source brand name, or other prescription drugs:

(a) A central nervous system prescription drug that is classified as an anticonvulsant, antidepressant, antipsychotic, or a noncontrolled substance antianxiety drug in a generally accepted standard medical reference.

(b) A prescription drug that is cross-indicated for a central nervous system drug exempted under subdivision (a) as documented in a generally accepted standard medical reference.

(c) Unless the prescription drug is a controlled substance or the prescription drug is being prescribed to treat a condition that is excluded from coverage under this act, a prescription drug that is recognized in a generally accepted standard medical reference as effective in the treatment of conditions specified in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association. The department or the department's agent shall not deny a request for prior authorization of a controlled substance under this subdivision unless the department or the department's agent determines that the controlled substance or the dosage of the controlled substance being prescribed is not consistent with its licensed indications or with generally accepted medical practice as documented in a standard medical reference.

(d) A prescription drug that is recognized in a generally accepted standard medical reference for the treatment of and is being prescribed to a patient for the treatment of any of the following:

(*i*) Human immunodeficiency virus infections or the complications of the human immunodeficiency virus or acquired immunodeficiency syndrome.

(*ii*) Cancer.

(*iii*) Organ replacement therapy.

(*iv*) Epilepsy or seizure disorder.

(2) This section does not apply to drugs being provided under a contract between the department and a health maintenance organization.

(3) As used in this section:

(a) “Controlled substance” means that term as defined in section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(b) “Cross-indicated” means a drug which is used for a purpose generally held to be reasonable, appropriate, and within community standards of practice even though the use is not included in the federal food and drug administration's approved labeled indications for that drug.

(c) “Department” means the department of community health.

(d) “Prescriber” means that term as defined in section 17708 of the public health code, 1978 PA 368, MCL 333.17708.

(e) “Prescription” or “prescription drug” means that term as defined in section 17708 of the public health code, 1978 PA 368, MCL 333.17708.

(f) “Prior authorization” means a process implemented by the department of community health that conditions, delays, or denies the delivery of particular pharmaceutical services to medicaid beneficiaries upon application of predetermined criteria by the department or the department's agent for those pharmaceutical services covered by the department on a fee-for-service basis or pursuant to a contract for those services. The process may require a prescriber to verify with the department or the department's agent that the proposed medical use of a prescription drug being prescribed for a patient meets the predetermined criteria for a prescription drug that is otherwise covered under this act or require a prescriber to obtain authorization from the department or the department's agent before prescribing or dispensing a prescription drug that is not included on a preferred drug list or that is subject to special access or reimbursement restrictions.

History: Add. 2004, Act 248, Imd. Eff. July 23, 2004.

Popular name: Act 280

400.109i Locally or regionally based single point of entry agencies for long-term care.

Sec. 109i. (1) The director of the department of community health shall designate and maintain locally or regionally based single point of entry agencies for long-term care that shall serve as visible and effective access points for individuals seeking long-term care and that shall promote consumer choice and quality in long-term care options.

(2) The department of community health shall monitor single point of entry agencies for long-term care to assure, at a minimum, all of the following:

(a) That bias in functional and financial eligibility determination or assistance and the promotion of

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specific services to the detriment of consumer choice and control does not occur.

(b) That consumer assessments and support plans are completed in a timely, consistent, and quality manner through a person-centered planning process and adhere to other criteria established by this section and the department of community health.

(c) The provision of quality assistance and supports.

(d) That quality assistance and supports are provided to applicants and consumers in a manner consistent with their cultural norms, language of preference, and means of communication.

(e) Consumer access to an independent consumer advocate.

(f) That data and outcome measures are being collected and reported as required under this act and by contract.

(g) That consumers are able to choose their supports coordinator.

(3) The department of community health shall establish and publicize a toll-free telephone number for areas of the state in which a single point of entry agency is operational as a means of access.

(4) The department of community health shall require that single point of entry agencies for long-term care perform the following duties and responsibilities:

(a) Provide consumers and any others with unbiased information promoting consumer choice for all long-term care options, services, and supports.

(b) Facilitate movement between supports, services, and settings in a timely manner that assures consumers' informed choice, health, and welfare.

(c) Assess consumers' eligibility for all medicaid long-term care programs utilizing a comprehensive level of care assessment approved by the department of community health.

(d) Assist consumers in obtaining a financial determination of eligibility for publicly funded long-term care programs.

(e) Assist consumers in developing their long-term care support plans through a person-centered planning process.

(f) Authorize access to medicaid programs for which the consumer is eligible and that are identified in the consumer's long-term care supports plan. The single point of entry agency for long-term care shall not refuse to authorize access to medicaid programs for which the consumer is eligible.

(g) Upon request of a consumer, his or her guardian, or his or her authorized representative, facilitate needed transition services for consumers living in long-term care settings if those consumers are eligible for those services according to a policy bulletin approved by the department of community health.

(h) Work with designated representatives of acute and primary care settings, facility settings, and community settings to assure that consumers in those settings are presented with information regarding the full array of long-term care options.

(i) Reevaluate the consumer's eligibility and need for long-term care services upon request of the consumer, his or her guardian, or his or her authorized representative or according to the consumer's long-term care support plan.

(j) Except as otherwise provided in subdivisions (k) and (*l*), provide the following services within the prescribed time frames:

(*i*) Perform an initial evaluation for long-term care within 2 business days after contact by the consumer, his or her guardian, or his or her authorized representative.

(*ii*) Develop a preliminary long-term care support plan in partnership with the consumer and, if applicable, his or her guardian or authorized representative within 2 business days after the consumer is found to be eligible for services.

(*iii*) Complete a final evaluation and assessment within 10 business days from initial contact with the consumer, his or her guardian, or his or her authorized representative.

(k) For a consumer who is in an urgent or emergent situation, within 24 hours after contact is made by the consumer, his or her guardian, or his or her authorized representative, perform an initial evaluation and develop a preliminary long-term care support plan. The preliminary long-term care support plan shall be developed in partnership with the consumer and, if applicable, his or her guardian or authorized representative.

(*l*) Except as provided in subsection (20), for a consumer who receives notice that within 72 hours he or she will be discharged from a hospital, within 24 hours after contact is made by the consumer, his or her guardian, his or her authorized representative, or the hospital discharge planner, perform an initial evaluation and develop a preliminary long-term care support plan. The preliminary long-term care support plan shall be developed in partnership with the consumer and, if applicable, his or her guardian, his or her authorized representative, or the hospital discharge planner.

(m) Initiate contact with and be a resource to hospitals within the area serviced by the single point of entry

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agencies for long-term care.

(n) Provide consumers with information on how to contact an independent consumer advocate and a description of the advocate's mission. This information shall be provided in a publication prepared by the department of community health in consultation with these entities. This information shall also be posted in the office of a single point of entry agency.

(o) Collect and report data and outcome measures as required by the department of community health, including, but not limited to, the following data:

(*i*) The number of referrals by level of care setting.

(*ii*) The number of cases in which the care setting chosen by the consumer resulted in costs exceeding the costs that would have been incurred had the consumer chosen to receive care in a nursing home.

(*iii*) The number of cases in which admission to a long-term care facility was denied and the reasons for denial.

(*iv*) The number of cases in which a memorandum of understanding was required.

(*v*) The rates and causes of hospitalization.

(*vi*) The rates of nursing home admissions.

(*vii*) The number of consumers transitioned out of nursing homes.

(*viii*) The average time frame for case management review.

(*ix*) The total number of contacts and consumers served.

(*x*) The data necessary for the completion of the cost-benefit analysis required under subsection (11).

(*xi*) The number and types of referrals made.

(*xii*) The number and types of referrals that were not able to be made and the reasons why the referrals were not completed, including, but not limited to, consumer choice, services not available, consumer functional or financial ineligibility, and financial prohibitions.

(p) Maintain consumer contact information and long-term care support plans in a confidential and secure manner.

(q) Provide consumers with a copy of their preliminary and final long-term care support plans and any updates to the long-term care plans.

(5) The department of community health, in consultation with the office of long-term care supports and services, the Michigan long-term care supports and services advisory commission, the department, and the office of services to the aging, shall promulgate rules to establish criteria for designating local or regional single point of entry agencies for long-term care that meet all of the following criteria:

(a) The designated single point of entry agency for long-term care does not provide direct or contracted medicaid services. For the purposes of this section, the services required to be provided under subsection (4) are not considered medicaid services.

(b) The designated single point of entry agency for long-term care is free from all legal and financial conflicts of interest with providers of medicaid services.

(c) The designated single point of entry agency for long-term care is capable of serving as the focal point for all individuals, regardless of age, seeking information about long-term care in their region, including individuals who will pay privately for services.

(d) The designated single point of entry agency for long-term care is capable of performing required consumer data collection, management, and reporting.

(e) The designated single point of entry agency for long-term care has quality standards, improvement methods, and procedures in place that measure consumer satisfaction and monitor consumer outcomes.

(f) The designated single point of entry agency for long-term care has knowledge of the federal and state statutes and regulations governing long-term care settings.

(g) The designated single point of entry agency for long-term care maintains an internal and external appeal process that provides for a review of individual decisions.

(h) The designated single point of entry agency for long-term care is capable of delivering single point of entry services in a timely manner according to standards established by the department of community health and as prescribed in subsection (4).

(6) A single point of entry agency for long-term care that fails to meet the criteria described in this section or other fiscal and performance standards prescribed by contract and subsection (7) or that intentionally and knowingly presents biased information that is intended to steer consumer choice to particular long-term care supports and services is subject to disciplinary action by the department of community health. Disciplinary action may include, but is not limited to, increased monitoring by the department of community health, additional reporting, termination as a designated single point of entry agency by the department of community health, or any other action as provided in the contract for a single point of entry agency.

(7) Fiscal and performance standards for a single point of entry agency include, but are not limited to, all

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of the following:

(a) Maintaining administrative costs that are reasonable, as determined by the department of community health, in relation to spending per client.

(b) Identifying savings in the annual state medicaid budget or limits in the rate of growth of the annual state medicaid budget attributable to providing services under subsection (4) to consumers in need of long-term care services and supports, taking into consideration medicaid caseload and appropriations.

(c) Consumer satisfaction with services provided under subsection (4).

(d) Timeliness of delivery of services provided under subsection (4).

(e) Quality, accessibility, and availability of services provided under subsection (4).

(f) Completing and submitting required reporting and paperwork.

(g) Number of consumers served.

(h) Number and type of long-term care services and supports referrals made.

(i) Number and type of long-term care services and supports referrals not completed, taking into consideration the reasons why the referrals were not completed, including, but not limited to, consumer choice, services not available, consumer functional or financial ineligibility, and financial prohibitions.

(8) The department of community health shall develop standard cost reporting methods as a basis for conducting cost analyses and comparisons across all publicly funded long-term care systems and shall require single point of entry agencies to utilize these and other compatible data collection and reporting mechanisms.

(9) The department of community health shall solicit proposals from entities seeking designation as a single point of entry agency and, except as provided in subsection (16) and section 109j, shall initially designate not more than 4 agencies to serve as a single point of entry agency in at least 4 separate areas of the state. There shall not be more than 1 single point of entry agency in each designated area. An agency designated by the department of community health under this subsection shall serve as a single point of entry agency for an initial period of up to 3 years, subject to the provisions of subsection (6). In accordance with subsection (17), the department shall require that a consumer residing in an area served by a single point of entry agency designated under this subsection utilize that agency if the consumer is seeking eligibility for medicaid long-term care programs.

(10) The department of community health shall evaluate the performance of single point of entry agencies under this section on an annual basis.

(11) The department of community health shall engage a qualified objective independent agency to conduct a cost-benefit analysis of single point of entry, including, but not limited to, the impact on medicaid long-term care costs. The cost-benefit analysis required in this subsection shall include an analysis of the cost to hospitals when there is a delay in a patient's discharge from a hospital due to the hospital's compliance with the provisions of this section.

(12) The department of community health shall make a summary of the annual evaluation, any report or recommendation for improvement regarding the single point of entry, and the cost-benefit analysis available to the legislature and the public.

(13) Not earlier than 12 months after but not later than 24 months after the implementation of the single point of entry agency designated under subsection (9), the department of community health shall submit a written report to the senate and house of representatives standing committees dealing with long-term care issues, the chairs of the senate and house of representatives appropriations committees, the chairs of the senate and house of representatives appropriations subcommittees on community health, and the senate and house fiscal agencies regarding the array of services provided by the designated single point of entry agencies and the cost, efficiencies, and effectiveness of single point of entry. In the report required under this subsection, the department of community health shall provide recommendations regarding the continuation, changes, or cancellation of single point of entry agencies based on data provided under subsections (4) and (10) to (12).

(14) Beginning in the year the report is submitted and annually after that, the department of community health shall make a presentation on the status of single point of entry and on the summary information and recommendations required under subsection (12) to the senate and house of representatives appropriations subcommittees on community health to ensure that legislative review of single point of entry shall be part of the annual state budget development process.

(15) The department of community health shall promulgate rules to implement this section not later than 270 days after submitting the report required in subsection (13).

(16) The department of community health shall not designate more than the initial 4 agencies designated under subsection (9) to serve as single point of entry agencies or agencies similar to single point of entry agencies unless all of the following occur:

(a) The written report is submitted as provided under subsection (13).

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(b) Twelve months have passed since the submission of the written report required under subsection (13).

(c) The legislature appropriates funds to support the designation of additional single point of entry agencies.

(17) A single point of entry agency for long-term care shall serve as the sole agency within the designated single point of entry area to assess a consumer's eligibility for medicaid long-term care programs utilizing a comprehensive level of care assessment approved by the department of community health.

(18) Although a community mental health services program may serve as a single point of entry agency to provide services to individuals with mental illness or developmental disability, community mental health services programs are not subject to the provisions of this act.

(19) Medicaid reimbursement for health facilities or agencies shall not be reduced below the level of rates and payments in effect on October 1, 2006, as a direct result of the 4 pilot single point of entry agencies designated under subsection (9).

(20) The provisions of this section and section 109j do not apply after December 31, 2011.

(21) Funding for the MI Choice Waiver program shall not be reduced below the level of rates and payments in effect on October 1, 2006, as a direct result of the 4 pilot single point of entry agencies designated under subsection (9).

(22) A single point of entry agency for long-term care may establish a memorandum of understanding with any hospital within its designated area that allows the single point of entry agency for long-term care to recognize and utilize an initial evaluation and preliminary long-term care support plan developed by the hospital discharge planner if those plans were developed with the consumer, his or her guardian, or his or her authorized representative.

(23) For the purposes of this section:

(a) "Administrative costs" means the costs that are used to pay for employee salaries not directly related to care planning and supports coordination and administrative expenses necessary to operate each single point of entry agency.

(b) "Administrative expenses" means the costs associated with the following general administrative functions:

(*i*) Financial management, including, but not limited to, accounting, budgeting, and audit preparation and response.

(*ii*) Personnel management and payroll administration.

(*iii*) Purchase of goods and services required for administrative activities of the single point of entry agency, including, but not limited to, the following goods and services:

(A) Utilities.

(B) Office supplies and equipment.

(C) Information technology.

(D) Data reporting systems.

(E) Postage.

(F) Mortgage, rent, lease, and maintenance of building and office space.

(G) Travel costs not directly related to consumer services.

(H) Routine legal costs related to the operation of the single point of entry agency.

(c) "Authorized representative" means a person empowered by the consumer by written authorization to act on the consumer's behalf to work with the single point of entry, in accordance with this act.

(d) "Guardian" means an individual who is appointed under section 5306 of the estates and protected individuals code, 1998 PA 386, MCL 700.5306. Guardian includes an individual who is appointed as the guardian of a minor under section 5202 or 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5202 and 700.5204, or who is appointed as a guardian under the mental health code, 1974 PA 258, MCL 300.1001 to 300.2106.

(e) "Informed choice" means that the consumer is presented with complete and unbiased information on his or her long-term care options, including, but not limited to, the benefits, shortcomings, and potential consequences of those options, upon which he or she can base his or her decision.

(f) "Person-centered planning" means a process for planning and supporting the consumer receiving services that builds on the individual’s capacity to engage in activities that promote community life and that honors the consumer’s preferences, choices, and abilities. The person-centered planning process involves families, friends, and professionals as the consumer desires or requires.

(g) "Single point of entry" means a program from which a current or potential long-term care consumer can obtain long-term care information, screening, assessment of need, care planning, supports coordination, and referral to appropriate long-term care supports and services.

(h) "Single point of entry agency" means the organization designated by the department of community

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health to provide case management functions for consumers in need of long-term care services within a designated single point of entry area.

History: Add. 2006, Act 634, Imd. Eff. Jan. 4, 2007.

Popular name: Act 280

400.109j Designation of single point of entry agencies; limitation.

Sec. 109j. The department of community health shall not designate more than the initial 4 agencies designated under section 109i(9) to serve as single point of entry agencies or agencies similar to single point of entry agencies unless the conditions of section 109i(16) are met and the legislature repeals this section.

History: Add. 2006, Act 634, Imd. Eff. Jan. 4, 2007.

Popular name: Act 280

400.110 Medical services for residents absent from state.

Sec. 110. Services under this act may be provided to a resident of this state who is temporarily absent from the state. Out of state physicians and institutions in which service is received shall be licensed or approved by the appropriate standard-setting authority in the other state.

History: Add. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1967, Act 289, Imd. Eff. Aug. 1, 1967.

Popular name: Act 280

400.111 Responsibility for proper handling of medical case; actions authorized to meet medical needs of recipient.

Sec. 111. (1) The state department is responsible for the proper handling of each medical case. The state department may transfer a recipient to some other medical institution for treatment better adapted to the recipient's needs, or take any other action to insure meeting the medical needs of the recipient.

(2) When the director has issued an order under section 111f or taken an action authorized by section 111d(1)(b) or (c) with respect to a residential health care facility, that is a hospital, nursing home, or other institution reimbursed for residential or patient care by the medical assistance program established pursuant to this act, the director shall discharge the responsibility under subsection (1) by doing 1 or more of the following:

(a) Arranging for a transfer authorized by subsection (1) and for payment for care rendered until the date of transfer.

(b) Requesting the director of the department of public health to take appropriate action under Act No. 368 of the Public Acts of 1978, as amended, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws.

(c) Filing a petition with the circuit court to place the residential health care facility under the control of a receiver.

(d) Arranging, with the agreement of the affected provider, for the deposit of payments for care rendered a recipient by the residential health care facility in an escrow account.

(e) Using other appropriate means, which shall include assuring that payment is made for care rendered a recipient, that conform with state and federal law, regulation, and policy.

History: Add. 1966, Act 321, Eff. Oct. 1, 1966;—Am. 1980, Act 321, Imd. Eff. Dec. 12, 1980.

Popular name: Act 280

Administrative rules: R 330.11001 et seq. of the Michigan Administrative Code.

400.111a Policy and procedures for implementation and enforcement of state and federal laws; consultation; forms and instructions; "prudent buyer" defined; criteria for selection of providers; notice of change in policy, procedure, form, or instruction; power of director; informal conference; imposition of specific conditions and controls; notice; hearings; examination of claims; imposition of claims review process; books and records of provider; confidentiality; immunity from liability; prohibited payments or recovery for payments; making payments and collecting overpayments; development of specifications; estimated cost and charge information; notice to provider of incorrect payment.

Sec. 111a. (1) The director, after appropriate consultation with affected providers and the medical care advisory council established pursuant to federal regulations, may establish policies and procedures that he or she considers appropriate, relating to the conditions of participation and requirements for providers established by section 111b and to applicable federal law and regulations, to assure that the implementation and enforcement of state and federal laws are all of the following:

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(a) Reasonable, fair, effective, and efficient.

(b) In conformance with law.

(c) In conformance with the state plan for medical assistance adopted pursuant to section 10 and approved by the United States department of health and human services.

(2) The consultation required by this section shall be conducted in accordance with guidelines adopted by the state department pursuant to section 24 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.224.

(3) Except as otherwise provided in section 111i, the director shall develop, after appropriate consultation with affected providers in accordance with guidelines, forms and instructions to be used in administering the program. Forms developed by the director shall be, to the extent administratively feasible, compatible with forms providers are required to file with 1 or more other third party payers or with 1 or more regulatory agencies and, to the extent administratively feasible, shall be designed to facilitate use of a single form to satisfy requirements imposed on providers by more than 1 payer, agency, or other entity. The forms and instructions shall relate, at a minimum, to standards of performance by providers, conditions of participation, methods of review of claims, and administrative requirements and procedures that the director considers reasonable and proper to assure all of the following:

(a) That claims against the program are timely, substantiated, and not false, misleading, or deceptive.

(b) That reimbursement is made for only medically appropriate services.

(c) That reimbursement is made for only covered services.

(d) That reimbursement is not made to those providers whose services, supplies, or equipment cost the program in excess of the reasonable value received.

(e) That the state is a prudent buyer.

(f) That access and availability of services to the medically indigent are reasonable.

(4) As used in subsection (3), “prudent buyer” means a purchaser who does 1 or more of the following:

(a) Buys from only those providers of services, supplies, or equipment to medically indigent individuals whose performance, in terms of quality, quantity, cost, setting, and location is appropriate to the specific needs of those individuals, and who, in the case of providers who receive payment on the basis of costs, comply with the prudent buyer concept of titles XVIII and XIX.

(b) Pays for only those services, supplies, or equipment that are needed or appropriate.

(c) Seeks to economize by minimizing cost.

(5) The director shall select providers to participate in arrangements such as case management, in supervision of services for recipients who misutilize or abuse the medical services program, and in special projects for the delivery of medical services to eligible recipients. Providers shall be selected based upon criteria that may include a comparison of services and related costs with those of the provider's peers and a review of previous participation warnings or sanctions undertaken against the provider or the provider's employer, employees, related business entities, or others who have a relationship to the provider, by the medicaid, medicare, or other health-related programs. The director may consult with the appropriate peer review advisory committees as appointed by the department.

(6) The director shall give notice to each provider of a change in a policy, procedure, form, or instruction established or developed pursuant to this section that affects the provider. For a change that affects 1 or more types of providers, a departmental bulletin or updating insert to a departmental manual mailed 30 days before the effective date of the change shall constitute sufficient notice.

(7) The director may do all of the following:

(a) Enroll in the program for medical assistance only a provider who has entered into an agreement of enrollment required by section 111b(4), and enter into an agreement only with a provider who satisfies the conditions of participation and requirements for a provider established by sections 111b and 111i and the administrative requirements established or developed pursuant to subsections (1), (2), and (3) with the appropriate consultation required by this section.

(b) Enforce the requirements established pursuant to this act by applying the procedures of sections 111c to 111f. If in these procedures the director is required to consult with professionals or experts prior to first utilizing these individuals in the program, the director shall have given the opportunity to review their professional credentials to the appropriate medicaid peer review advisory committee.

(c) Except as otherwise provided in section 111i, develop with the appropriate consultation required by this section and require the form or format for claims, applications, certifications, or certifications and recertifications of medical necessity required by section 108, and develop specifications for and require supporting documentation that is compatible with the approved state medical assistance plan under title XIX.

(d) Recover payments to a provider in excess of the reimbursement to which the provider is entitled. The department shall have a priority lien on any assets of a provider for any overpayment, as a consequence of

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fraud or abuse, that is not reimbursed to the department.

(e) Notwithstanding any other provisions of this act, before payment of claims, identify for examination for compliance with the program of medical assistance, including but not limited to medical necessity, the claims submitted by a particular provider based upon a determination that the provider's claims for disputed services exceed the average program dollar amount or volume of the same type of services, submitted by the same type of provider, performed in the same setting, and submitted during the same period. In order to carry out the authority conferred by this subdivision, the director shall notify the provider in the form of registered mail, receipted by the addressee, or by proof of service to the provider, or representative of the provider, of the state department's intent to impose specific conditions and controls prior to authorizing payment for specific claims for services. The notice shall contain all of the following:

(*i*) A list of the particular practice or practices disputed by the state department and a factual description of the nature of the dispute.

(*ii*) A request for specific medical records and any other relevant supporting information that fully discloses the basis and extent to which the disputed practice or practices were rendered.

(*iii*) A date certain for an informal conference between the provider or representative of the provider and the state department to resolve the differences surrounding the disputed practice or practices.

(*iv*) A statement that unless the provider or representative of the provider demonstrates at the informal conference that the disputed practice or practices are medically necessary, or are in compliance with other program coverages, specific conditions and controls may be imposed on future payments for the disputed practice or practices, and claims may be rejected, beginning on the sixteenth day after delivery of this notice.

(8) For any provider who is subject to a notice of intent to impose specific conditions and controls prior to authorizing payment for specific claims for services, as specified in subsection (7)(e), the state department shall afford that provider an opportunity for an informal conference before the sixteenth day after delivery of the notice under subsection (7)(e). If the provider fails to appear at the conference, or fails to demonstrate that the disputed practice or practices are medically necessary or are in compliance with program coverages, the state department beginning on the sixteenth day following receipt of notice by the provider, is authorized to impose specific conditions and controls prior to payment for the disputed practice or practices and may reject claims for payments for the practice or practices. The state department, within 5 days following the informal conference, shall notify the provider of its decision regarding the imposition of special conditions and controls prior to payment for the disputed practice or practices. Upon the imposition of specific conditions and controls prior to payment, the provider upon request shall be entitled to an immediate hearing held in conformity with chapter 4 and chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287 and 24.301 to 24.306, if any of the following occurs:

(a) The claim for services rendered is not paid within 30 days of the provider's compliance with the conditions imposed.

(b) The claim is rejected.

(c) The provider notifies the state department by registered mail that the provider does not intend to comply with the specific conditions and controls imposed, and the claim for services rendered is not paid within 30 days after delivery of this notice.

(9) The hearing provided for under subsection (8) shall be conducted in a prompt and expeditious manner. At the hearing, the provider may contest the state department's decision to impose specific conditions and controls prior to payment. Subsequent hearings may be conducted at the provider's request only if the claims have not been considered at a prior hearing and reflect issues that also have not been considered at a prior hearing, or if a claim for services rendered is not paid within 60 days after the provider's compliance with the conditions imposed.

(10) The authority conferred in subsection (8) with respect to the claims submitted by a particular provider does not prohibit the state department from examining claims or portions of claims before payment of the claims to determine their compliance with the program of medical assistance, in compliance with law. The director may take additional action pursuant to subsection (8) during the pendency of an appeal taken pursuant to subsection (8).

(11) If in the department's opinion, the provider shifts his or her claims from the disputed services addressed under subsection (7)(e) to other claims that fall under the purview of subsection (7)(e), the director may impose the claims review process of this section immediately upon delivery of the notice of that imposition to the provider as provided in subsection (7)(e).

(12) If in the department's opinion, claims similar to the disputed services addressed under subsection (7)(e) are shifted to another provider in the same corporation, partnership, clinic, provider group, or to another provider in the employ of the same employer or contractor, the director may impose the claims review process of this section immediately upon delivery of notice of that imposition to the new provider as provided in

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subsection (7)(e). The department shall afford the new provider an opportunity for an immediate informal conference within 7 days pursuant to subsection (8) after the initiation of the claims process.

(13) The director may request a provider to open books and records in accordance with section 111b(7) and may photocopy, at the state department's expense, the records of a medically indigent individual. The records shall be confidential, and the state department shall use the records only for purposes directly and specifically related to the administration of the program. The immunity from liability of a provider subject to the director's authority under this subsection is governed by section 111b(7).

(14) The director shall not pay for services, supplies, or equipment furnished by a provider, or shall recover for payment made, during a period in which the provider does not have on file with the state department disclosure forms as required by section 111b(19).

(15) The director shall make payments to, and collect overpayments from, the provider, unless the provider and the provider's employer satisfy the conditions prescribed in section 111b(25), (26), and (27), in which case the director may make payments directly to, and collect overpayments from, the provider's employer.

(16) The director, with the appropriate consultation required by this section, may develop specifications for and require estimated cost and charge information to be submitted by a provider under section 111b(13) and the form or format for submission of the information.

(17) If the director decides that a payment under the program has been made to which a provider is not or may not be entitled, or that the amount of a payment is or may be greater or less than the amount to which the provider is entitled, the director, except as otherwise provided in this subsection or under other applicable law or regulation, shall promptly notify the provider of this decision. The director shall withhold notification to the provider of the decision upon advice from the department of attorney general or other state or federal enforcement agency in a case where action by the department of attorney general or other state or federal enforcement agency may be compromised by the notification. If the director notifies a provider of a decision that the provider has received an underpayment, the state department shall reimburse the provider, either directly or through an adjustment of payments, in the amount found to be due.

History: Add. 1980, Act 321, Imd. Eff. Dec. 12, 1980;—Am. 1982, Act 461, Imd. Eff. Dec. 30, 1982;—Am. 1986, Act 227, Eff. Nov. 1, 1986;—Am. 2000, Act 187, Imd. Eff. June 20, 2000.

Popular name: Act 280

400.111b Requirements as condition of participation by provider.

Sec. 111b. (1) As a condition of participation, a provider shall meet all of the requirements specified in this section except as provided in subsections (25), (26), and (27).

(2) A provider shall comply with all licensing and registration laws of this state applicable to the provider's practice or business. For a facility that is periodically inspected by a licensing authority, maintenance of licensure constitutes compliance.

(3) A provider shall be certified, if the provider is of the type for which certification is required by title XVIII or XIX.

(4) A provider shall enter into an agreement of enrollment specified by the director.

(5) A provider who renders a reimbursable service described in section 109 to a medically indigent individual shall provide the individual with service of the same scope and quality as would be provided to the general public.

(6) A provider shall maintain records necessary to document fully the extent and cost of services, supplies, or equipment provided to a medically indigent individual and to substantiate each claim and, in accordance with professionally accepted standards, the medical necessity, appropriateness, and quality of service rendered for which a claim is made.

(7) Upon request and at a reasonable time and place, a provider shall make available any record required to be maintained by subsection (6) for examination and photocopying by authorized agents of the director, the department of attorney general, or federal authorities whose duties and functions are related to state programs of medical assistance under title XIX. If a provider releases records in response to a request by the director made under section 111a(13) or in compliance with this subsection, that provider is not civilly liable in damages to a patient or to another provider to whom, respectively, the records relate solely, on account of the response or compliance.

(8) A provider shall retain each record required to be maintained by subsection (6) for a period of 7 years after the date of service. A provider who no longer personally retains the records due to death, retirement, change in ownership, or other reason, shall ensure that a suitable person retains the records and provides access to the records as required in subsection (7).

(9) A provider shall require, as a condition of a contract with a person, sole proprietorship, clinic, group, partnership, corporation, association, or other entity, for the purpose of generating billings in the name of the

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provider or on behalf of the provider to the department, that the person, partnership, corporation, or other entity, its representative, successor, or assignee, retain for not less than 7 years, copies of all documents used in the generation of billings, including the certifications required by subsection (17), and, if applicable, computer billing tapes if returned by the department.

(10) A provider shall submit all claims for services rendered under the program on a form or in a format and with the supporting documentation specified and required by the director under section 111a(7)(c) and by the commissioner of insurance under section 111i. Submission of a claim or claims for services rendered under the program does not establish in the provider a right to receive payment from the program.

(11) A provider shall submit initial claims for services rendered within 12 months after the date of service, or within a shorter period that the director may establish or that the commissioner of insurance may establish under section 111i. The director shall not delegate the authority to establish a time period for submission of claims under this subsection. Except as otherwise provided in section 111i, the director, with the consultation required by section 111a, may prescribe the conditions under which a provider may qualify for a waiver of the time period established under this subsection with respect to a particular submission of a claim. Neither this state nor the medically indigent individual is liable for payment of claims submitted after the period established under this subsection.

(12) A provider shall not charge the state more for a service rendered to a medically indigent individual than the provider's customary charge to the general public or another third party payer for the same or similar service.

(13) A provider shall submit information on estimated costs and charges on a form or in a format and at times that the director may specify and require according to section 111a(16).

(14) Except for copayment authorized by the department and in conformance with applicable state and federal law, a provider shall accept payment from the state as payment in full by the medically indigent individual for services received. A provider shall not seek payment from the medically indigent individual, the family, or representative of the individual for either of the following:

(a) Authorized services provided and reimbursed under the program.

(b) Services determined to be medically unnecessary in accordance with professionally accepted standards.

(15) A provider may seek payment from a medically indigent individual for services not covered nor reimbursed by the program if the individual elected to receive the services with the knowledge that the services would not be covered nor reimbursed under the program.

(16) A provider promptly shall notify the director of a payment received by the provider to which the provider is not entitled or that exceeds the amount to which the provider is entitled. If the provider makes or should have made notification under this subsection or receives notification of overpayment under section 111a(17), the provider shall repay, return, restore, or reimburse, either directly or through adjustment of payments, the overpayment in the manner required by the director. Failure to repay, return, restore, or reimburse the overpayment or a consistent pattern of failure to notify the director shall constitute a conversion of the money by the provider.

(17) As a condition of payment for services rendered to a medically indigent individual, a provider shall certify that a claim for payment is true, accurate, prepared with the knowledge and consent of the provider, and does not contain untrue, misleading, or deceptive information. A provider is responsible for the ongoing supervision of an agent, officer, or employee who prepares or submits the provider's claims. A provider's certification required under this subsection shall be prima facie evidence that the provider knows that the claim or claims are true, accurate, prepared with his or her knowledge and consent, do not contain misleading or deceptive information, and are filed in compliance with the policies, procedures, and instructions, and on the forms established or developed under this act. Certification shall be made in the following manner:

(a) For an invoice or other prescribed form submitted directly to the department by the provider in claim for payment for the provision of services, by an indelible mark made by hand, mechanical or electronic device, stamp, or other means by the provider, or an agent, officer, or employee of the provider.

(b) For an invoice or other form submitted in claim for payment for the provision of services submitted indirectly by the provider to the department through a person, sole proprietorship, clinic, group, partnership, corporation, association, or other entity that generates and files claims on a provider's behalf, by the indelible written name of the provider on a certification form developed by the director for submission to the department with each group of invoices or forms in claim for payment. The certification form shall indicate the name of the person, if other than the provider, who signed the provider's name.

(c) For a warrant issued in payment of a claim submitted by a provider, by the handwritten indelible signature of the payee, if the payee is a natural person; by the handwritten indelible signature of an officer, if the payee is a corporation; or by handwritten indelible signature of a partner, if the payee is a partnership.

(18) A provider shall comply with all requirements established under section 111a(1), (2), and (3).

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(19) A provider shall file with the department, on disclosure forms provided by the director, a complete and truthful statement of all of the following:

(a) The identity of each individual having, directly or indirectly, an ownership or beneficial interest in a partnership, corporation, organization, or other legal entity, except a company registered according to the securities exchange act of 1934, 15 USC 78a to 78nn, through which the provider engages in practice or does business related to claims or charges against the program. This subdivision does not apply to a health facility or agency that is required to comply with and has complied with the disclosure requirements of section 20142(3) of the public health code, 1978 PA 368, MCL 333.20142. With respect to a company registered under the securities exchange act of 1934, 15 USC 78a to 78nn, a provider shall disclose the identity of each individual having, directly or indirectly, separately or in combination, a 5% or greater ownership or beneficial interest.

(b) The identity of each partnership, corporation, organization, legal entity, or other affiliate whose practice or business is related to a claim or charge against the program in which the provider has, directly or indirectly, an ownership or beneficial interest, trust agreement, or a general or perfected security interest. This subdivision does not apply to a health facility or agency that is required to comply with and has complied with the disclosure requirements of section 20142(4) of the public health code, 1978 PA 368, MCL 333.20142.

(c) If applicable to the provider, a copy of a disclosure form identifying ownership and controlling interests submitted to the United States department of health and human services in fulfillment of a condition of participation in programs established according to title V, XVIII, XIX, and XX. To the extent that information disclosed on this form duplicates information required to be filed under subdivision (a) or (b), filing a copy of the form shall satisfy the requirements under those subdivisions.

(20) If requested by the director, a provider shall supply complete and truthful information as to his or her professional qualifications and training, and his or her licensure in each jurisdiction in which the provider is licensed or authorized to practice.

(21) In the interest of review and control of utilization of services, a provider shall identify each attending, referring, or prescribing physician, dentist, or other practitioner by means of a program identification number on each claim or adjustment of a claim submitted to the department.

(22) It is the obligation of a provider to assure that services, supplies, or equipment provided to, ordered, or prescribed on behalf of a medically indigent individual by that provider will meet professionally accepted standards for the medical necessity, appropriateness, and quality of health care.

(23) If any service, supply, or equipment provided directly by a provider, or any service, supply, or equipment prescribed or ordered by a provider and delivered by someone other than that provider, is determined not to be medically necessary, not appropriate, or not otherwise in accordance with medical assistance program coverages, the provider who directly provided, ordered, or prescribed the service, supply, or equipment is responsible for direct and complete repayment of any program payment made to the provider or to any other person for that service, supply, or equipment. Services, supplies, or equipment provided by a consulting provider based upon his or her independent evaluation or assessment of the recipient's needs is the responsibility of the consulting provider. This subsection does not apply to repayment by a provider who has ordered a nursing home or hospital admission of the service billed by and reimbursed to a nursing home or hospital. This section also does not apply to a nursing home or hospital unless the nursing home or hospital acted on its own initiative in providing the service, supply, or equipment as opposed to following the order or prescription of another.

(24) A provider shall satisfy or make acceptable arrangement to satisfy all previous adjudicated program liabilities including those adjudicated according to section 111c or established by agreement between the department and the provider, and restitution ordered by a court. As used in this subsection, provider includes, but is not limited to, the provider, the provider's corporation, partnership, business associates, employees, clinic, laboratory, provider group, or successors and assignees. For a nursing home or hospital, "business associates", as used in this subsection, means those persons whose identity is required to be disclosed under section 20142(3) of the public health code, 1978 PA 368, MCL 333.20142.

(25) A provider who is a physician, dentist, or other individual practitioner shall file with the department a complete and factual disclosure of the identity of each employer or contractor to whom the provider is required to submit, in whole or in part, payment for services provided to a medically indigent individual as a condition of the provider's agreement of employment or other agreement. A provider who has properly disclosed the required information by filing a form or forms has 30 business days in which to report changes in the list of identified individuals and entities. The disclosure required by this subsection may serve as the provider's authorization for the department to make direct payments to the employer.

(26) As a condition of receiving payment for services rendered to a medically indigent individual, a provider may enter, as an employee, into agreements of employment of the type described in subsection (25)

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only with an employer who has entered into an agreement as described in subsection (27).

(27) An employer described in subsection (25) shall enter into an agreement on a form prescribed by the department, in which, as a condition of directly receiving payment for services provided by its employee provider to a medically indigent individual, the employer agrees to all of the following:

(a) To require as a condition of employment that the employee provider submit, in whole or in part, payments received for services provided to medically indigent individuals.

(b) To advise the department within 30 days after any changes in the employment relationship.

(c) To comply with the conditions of participation established by this subsection and subsections (6) to (19) and (21).

(d) To agree to be jointly and severally responsible with the employee provider for any overpayments resulting from the department's direct payment under this section.

(e) To agree that disputed claims relative to overpayments shall be adjudicated in administrative proceedings convened under section 111c.

(28) If a provider who is a nursing home intends to withdraw from participation in the title XIX program, the provider shall notify the department in writing. The provider shall continue to participate in the title XIX program for each patient who was admitted to the nursing home before the date notice is given under this subsection and who is or may become eligible to receive medical assistance under this act.

(29) A provider shall protect, maintain, retain, and dispose of patient medical records and other individually identifying information in accordance with subsection (6), any other applicable state or federal law, and the most recent provider agreement.

(30) At a minimum, if a provider is authorized to dispose of patient records or other patient identifying information, including records required by subsection (6), the provider shall ensure that medical records that identify a patient and other individually identifying information are sufficiently deleted, shredded, incinerated, or disposed of in a fashion that will protect the confidentiality of the patient's health care information and personal information. The department may take action to enforce this subsection. If the department cannot enforce compliance with this subsection, the department may enter into a contract or make other arrangements to ensure that patient records and other individually identifying information are disposed of in a fashion that will protect the confidentiality of the patient's health care information and personal information and assess costs associated with that disposal against the provider. The provider's responsibilities with regard to maintenance, retention, and disposal of patient medical records and other individually identifying information continue after the provider ceases to participate in the medical assistance program for the time period specified under this section.

History: Add. 1980, Act 321, Imd. Eff. Dec. 12, 1980;—Am. 1982, Act 461, Imd. Eff. Dec. 30, 1982;—Am. 1986, Act 227, Eff. Nov. 1, 1986;—Am. 1994, Act 74, Imd. Eff. Apr. 11, 1994;—Am. 2000, Act 187, Imd. Eff. June 20, 2000;—Am. 2006, Act 575, Imd. Eff. Jan. 3, 2007.

Popular name: Act 280

400.111c Duties of director in carrying out authority conferred by MCL 400.111a(7)(d).

Sec. 111c. (1) To carry out the authority conferred by section 111a(7)(d), the director shall do 1 or more of the following:

(a) Accept an assurance of repayment of amounts alleged to be due to the state department. The assurance shall not constitute an admission of guilt nor be introduced in any other civil or criminal proceeding. The assurance may include a stipulation for either of the following:

(*i*) The voluntary payment to the state department by the provider of the amount alleged to be due to the state department.

(*ii*) The voluntary payment, to an aggrieved medically indigent individual specified by the director, by the provider of the amount alleged to be due to the medically indigent individual.

(b) Hold or institute a hearing in conformity with chapter 4 and chapter 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.271 to 24.287 and 24.301 to 24.306 of the Michigan Compiled Laws. The presiding officer at a hearing shall determine if an amount is due the state and shall include the determination in his or her proposal for decision. Except as provided in section 111f(4), the director shall not delegate the authority to make a final decision in a contested case under this subdivision. A hearing shall be concluded not later than 90 days after being commenced, unless otherwise agreed upon by the department and the provider or providers. The proposal for decision shall be rendered not later than 45 days after the hearing is concluded. Exceptions may be filed not later than 10 days after the date of mailing the proposal for decision. The director shall render a final decision not later than 15 days after the date of closure for the filing of exceptions. The final decision in a contested case under this subdivision may contain an order directing payment of an amount found to be due the state. The final decision may order

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immediate payment of the entire amount or may allow the provider a period of time which is reasonable under the circumstances to pay the state. The order shall specify the period of time allowed and a rate of interest, equal to the current rate being earned by the state treasurer's common cash fund, to be paid by the provider during that time regardless of the method of payment. The interest shall be computed from the date of the overpayment notice, but shall not be applied to medicaid interim payment overpayments. Upon the provider's failure to comply with the order in a timely manner, the director shall request the department of attorney general to petition a court of competent jurisdiction to enforce the order. Failure to appeal the final order within 30 days after receipt of a copy of the order shall foreclose the provider from collateral attack against the order or any underlying determination.

(c) Hold an informal meeting, as provided in this section, with the provider or authorized representative of the provider, after giving written notice to the provider. The purpose of an informal meeting is to offer the provider the opportunity to be heard and to negotiate a withholding of an amount, pending an administrative hearing and final decision on the merits pursuant to chapters 4 and 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 and 24.301 to 24.306 of the Michigan Compiled Laws. The amount withheld shall not be more than the ratio of overpayment to the total paid volume from present and future medical assistance payments based on billings submitted by the provider, and shall be deposited into an interest-bearing escrow account. If the provider and the state department are unable to reach a negotiated withheld amount by the commencement of the hearing on the merits pursuant to subsection (1)(a)(*i*), the state department shall withhold an amount equal to not more than 25% of the present and future payments. This subdivision shall not be applied with respect to a nursing home or a hospital. The agreement shall not constitute an admission of guilt nor be introduced in any other civil or criminal proceeding. If both parties agree as to a disposition of the state department's claim, the state department shall cancel the scheduled administrative hearing. The following procedure shall be complied with regardless of any agreement on the amount to be withheld pending the outcome of the hearing:

(*i*) The dates of an informal meeting and of the administrative hearing shall be set forth in the notification to the provider that alleges excess payments have been received. That notification shall be in the form of registered mail, receipted by the addressee, or by proof of service to the provider or representative of the provider.

(*ii*) An informal meeting shall be concluded not later than 35 calendar days after the date of notification to the provider, and the administrative hearing shall be scheduled for the forty-fifth calendar day from the date of notification. The director shall have the administrative hearing convened on the forty-fifth day regardless of the cause on the part of either party for delay in concluding the informal meeting within 36 calendar days.

(*iii*) If the withholding of an amount has not been agreed upon by the time of the start of an administrative hearing on the merits, the state department may seek a withholding from present and future payment from billings submitted by the provider of not more than 25% of such payments. The withholding shall be in effect for the pendency of the hearing on the merits and until a decision on the merits. The provider shall have the opportunity to respond to the state department's withholding request. The state department's showing and the decision of the administrative law judge shall be based on all of the following criteria, with each reason stated individually in the opinion:

(A) A showing based upon specific stated facts that probable cause exists that reimbursement in excess of the reimbursement to which provider is entitled has occurred.

(B) A showing that the reimbursement cited in subparagraph (*iii*)(A) amounts to a specific percentage of payments made, as characterized by a statistically valid audit.

(C) A showing that 1 or more services of the same type included in the case, for which the state department is seeking a withholding of funds, has occurred at least once during the most recent 2 calendar quarters prior to the date of notice to the provider.

(*iv*) Any finding of an administrative law judge providing for withholding shall be in effect unless modified by the administrative law judge until the director's final decision on the case. If the administrative law judge rules that an amount shall be withheld from the provider, those funds shall be placed in an interest bearing escrow account. If the final ruling by the administrative law judge determines an amount is due to the state department, and that amount is less than the amount withheld, the provider shall be awarded the difference and proportionate interest of the funds held in escrow.

(*v*) The hearing shall be on the merits of the claim of the state department or provider, or both, and shall be concluded not later than 90 days after being commenced unless otherwise agreed upon by the department and the provider or providers. The administrative law judge shall render a proposal for decision on the merits of the department's claim not later than 90 days after conclusion of the hearing, and shall advise both parties that exceptions may be filed with the administrative law judge not later than 15 days after the date of mailing the proposal for decision.

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(*vi*) The director shall make a final decision not later than 15 days after the date of closure for the filing of exceptions, and shall not delegate authority to make a final decision in a contested case under this section. The final decision in a contested case under this section shall contain an order directing payment of an amount found to be due to the state or the provider. The final decision may order immediate payment of the entire amount or may allow the provider a period of time which is reasonable under the circumstances to pay the state. The order shall specify the manner of payment, including the period of time allowed and a rate of interest equal to the current rate being earned by the state treasurer's common cash fund to be paid by the provider on all repayments other than the interest bearing withheld amount, to be computed from the date of the notification issued pursuant to this section. Upon the provider's failure to timely comply with the order, the director shall request the attorney general to petition a court of competent jurisdiction to enforce the order. Failure to appeal the final order within 30 days after receipt of a copy of the order shall foreclose the provider from collateral attack against the order or any underlying determination.

(*vii*) If the foregoing means are not adequate to secure recovery of payments, the director shall do 1 or more of the following:

(A) File as a creditor in insolvency proceedings.

(B) Initiate emergency action pursuant to section 111f.

(C) Bring an action for other legal or equitable relief in a court of competent jurisdiction, including, but not limited to, an order to increase, for cause, the 25% withholding limit, an injunction to prevent the removal of attachable assets, an order to sequester assets, or an order for the appointment of a receiver to take possession of attachable assets.

(2) For purposes of this section, "provider" includes an employer who has executed an agreement conforming to section 111(b)(27).

History: Add. 1980, Act 321, Imd. Eff. Dec. 12, 1980;—Am. 1982, Act 461, Imd. Eff. Dec. 30, 1982;—Am. 1986, Act 227, Eff. Nov. 1, 1986.

Popular name: Act 280

400.111d Participation as provider subject to denial, suspension, termination, or probation; actions of director; claims precluded; exceptions; consultations; hearing.

Sec. 111d. (1) Participation as a provider in the program is subject to denial, suspension, termination, or probation on the grounds specified by section 111e. The director may take 1 or more of the following actions:

(a) Refuse to enroll an applicant.

(b) Suspend a provider indefinitely or for a term certain.

(c) Terminate the agreement with and the participation of a provider.

(d) Place a provider on probation. At the director's discretion, the probation may have conditions reasonably related to the grounds for probation.

(e) Impose specific limits, conditions, or controls on a provider's provision of services to medically indigent individuals, including specific reviews, documentation, or prior approval of a treatment plan which shall be accomplished before the designated services are rendered.

(f) Selectively suspend a provider's participation at 1 or more practice locations where that provider has no direct, indirect, or close family ownership interest in the practice.

(2) Suspension or termination of a provider shall preclude that provider from submitting a claim, either personally or by a sole proprietorship, clinic, group, partnership, corporation, association, or other entity to the program for any services, supplies, or equipment provided under the program, except for services, supplies, or equipment actually provided and received by a medically indigent individual before the effective date of the suspension or termination.

(3) In reaching a decision whether to exercise authority conferred by this section whenever questions of medical necessity or appropriateness of treatment are involved, the director shall consult, in order to formulate an appropriate action or to evaluate the professional performance of a provider, with peer review advisory committees, professionals, or experts who are individuals of the same licensed profession as the provider subject to the action, as selected by the director.

(4) The affected provider shall be entitled to a hearing held in conformity with chapter 4 and chapter 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.271 to 24.287 and 24.301 to 24.306 of the Michigan Compiled Laws, on an action proposed to be taken pursuant to this section.

History: Add. 1980, Act 321, Imd. Eff. Dec. 12, 1980;—Am. 1982, Act 461, Imd. Eff. Dec. 30, 1982;—Am. 1986, Act 227, Eff. Nov. 1, 1986.

Popular name: Act 280

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400.111e Grounds for action by director.

Sec. 111e. (1) The grounds for action by the director under section 111d(1) and the actions to which they may be applied shall be as follows:

(a) The director may take action under section 111d(1)(a), (b), (c), (d), or (f) for a provider's failure to disclose the information required by section 111b(7), (19), or (25).

(b) The director may take action under section 111d(1)(a) for a provider's failure to properly apply for enrollment and to submit documentation specified by the director under section 111a(7)(c).

(c) The director may take action under section 111d(1)(b), (c), or (f) for a provider's failure to furnish proper certification to the director pursuant to section 111b(17), or for a provider's failure to comply with section 111b(26), or for a provider's failure to comply with, or attempt to circumvent, section 111a(7)(e).

(d) The director may take action under section 111d(1)(a), (b), (c), (d), (e), or (f) for a provider's failure to conform to professionally accepted standards of medical practice.

(e) The director may take action under section 111d(1)(a), (b), (c), (d), or (f) for an employer's failure to comply with section 111b(27).

(f) The director may take action under section 111d(1)(a), (b), (c), or (f) for a provider's failure to comply with section 111b(1), (2), (3), or (4).

(2) The director shall take action under section 111d(1)(a) or (c) if any of the following occurs:

(a) The provider is convicted of violating the medicaid false claims act, Act No. 72 of the Public Acts of 1977, being sections 400.601 to 400.613 of the Michigan Compiled Laws, the health care false claims act, Act No. 323 of the Public Acts of 1984, being sections 752.1001 to 752.1011 of the Michigan Compiled Laws, or a substantially similar statute of another state or the federal government.

(b) The provider is convicted of, or pleads guilty to, a criminal offense or attempted criminal offense relating to the provider's practice of health care in any jurisdiction.

(c) The provider continues, or reinitiates, a pattern of practice for which the provider was sanctioned previously under this act. For purposes of this subdivision, “sanction” means those actions prescribed in sections 111a(7)(d) and 111d(1)(a) to (f).

(d) The provider dispenses, renders, or provides services, supplies, or equipment without a practitioner's prescription or order.

(e) The provider attempts to circumvent or fails to comply with section 111b(7).

(f) The provider is suspended or terminated as a provider from participation in the medicaid or medicare program, or other governmentally supported program in any jurisdiction.

(3) The director shall take action under section 111d(1)(a), (b), (c),(d), or (f) if any of the following occurs:

(a) The provider continues to submit duplicate claims for services, supplies, or equipment for which the provider has already received reimbursement from any source after receiving notice from the department to stop submitting duplicate claims; or the provider receives reimbursement from any other source after receiving medicaid payment and does not refund the appropriate portion of the medicaid payment to the department.

(b) The provider submits a claim for services, supplies, or equipment that was not provided to a recipient.

(c) The provider submits a claim for services, supplies, or equipment that includes costs or charges not related to those services, supplies, or equipment actually provided to the recipient.

(d) The provider continues to submit claims for services, supplies, or equipment, or continues to refer recipients to another provider by referral, order, or prescription for services, supplies, or equipment, which are not documented in the record in the prescribed manner, are medically inappropriate or medically unnecessary, or are below the acceptable medical treatment standards, after receiving notice from the department to cease that practice. This subdivision does not apply to a nursing home or hospital unless the nursing home or hospital acted on its own initiative in providing the service, supply, or equipment as opposed to following the order or prescription of another.

(e) The provider continues to submit claims that misrepresent the description of services, supplies, or equipment dispensed or provided; the dates of services; the identity of the recipient; the identity of the attending, prescribing, or referring practitioner; or the identity of the actual provider, after receiving notice from the state department to cease the practice. As used in this subdivision, “misrepresentation” does not include the submission of a claim in compliance with specific written policies and procedures issued by the state department and approved by the director or the director's designee.

(f) The provider submits a claim for which the documentation in a patient's medical record or chart contains misleading or inaccurate information regarding the diagnosis, treatment, or cause of a patient's condition; or the documentation in a patient's medical record or chart has been altered or destroyed so that an ongoing audit or overpayment action cannot adequately be pursued by the department.

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(g) The provider fails to complete the required fields on the claim form or fails to provide required information related to the claim after receiving notice from the department to complete the required fields or to provide the required information.

(h) The provider submits a claim for reimbursement for services, or equipment for a fee or charge that is higher than the provider's usual, customary charge to the general public for the same services, supplies, or equipment.

(i) The provider submits a claim for services, supplies, or equipment that was not rendered by the provider.

(j) The provider is serving a sentence in a correctional facility.

(4) A provider subject to an action or proposed action by the director under this section shall be entitled to a hearing held in conformity with chapter 4 and chapter 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 and 24.301 to 24.306 of the Michigan Compiled Laws.

(5) In addition to or in place of the grounds specified in subsection (1), (2), or (3), the director may base an action provided for in section 111d(1)(a), (b), (c), (d), (e), or (f) on his or her judgment that the action is necessary to protect the health of medically indigent individuals, the welfare of the public, and the funds appropriated for the program.

(6) Any individual against whom an enrollment sanction has been levied under this section shall not participate directly or indirectly in the medicaid program during the pendency of the enrollment sanction.

(7) The director may reinstate the participation in the medical services program of an individual against whom an enrollment sanction has been levied under this section if the director makes a determination that the reinstatement is in the best interests of the medical services program and the medical care of recipients.

History: Add. 1980, Act 321, Imd. Eff. Dec. 12, 1980;—Am. 1986, Act 227, Eff. Nov. 1, 1986.

Popular name: Act 280

400.111f Emergency action; order; circumstances; extension of emergency action; "most recent 12-month period" defined; consultation with peer review advisory committees, professionals, or experts; order for summary suspension of payments; hearings; decision; meeting not required.

Sec. 111f. (1) The director may issue an order incorporating a finding that emergency action is required to protect the state's interest, as the state's interest is described in this subsection by the statement of circumstances warranting emergency action, in any of the following: the public health, welfare, or safety; medically indigent individuals; or public funds of the program of medical assistance. Circumstances that warrant emergency action include, but are not limited to, any of the following:

(a) A reasonable belief, determined in accordance with professionally accepted standards, that rendered services for which a provider has submitted claims were medically unnecessary, inappropriate, or of inferior quality, and therefore that the continued participation in the program by the provider or payments to the provider for services constitutes a threat to the public health, safety, or welfare or to the health, safety, or welfare of recipient medically indigent individuals.

(b) A reasonable belief that the provider has violated the medicaid false claims act, Act No. 72 of the Public Acts of 1977, being sections 400.601 to 400.613 of the Michigan Compiled Laws, the health care false claims act, Act No. 323 of the Public Acts of 1984, being sections 752.1001 to 752.1011 of the Michigan Compiled Laws, or a substantially similar statute of another state or the federal government.

(c) A reasonable belief that the overpayment sought to be recovered pursuant to this section, or pursuant to any other section of this act, is in jeopardy of not being recovered.

(d) A reasonable belief that 10% or $10,000.00, whichever is less, for a noninstitutional provider, or 10% or $50,000.00, whichever is less, for an institutional provider, of the provider's total program dollar amount for claims submitted at any time during the most recent 12-month period was unsubstantiated or was for services that were noncovered.

(e) A reasonable belief that 10% or $10,000.00, whichever is less, for a noninstitutional provider, or 10% or $50,000.00, whichever is less, for an institutional provider, of the provider's total program dollar amount for claims submitted at any time during the most recent 12-month period were medically unnecessary, inappropriate, or of inferior quality.

(f) A reasonable belief that 15% or $15,000.00, whichever is less, for a noninstitutional provider, or 15% or $75,000.00, whichever is less, for an institutional provider, of the provider's total program dollar amount for claims submitted at any time during a consecutive 12-month period, and that 5% or $5,000.00, whichever is less, for a noninstitutional provider, or 5% or $25,000.00, whichever is less, for an institutional provider, of the provider's total program dollar amount for claims submitted during the most recent 12-month period, was

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for services that were noncovered.

(g) A reasonable belief that 15% or $15,000.00, whichever is less, for a noninstitutional provider, or 15% or $75,000.00, whichever is less, for an institutional provider, of the provider's claims submitted at any time during a consecutive 12-month period, and that 5% or $5,000.00, whichever is less, for a noninstitutional provider, or 5% or $25,000.00, whichever is less, for an institutional provider, of the provider's total program dollar amount for claims submitted during the most recent 12-month period, was for services that were medically unnecessary, inappropriate, or of inferior quality.

(h) A reasonable belief that the provider is refusing to comply with section 111b(7), (19), or (25).

(2) If the director finds that emergency action is required under subsection (1) in a clinic, corporation, partnership, or other entity with multiple providers or locations, the director may extend any emergency action to the entire legal entity and its providers.

(3) As used in subsection (1), "most recent 12-month period" means a period of not more than 12 consecutive months within the 15 consecutive months immediately preceding the notice to the provider that an emergency action has been taken.

(4) In order to determine whether the conditions described in subsection (1)(a), (d), (e), (f), or (g) exist, the director shall consult with peer review advisory committees, professionals, or experts who are individuals of the same licensed profession as the provider subject to the action, as selected by the director.

(5) Upon a determination that circumstances described in subsection (1) exist, the director may issue an order for the summary suspension of payments on pending or subsequent claims, in whole or in part, or for the summary suspension of a provider from participation in the program of medical assistance. The summary suspension shall be effective on the date specified in the order or on service of a certified copy of the order on the provider, whichever occurs later, and shall remain in effect during administrative or judicial proceedings on the suspension. Upon request of a provider, a contested case hearing pursuant to chapter 4 and chapter 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 and 24.301 to 24.306 of the Michigan Compiled Laws, shall be commenced not later than 15 days after the summary suspension. If a contested case hearing is requested by a provider relative to an emergency suspension under this section, a hearing shall be held to determine whether the emergency suspension is supported by competent, material, and substantial evidence on the whole record. Under appropriate circumstances, the state department may hold or institute a hearing under section 111c(1), or take an action under section 111d at the same time an action is taken under this section, while an action under this section is pending, or after a decision on an action is made. The presiding officer may consolidate the 2 hearings into a single proceeding in the interest of economy. However, the director shall not make a final decision in a contested case under section 111c(1) or 111d arising from or related to an emergency action or the circumstances upon which an emergency action was taken.

(6) A hearing, conference, or similar meeting between a provider or representative of a provider and the state department shall not be required to be held or conducted before the emergency suspension of payment to the provider or the emergency suspension of participation of the provider in the program of medical assistance under this section.

History: Add. 1980, Act 321, Imd. Eff. Dec. 12, 1980;—Am. 1982, Act 461, Imd. Eff. Dec. 30, 1982;—Am. 1986, Act 227, Eff. Nov. 1, 1986.

Popular name: Act 280

400.111g Prosecution not collaterally estopped or barred by decision or order; hearing; decision.

Sec. 111g. (1) Notwithstanding any provision in this act, a decision or order of the state department, the director, or any other person rendering a decision in an administrative hearing under this act shall not operate to collaterally estop or bar the prosecution of a person for a violation of this act or a violation of any other statute or common law.

(2) Except as otherwise provided in this act, if a hearing is commenced to determine the validity of any action taken by the state department under this act, the decision in the hearing once concluded shall be rendered promptly but not more than 30 days after the date of conclusion of the hearing.

History: Add. 1982, Act 461, Imd. Eff. Dec. 30, 1982.

Popular name: Act 280

400.111h Applicability of MCL 400.111a to 400.111g.

Sec. 111h. Sections 111a to 111g shall not apply to a provider of medical services under this act if that provider is required by federal or state law, regulation, or directive to accept medicaid recipients.

History: Add. 1986, Act 227, Eff. Nov. 1, 1986.

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400.111i Timely claims processing and payment procedure; external review; report; definitions.

Sec. 111i. (1) The commissioner of office of financial and insurance services shall establish a timely claims processing and payment procedure to be used by health professionals and facilities in billing for, and qualified health plans in processing and paying claims for, medicaid services rendered. The commissioner shall consult with the department of community health, health professionals and facilities, and qualified health plans in establishing this timely payment procedure.

(2) The timely claims processing and payment procedure established by the commissioner under subsection (1) shall provide for all of the following:

(a) That a "clean claim", for the purposes of this section, means a claim that does at a minimum all of the following:

(*i*) Identifies the health professional or health facility that provided treatment or service, including a matching identifying number.

(*ii*) Identifies the patient and plan.

(*iii*) Lists the date and place of service.

(*iv*) Is for covered services.

(*v*) Is certified pursuant to section 111b(17) and has the identifying information required under section 111b(21).

(*vi*) If necessary, substantiates the medical necessity and appropriateness of the care or service provided.

(*vii*) If prior authorization is required for certain patient care or services, includes any applicable authorization number, as appropriate.

(*viii*) Includes additional documentation based upon services rendered as reasonably required by the payer.

(b) A universal system of coding to be used on all medicaid claims submitted to qualified health plans.

(c) That a claim must be transmitted electronically or as otherwise specified by the commissioner and a qualified health plan must be able to receive a claim transmitted electronically.

(d) That a health professional and facility must bill a qualified health plan within 1 year after the date of service or date of discharge from the health facility.

(e) That after a health professional or facility has submitted a claim to a qualified health plan, the health professional or facility shall not resubmit the same claim to the qualified health plan unless the time frame in subdivision (f) has passed or as provided in subdivision (h).

(f) Except as otherwise provided in this subdivision, that a clean claim must be paid within 45 days after receipt of the claim by the qualified health plan. For a pharmaceutical clean claim, the clean claim must be paid within the industry standard time frame for paying the claim as of the effective date of this subdivision or within 45 days after receipt of the claim by the qualified health plan, whichever is sooner. A clean claim that is not paid within this time frame shall bear simple interest at a rate of 12% per annum.

(g) That a qualified health plan must state in writing to the health professional or facility any defect in the claim within 30 days after receipt of the claim.

(h) That a health professional and a health facility have 30 days after receipt of a notice that a claim or a portion of a claim is defective within which to correct the defect. The qualified health plan shall pay the claim within 30 days after the defect is corrected.

(i) That a qualified health plan must notify the health professional or facility and the commissioner of the defect if a claim or a portion of a claim is returned from a health professional or facility under subdivision (h) and remains defective for the original reason or a new reason.

(j) An external review procedure for adverse determinations of payment as provided in subsections (4) and (5). The costs for the external review procedure shall be assessed as determined by the commissioner.

(k) Penalties to be applied to health professionals, health facilities, and qualified health plans for failing to adhere to the timely claims processing and payment procedure established under this section.

(*l*) A system for notifying the licensing entity for health maintenance organizations, qualified health plans, and other health care insurers if a penalty is incurred under subdivision (k).

(3) If a qualified health plan determines that 1 or more covered services listed on a claim are payable, the qualified health plan shall pay for those services and shall not deny the entire claim because 1 or more other covered services listed on the claim are defective or because 1 or more other services listed on the claim are not covered services.

(4) The commissioner shall establish an external review procedure as provided in this subsection and subsection (5). A health professional or facility may request an external review by the commissioner of a qualified health plan's adverse determination if the health professional or facility makes the request not later

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than 30 days after receipt of a notice under subsection (2)(i). Within 10 days after a request for an external review, the commissioner shall complete a preliminary review to determine whether the external review may proceed or request more information from the health professional, facility, or the qualified health plan. The health professional, facility, or the qualified health plan shall supply the commissioner with the requested information not later than 10 business days after receipt of the request for information from the commissioner. Not later than 5 business days after receipt of any information requested by the commissioner, the commissioner shall complete a preliminary review to determine whether the external review may proceed. If the commissioner determines the external review may not proceed, the commissioner shall notify in writing the health professional or facility of the specific reasons for the determination and may permit the health professional or facility to reapply for a preliminary review by the commissioner. If the commissioner determines the external review may proceed, the commissioner shall notify in writing the health professional or facility and the qualified health plan and shall require the qualified health plan to provide not later than 7 business days after the notice any information used by the qualified health plan in making the adverse determination. Failure by a health professional or facility or qualified health plan to provide the commissioner with requested information permits the commissioner to terminate a review and issue a decision reversing or affirming an adverse determination.

(5) If the commissioner determines that an external review may proceed, the commissioner shall immediately assign an independent review organization to conduct the external review. Only an independent review organization meeting qualifications established by the commissioner shall be assigned to conduct an external review. The independent review organization may request the health professional or facility and the qualified health plan to provide information and shall review all pertinent information submitted by the health professional or facility and the qualified health plan along with the terms of coverage under the medicaid plan. The independent review organization shall make a written recommendation that includes the rationale and supporting documentation and any recommendation for an assessment of interest to the commissioner not later than 30 days after being assigned as the review organization. The commissioner shall notify in writing the health professional or facility and the qualified health plan of his or her decision reversing or affirming the qualified health plan's adverse determination and shall include the principal reasons for the decision not later than 15 days after receipt of the assigned independent review organization's recommendation. If an adverse determination is reversed, the qualified health plan shall immediately pay the claim and any interest assessed by the commissioner.

(6) Beginning not later than October 1, 2000 and continuing thereafter, the department of community health shall not enter into or renew a contract with a qualified health plan unless the qualified health plan agrees to follow the timely claims processing and payment procedure established under this section and requires health professionals and facilities under contract with the qualified health plan to follow the timely claims processing and payment procedure established under this section. The department of community health shall not enter into or renew a contract with a qualified health plan unless the commissioner determines that the qualified health plan satisfies all of the following:

(a) Is a health maintenance organization licensed or issued a certificate of authority in this state.

(b) Uses standardized claims as outlined in the provider contract and accepts claims submitted electronically in a generally accepted format.

(c) Demonstrates the ability to provide all required or covered medicaid services including covered specialty care to the estimated number of enrollees on a regional basis.

(d) Meets the criteria for delivering the comprehensive package of services under the department of community health's comprehensive health plan.

(7) The commissioner shall report to the senate and house of representatives appropriations subcommittees on community health by October 1, 2001 on the timely claims processing and payment procedure established under this section.

(8) It is not a fraudulent act for a health professional or facility to submit a claim under this section that includes 1 or more rendered services that are determined not covered services.

(9) As used in this section:

(a) “Medicaid” means the program of medical assistance established under section 105.

(b) “Qualified health plan” means, at a minimum, an organization that meets the criteria for delivering the comprehensive package of services under the department of community health's comprehensive health plan.

History: Add. 2000, Act 187, Imd. Eff. June 20, 2000.

Popular name: Act 280

400.111j Prior authorization for medical services or equipment; request by provider; approval or rejection; request for additional information; time period limitations;

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exception; certain claims not subject to prior authorization; rules; reimbursement system; automated payment system; vendor payments; waiver of requirement for prior authorization; automated records; limitation of authorization; definitions.

Sec. 111j. (1) If the director requires prior authorization for any medical services or equipment, a request by a provider for prior authorization shall be approved or rejected within 15 working days after the request is received by the director. If additional information is needed in support of the prior authorization request, the director shall request additional information either verbally or in writing not later than 15 working days after receiving the prior authorization request. Upon receiving the additional information from the provider, the director shall approve or deny the completed prior authorization request not later than 10 working days after receiving the additional information. The time period limitations specified in this subsection shall not apply to prior authorization requests for transplantation and other extraordinary services.

(2) Claims for routine, ordinary medical services or equipment shall not be subject to prior authorization, and claims for medical supplies shall not be subject to prior authorization.

(3) The director, by rule, shall do both of the following:

(a) Prescribe, by category, what information is required from a provider to support a request for prior authorization.

(b) Prescribe which medical services or equipment are subject to prior authorization and list, by category, those medical services or equipment.

(4) The director shall establish a reimbursement system for medical services or equipment receiving prior authorization based upon reasonable cost up to a maximum reimbursement screen of acquiring the medical service or equipment, and shall develop an automated payment system, including at least fee screens and necessary edits. The state department shall make vendor payments through the automated payment system.

(5) The director shall waive the requirement for prior authorization if both of the following conditions exist:

(a) Processing a request for prior authorization will cause an inpatient hospital stay to be prolonged.

(b) The cost of the medical services or equipment is less than the estimated cost of the additional inpatient hospital stay.

(6) The director, not later than 180 days after the effective date of this section, shall maintain and implement automated records of all approved prior authorization requests according to each medical services recipient involved.

(7) This section does not authorize the provision of any medical services, supplies, or equipment that are not otherwise designated to be covered services, supplies, or equipment under this act.

(8) As used in this section, “prior authorization” means a requirement imposed by the director, by which any claim for a particular covered medical service or equipment is payable only if the director's approval for the provision of that service or equipment is given before the service or equipment is furnished.

(9) As used in this section, “by category” means using a categorization system containing at least each of the following categories:

(a) Communication aids.

(b) Hearing aids.

(c) Incontinence supplies.

(d) Orthotic devices.

(e) Ostomy supplies.

(f) Prosthetic devices.

(g) Respiratory equipment.

(h) Seating systems.

(i) Visual aids.

(j) Wheelchairs and mobility aids.

History: Add. 1988, Act 445, Eff. Mar. 30, 1989.

Popular name: Act 280

400.111k Lead screening on children enrolled in medicaid.

Sec. 111k. (1) Beginning October 1, 2007, the department of community health shall ensure that, as a condition of participation and funding, all health professionals, facilities, or health maintenance organizations receiving medicaid payments under this act are in substantial compliance with federal standards for lead screening for children enrolled in medicaid.

(2) The department of community health shall determine the statewide average of lead screening being performed on children who are enrolled in medicaid on October 1, 2007 and shall determine whether the rate

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of children who are enrolled in medicaid receiving a lead screening is substantially in compliance with the federal standards for lead screening for children enrolled in medicaid. If the rate of children who are enrolled in medicaid receiving a lead screening is below 80%, the director of the department of community health shall present to the senate and house health policy committees a written report detailing why the rate is not in substantial compliance with the federally required standards for lead screening and the department of community health's recommendations for improving the rate. If the statewide lead screening testing rate does not equal or exceed 80% for medicaid-enrolled children by October 1, 2007, the department of community health may, with funds appropriated for medicaid managed care or medicaid fee for services, contract with community agencies to provide the percentage of lead screening tests needed to reach an 80% lead screening testing rate. A contracting organization that meets or surpasses contract performance requirements is entitled to share in financial bonuses awarded under the performance bonus program and receive not less than 10% of the beneficiaries who do not voluntarily select a specific health plan at the time of managed care enrollment in addition to any other auto assignments to which the contracting organization is entitled.

(3) As used in this section, "medicaid" means the program of medical assistance administered by the state under section 105.

History: Add. 2004, Act 55, Imd. Eff. Apr. 12, 2004.

Popular name: Act 280

400.111*l* Children participants in WIC program; lead testing required.

Sec. 111*l*. Beginning October 1, 2006, the department and the department of community health shall require that all children participants in the special supplemental food program for women, infants, and children (WIC program) receive lead testing. Federal funds provided for administration of the special supplemental food program for women, infants, and children (WIC program) shall not be used to implement or administer the provisions of this section.

History: Add. 2006, Act 286, Imd. Eff. July 19, 2006.

Popular name: Act 280

400.112 Medical services; contract with private agencies as fiscal agents.

Sec. 112. The state department may contract with any private agency, including a corporation or association, to act as fiscal agent in dealing with vendors providing medical service authorized in this act.

History: Add. 1966, Act 321, Eff. Oct. 1, 1966.

Popular name: Act 280

Administrative rules: R 330.11001 et seq. of the Michigan Administrative Code.

400.112a Liability for medicaid services; referral to department of treasury as state debt; claims against tax refund as secondary to claims for child support; "medicaid" defined.

Sec. 112a. (1) An individual is liable to the state for the amount expended by the department under medicaid for medical services for the individual's child if all of the following apply:

(a) The individual is required by court or administrative order to provide dependent health care coverage for the child.

(b) The child is eligible for medicaid.

(c) The individual received payment from a third party for the costs of medical services for the child.

(d) The individual failed to reimburse the provider of the medical services either directly or through the custodial parent or guardian of the child.

(e) The department expended funds under medicaid for the medical services provided for the child.

(2) After notice and an opportunity for an administrative hearing under chapter 4 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 of the Michigan Compiled Laws, the department shall refer the matter to the department of treasury for collection as a state debt through the offset of state tax refunds, and may use the services of the department of treasury to levy the salary, wages, or other employment income, of an individual who has a liability to the state pursuant to subsection (1).

(3) Claims against an individual's income or state tax refund under this section are secondary to claims for current and past due child support.

(4) As used in this section, "medicaid" means the program of medical assistance established pursuant to section 105.

History: Add. 1994, Act 429, Imd. Eff. Jan. 6, 1995.

Popular name: Act 280

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400.112b Definitions.

Sec. 112b. As used in this section and sections 112c to 112e:

(a) "Asset disregard" means, with regard to the state's medical assistance program, disregarding any assets or resources in an amount equal to the insurance benefit payments that are made to or on behalf of an individual who is a beneficiary under a qualified long-term care insurance partnership policy.

(b) "Long-term care insurance policy" means a policy described in chapter 39 of the insurance code of 1956, 1956 PA 218, MCL 500.3901 to 500.3955.

(c) "Long-term care partnership program" means a qualified state long-term care insurance partnership as defined in section 1917(b) of the social security act, 42 USC 1396p.

(d) "Long-term care partnership program policy" means a qualified long-term care insurance policy that the commissioner of the office of financial and insurance services certifies as meeting the requirements of section 1917(b) of the social security act, 42 USC 1396p, section 6021 of the federal deficit reduction act of 2005, Public Law 109-171, and any applicable federal regulations or guidelines.

(e) "Medicaid" means the program of medical assistance established by the department of community health under section 105.

History: Add. 1995, Act 85, Imd. Eff. June 20, 1995;—Am. 2006, Act 674, Imd. Eff. Jan. 10, 2007.

Popular name: Act 280

400.112c Michigan long-term care partnership program; establishment; purpose; eligibility; reciprocal agreements; consideration of assets; receipt of asset disregard; single point of entry agencies; notice of policy provisions; posting certain information.

Sec. 112c. (1) Subject to subsection (5), the department of community health in conjunction with the office of financial and insurance services and the department of human services shall establish a long-term care partnership program in Michigan to provide for the financing of long-term care through a combination of private insurance and medicaid. It is the intent of the long-term care partnership program to do all of the following:

(a) Provide incentives for individuals to insure against the costs of providing for their long-term care needs.

(b) Provide a mechanism for individuals to qualify for coverage of the cost of their long-term care needs under medicaid without first being required to substantially exhaust their resources.

(c) Alleviate the financial burden on the state’s medical assistance program by encouraging the pursuit of private initiatives.

(2) An individual who is a beneficiary of a Michigan long-term care partnership program policy is eligible for assistance under the state’s medical assistance program using the asset disregard as provided under subsection (5).

(3) The department of community health shall pursue reciprocal agreements with other states to extend the asset disregard to Michigan residents who purchased long-term care partnership policies in other states that are compliant with title VI, section 6021 of the federal deficit reduction act of 2005, Public Law 109-171, and any applicable federal regulations or guidelines.

(4) Upon diminishment of assets below the anticipated remaining benefits under a long-term care partnership program policy, certain assets of an individual, as provided under subsection (5), shall not be considered when determining any of the following:

(a) Medicaid eligibility.

(b) The amount of any medicaid payment.

(c) Any subsequent recovery by the state of a payment for medical services or long-term care services.

(5) Not later than 270 days after the effective date of the amendatory act that added this subsection, the department of community health shall apply to the United States department of health and human services for an amendment to the state’s medicaid state plan to establish that the assets an individual owns and may retain under medicaid and still qualify for benefits under medicaid at the time the individual applies for benefits is increased dollar-for-dollar for each dollar paid out under the individual’s long-term care insurance policy if the individual is a beneficiary of a qualified long-term care partnership program policy.

(6) If the long-term care partnership program is discontinued, an individual who purchased a Michigan long-term care partnership program policy before the date the program was discontinued shall be eligible to receive asset disregard if allowed as provided by title VI, section 6021 of the federal deficit reduction act of 2005, Public Law 109-171.

(7) The department of community health shall contract with the Michigan medicare medicaid assistance program or department of community health designated single point of entry agencies, or both, to provide

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counseling services under the Michigan long-term care partnership program.

(8) The department of community health, in consultation with the department of human services and the office of financial and insurance services, shall develop a notice to consumers detailing in plain language the pertinent provisions of qualified state long-term care insurance partnership policies as they relate to medicaid eligibility and shall determine the appropriate distribution of the notice. The notice shall be available in a printable form on the office of financial and insurance services's website.

(9) The department, the department of community health, and the office of financial and insurance services shall post, on their respective websites, information on how to access the national clearinghouse established under the federal deficit reduction act of 2005, Public Law 109-171, when the national clearinghouse becomes available to consumers.

History: Add. 1995, Act 85, Imd. Eff. June 20, 1995;—Am. 2006, Act 674, Imd. Eff. Jan. 10, 2007.

Popular name: Act 280

400.112d Repealed. 2006, Act 674, Imd. Eff. Jan. 10, 2007.

Compiler's note: The repealed section pertained to requirements relating to a partnership policy.

Popular name: Act 280

400.112e Rules.

Sec. 112e. The department of community health, in consultation with the department of human services and the office of financial services, may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as necessary to implement the partnership program in accordance with the requirements of section 1917(b) of the social security act, 42 USC 1396p, section 6021 of the federal deficit reduction act of 2005, Public Law 109-171, and applicable federal regulations or guidelines.

History: Add. 1995, Act 85, Imd. Eff. June 20, 1995;—Am. 2006, Act 674, Imd. Eff. Jan. 10, 2007.

Popular name: Act 280

400.112g Michigan medicaid estate recovery program; establishment and operation by department of community health; development of voluntary estate preservation program; report; establishment of estate recovery program; waivers and approvals; duties of department; lien.

Sec. 112g. (1) Subject to section 112c(5), the department of community health shall establish and operate the Michigan medicaid estate recovery program to comply with requirements contained in section 1917 of title XIX. The department of community health shall work with the appropriate state and federal departments and agencies to review options for development of a voluntary estate preservation program. Beginning not later than 180 days after the effective date of the amendatory act that added this section and every 180 days thereafter, the department of community health shall submit a report to the senate and house appropriations subcommittees with jurisdiction over department of community health matters and the senate and house fiscal agencies regarding options for development of the estate preservation program.

(2) The department of community health shall establish an estate recovery program including various estate recovery program activities. These activities shall include, at a minimum, all of the following:

(a) Tracking assets and services of recipients of medical assistance that are subject to estate recovery.

(b) Actions necessary to collect amounts subject to estate recovery for medical services as determined according to subsection (3)(a) provided to recipients identified in subsection (3)(b). Amounts subject to recovery shall not exceed the cost of providing the medical services. Any settlements shall take into account the best interests of the state and the spouse and heirs.

(c) Other activities necessary to efficiently and effectively administer the program.

(3) The department of community health shall seek appropriate changes to the Michigan medicaid state plan and shall apply for any necessary waivers and approvals from the federal centers for medicare and medicaid services to implement the Michigan medicaid estate recovery program. The department of community health shall seek approval from the federal centers for medicare and medicaid regarding all of the following:

(a) Which medical services are subject to estate recovery under section 1917(b)(1)(B)(*i*) and (*ii*) of title XIX.

(b) Which recipients of medical assistance are subject to estate recovery under section 1917(a) and (b) of title XIX.

(c) Under what circumstances the program shall pursue recovery from the estates of spouses of recipients of medical assistance who are subject to estate recovery under section 1917(b)(2) of title XIX.

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(d) What actions may be taken to obtain funds from the estates of recipients subject to recovery under section 1917 of title XIX, including notice and hearing procedures that may be pursued to contest actions taken under the Michigan medicaid estate recovery program.

(e) Under what circumstances the estates of medical assistance recipients will be exempt from the Michigan medicaid estate recovery program because of a hardship. At the time an individual enrolls in medicaid for long-term care services, the department of community health shall provide to the individual written materials explaining the process for applying for a waiver from estate recovery due to hardship. The department of community health shall develop a definition of hardship according to section 1917(b)(3) of title XIX that includes, but is not limited to, the following:

(*i*) An exemption for the portion of the value of the medical assistance recipient's homestead that is equal to or less than 50% of the average price of a home in the county in which the medicaid recipient's homestead is located as of the date of the medical assistance recipient's death.

(*ii*) An exemption for the portion of an estate that is the primary income-producing asset of survivors, including, but not limited to, a family farm or business.

(*iii*) A rebuttable presumption that no hardship exists if the hardship resulted from estate planning methods under which assets were diverted in order to avoid estate recovery.

(f) The circumstances under which the department of community health may review requests for exemptions and provide exemptions from the Michigan medicaid estate recovery program for cases that do not meet the definition of hardship developed by the department of community health.

(g) Implementing the provisions of section 1396p(b)(3) of title XIX to ensure that the heirs of persons subject to the Michigan medicaid estate recovery program will not be unreasonably harmed by the provisions of this program.

(4) The department of community health shall not seek medicaid estate recovery if the costs of recovery exceed the amount of recovery available or if the recovery is not in the best economic interest of the state.

(5) The department of community health shall not implement a Michigan medicaid estate recovery program until approval by the federal government is obtained.

(6) The department of community health shall not recover assets from the home of a medical assistance recipient if 1 or more of the following individuals are lawfully residing in that home:

(a) The medical assistance recipient's spouse.

(b) The medical assistance recipient's child who is under the age of 21 years, or is blind or permanently and totally disabled as defined in section 1614 of the social security act, 42 USC 1382c.

(c) The medical assistance recipient's caretaker relative who was residing in the medical assistance recipient's home for a period of at least 2 years immediately before the date of the medical assistance recipient's admission to a medical institution and who establishes that he or she provided care that permitted the medical assistance recipient to reside at home rather than in an institution. As used in this subdivision, "caretaker relative" means any relation by blood, marriage, or adoption who is within the fifth degree of kinship to the recipient.

(d) The medical assistance recipient's sibling who has an equity interest in the medical assistance recipient's home and who was residing in the medical assistance recipient's home for a period of at least 1 year immediately before the date of the individual's admission to a medical institution.

(7) The department of community health shall provide written information to individuals seeking medicaid eligibility for long-term care services describing the provisions of the Michigan medicaid estate recovery program, including, but not limited to, a statement that some or all of their estate may be recovered.

(8) The department of community health shall not charge interest on the balance of any Michigan medicaid estate recovery payments.

(9) The department of community health shall not place or record a lien on qualifying property under the tax equity and fiscal responsibility act of 1982, Public Law 97-424 (TEFRA).

History: Add. 2007, Act 74, Imd. Eff. Sept. 30, 2007.

Popular name: Act 280

400.112h "Estate" and "property" defined.

Sec. 112h. For the purposes of sections 112g to 112j:

(a) "Estate" means all property and other assets included within an individual's estate that is subject to probate administration under article III of the estates and protected individuals code, 1998 PA 386, MCL 700.3101 to 700.3988, except assets otherwise subject to claims under section 3805(3) of the estates and protected individuals code, 1998 PA 386, MCL 700.3805, are not part of the estate.

(b) "Property" means that term as defined in section 1106 of the estates and protected individuals code, 1998 PA 386, MCL 700.1106.

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History: Add. 2007, Act 74, Imd. Eff. Sept. 30, 2007.

Popular name: Act 280

400.112i Use of revenue collected through Michigan Medicaid estate recovery activities; treatment of remaining balances.

Sec. 112i. Revenue collected through Michigan medicaid estate recovery activities shall be used to fund the activities of the Michigan medicaid estate recovery program. Any remaining balances shall be treated as an expenditure credit for long-term care support and services in the medical services appropriation unit of the annual department of community health appropriation.

History: Add. 2007, Act 74, Imd. Eff. Sept. 30, 2007.

Popular name: Act 280

400.112j Rules; report.

Sec. 112j. (1) The department of community health may promulgate rules for the Michigan medicaid estate recovery program according to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) Not later than 1 year after implementation of the Michigan medicaid estate recovery program and each year after that, the department of community health shall submit a report to the senate and house appropriations subcommittees with jurisdiction over department of community health matters and the senate and house fiscal agencies regarding the cost to administer the Michigan medicaid estate recovery program and the amounts recovered under the Michigan medicaid estate recovery program.

History: Add. 2007, Act 74, Imd. Eff. Sept. 30, 2007.

Popular name: Act 280

400.112k Applicability of program to certain medical assistance recipients.

Sec. 112k. The Michigan medicaid estate recovery program shall only apply to medical assistance recipients who began receiving medicaid long-term care services after the effective date of the amendatory act that added this section.

History: Add. 2007, Act 74, Imd. Eff. Sept. 30, 2007.

Popular name: Act 280

400.112e[1] Payments not required; amounts constituting payment in full.

Sec. 112e. (1) Notwithstanding any other provision of law and through September 30, 1998, the department is not required to pay deductible, coinsurance, or copayment medicare cost-sharing for a service to the extent that the payment, when combined with a payment made under title XVIII for the service, would exceed the payment amount otherwise required under the state plan for the service to be provided to an eligible recipient who is not a medicare beneficiary.

(2) Except for a state plan-approved medical services copayment, the amounts paid by title XVIII and under the state plan for a service, if any, shall constitute payment in full for the service through September 30, 1998.

History: Add. 1997, Act 173, Imd. Eff. Dec. 30, 1997.

Compiler's note: Section 112e, as added by Act 173 of 1997, was compiled as MCL 400.112e[1] to distinguish it from another section 112e, deriving from Act 85 of 1995 and pertaining to rules to implement the partnership program.

Popular name: Act 280

400.113 "Executive director" and "office" defined.

Sec. 113. As used in sections 113 to 123:

(a) "Executive director" means the director of the office of children and youth services.

(b) "Office" means the office of children and youth services created in section 114.

History: Add. 1969, Act 338, Imd. Eff. Dec. 8, 1969;—Am. 1972, Act 301, Eff. Jan. 1, 1973;—Am. 1978, Act 87, Eff. Apr. 1, 1978.

Popular name: Act 280

400.114 Office of children and youth services; creation as single purpose entity; duties of office; appointment, duties, and compensation of executive director; rules.

Sec. 114. (1) The office of children and youth services is created as a single purpose entity within the department of social services. The office shall be responsible for the planning, development, implementation, and evaluation of children and youth services conducted, administered, or purchased by the department under the authority of sections 114 to 123.

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(2) The director of social services, after consultation with the governor, shall appoint an executive director of the office. The executive director shall be accountable directly to the director of social services. The executive director shall not be within the classified civil service and shall receive compensation as established by the legislature. The executive director shall:

(a) Represent the department in all matters and hearings pertaining to children and youth services and programs.

(b) Serve as a special advisor to the governor on children and youth services budgets and programs.

(c) Advise the director of social services with respect to children and youth services and programs conducted, administered, or purchased by the department under the authority of sections 114 to 123, and make recommendations to the director for the improvement of those services and programs.

(d) Recommend to the governor and the legislature methods of improving the effectiveness of public and private children and youth services and programs.

(e) Recommend to the governor and the legislature appropriate allocations of public funds for children and youth services and programs.

(3) The department, in conjunction with the office, may promulgate rules necessary to implement, administer, and enforce its powers and duties as described in this act. The rules shall be promulgated pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: Add. 1969, Act 338, Imd. Eff. Dec. 8, 1969;—Am. 1972, Act 301, Eff. Jan. 1, 1973;—Am. 1973, Act 189, Imd. Eff. Jan. 8, 1974;—Am. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: For transfer of equipment, records, and supplies of the office administering the child care fund under former MCL 722.801 et seq. to the office of children and youth services created in this section, see section 2 of Act 87 of 1978.

For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

Administrative rules: R 400.1 et seq. of the Michigan Administrative Code.

400.115 Services to children and youth.

Sec. 115. Services to children and youth shall include:

(a) Operating training schools, the children's institute, halfway houses, youth camps, diagnostic centers, state operated regional detention facilities, regional short-term treatment centers, group homes, and other facilities and programs established with the approval of the legislature to provide an effective program of out-of-home care for delinquent or neglected children committed to or placed in the care and custody of the department by probate courts, courts of general criminal jurisdiction, or, where provided by law, the voluntary action of parents or guardians.

(b) Encouraging and assisting in the development and coordination of new programs as well as the coordination of prevailing programs at all levels of government and with those public and private nonprofit agencies and groups providing care or training or supervision for delinquent and neglected children.

(c) Devising and making available a system of supervision for juveniles on conditional release from facilities of the department by establishing departmental programs, or, with the approval of the legislature, by agreement with other units of state, regional, or local government or with private agencies.

(d) Administering grants, subsidies, incentive payments, and other fiscal programs authorized by the legislature including:

(*i*) Subsidies or incentives to insure adequate locally-based probation and other social services for children under the jurisdiction of the juvenile division of the probate court.

(*ii*) Cost-sharing programs between the state and county concerning children's services, including funding prescribed in sections 117c to 117d.

(*iii*) Allocation of funds budgeted to the department for governmental or private organizations operating delinquency prevention programs or projects in accordance with standards established by the office.

(e) Establishing, with the approval of the legislature, training programs for delinquent youth by contract with government and private agencies. The programs may be conducted through camps established by the department or in cooperation with the department of natural resources or with other organizations.

(f) Developing a coordinated system of care for delinquent and neglected children committed to the department. The development of treatment programs and other centers shall be coordinated with locally-operated programs for treatment, detention, and diagnosis.

(g) Gathering and making available statistics and information about the operation of the various state, regional, and local components of the program of neglect and delinquency services and presenting the

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information to the legislature and the public through biennial reports.

(h) Conducting, or causing to be conducted, research necessary to provide effective and adequate children and youth services and programs throughout the state.

(i) Undertaking special studies regarding the development of intensive probation, new probation methods, and other services specifically aimed at reduction of detention and out-of-home care.

(j) Evaluating state statutes, court rules, and funding arrangements related to problems of children and youth and recommending proposals for appropriate changes to insure equity in the availability of services and the protection of the rights of children and youth.

(k) Assisting the legislature in the evaluation of the plan developed under former Act No. 280 of the Public Acts of 1975.

(*l*) Receiving any donation, grant, or gift of money or property without obligation to the state for the benefit of its programs or for children placed with or committed to its care. The office, on receipt of the donation, grant, or gift, shall remit it immediately to the state treasury to be credited to the youth services trust fund which is created in the state treasury.

(m) Services for children and youth authorized in title IV of the social security act, 42 U.S.C. 601 to 603, 604 to 632, 633 to 673, 674 to 679 and in title XX of the social security act, 42 U.S.C. 1397 to 1397e.

History: Add. 1969, Act 338, Imd. Eff. Dec. 8, 1969;—Am. 1972, Act 301, Eff. Jan. 1, 1973;—Am. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1988, Act 75, Eff. Oct. 1, 1988.

Compiler's note: Act 280 of 1975, referred to in this section, was repealed by Act 296 of 1977.

Section 3 of Act 75 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 178 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.115a Office of children and youth services; duties generally.

Sec. 115a. (1) The office shall:

(a) Establish uniform statewide daily rates for the care of children. In the case of children receiving services by or through child caring agencies licensed pursuant to Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws, the daily rates may include an average daily rate for agency supervision. In a case of demonstrated need an exception for payment above the established rate may be obtained through prior written agreement with the office. Standards of care shall be in conformity with Act No. 116 of the Public Acts of 1973, as amended.

(b) Monitor children and youth services and programs operated by or funded through the department.

(c) Establish guidelines for the development of children and youth services and program plans and budgets.

(d) Cooperate with the office of criminal justice programs in the development of the state plan required by Public Law 93-415, 5 U.S.C. 5108; 18 U.S.C. 4351 to 4353, 5031 to 5042; and 42 U.S.C. 3701, 3723, 3733, 3768, 3772 to 3774, 3811 to 3814, 3821, 3882, 3883, 3888, and 5601 to 5751. The office shall review the annual budget of the office of criminal justice programs as that budget relates to juvenile justice services and make recommendations to the governor and the legislature regarding the consistency of the budget with the standards and guidelines recommended by the office.

(e) Coordinate educational and public information programs for the purpose of developing appropriate awareness regarding the problems of children and youth; encourage professional groups to recognize and deal with the problems of children and youth; make information about the problems of children and youth available to organizations dealing with juvenile problems and to the general public; and encourage the development of community programs to improve the status of children and youth.

(f) Enter into contracts necessary for the performance of its powers and duties and the execution of its policies. The contracts may be with a state agency, a local public agency, or a private agency, organization, association, or person to enhance, provide, or improve the availability and quality of children and youth services and programs.

(g) Provide for the administration and supervision of employees of institutions for children and youth operated or maintained by the department.

(h) Develop and allocate the children and youth services budget of the department.

(i) Develop and recommend personnel policies and standards to the director of social services.

(j) Identify and designate priorities to the training needs of employees of the department engaged in the provision of children and youth services programs and participate in the development and implementation of appropriate training programs.

(k) Establish and implement standards of uniform practice for children and youth services programs

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operated by the state, consistent with the rules promulgated under Act No. 116 of the Public Acts of 1973, as amended. The office shall recommend these standards for other public and private child care organizations. The standards shall include provisions for the administration, organization, training, supervision, and funding of children and youth services and programs.

(*l*) Establish and interpret policy for children and youth services administered by the department.

(m) Assist in the development of sound programs and standards for children and youth services and promote programs and policies encouraging the prevention of dependency, neglect, delinquency, and other conditions adversely affecting the welfare of children and youth. These programs and policies shall include services for families of children and youth in trouble or at risk.

(n) Monitor and evaluate children and youth services and programs and recommend to the director of social services and monitor corrective action necessary for the improvement of those services and programs.

(o) Develop and implement standard reporting methods to provide accurate program and statistical data on children and youth affected by children and youth services and programs.

(2) Children and youth services staff allocated to a county shall operate under the supervision and direction of a county director of social services.

(3) Upon the recommendation of the office, the department shall request the attorney general to bring an action in the appropriate court to enforce the terms of an agreement or contract entered into by the office.

History: Add. 1973, Act 154, Imd. Eff. Dec. 6, 1973;—Am. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.115b Responsibility for children committed by juvenile division of probate court or court of general criminal jurisdiction; children and youth services and programs; services, actions, and rules as to neglect, exploitation, abuse, cruelty to, or abandonment of children; adoption of nonresident children; investigation; parent fees; policy regarding investigations and foster care service; foster care maintenance payments.

Sec. 115b. (1) The department shall assume responsibility for all children committed to it by the juvenile division of the probate court, the family division of circuit court, or the court of general criminal jurisdiction under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, and 1935 PA 220, MCL 400.201 to 400.214. The department may provide institutional care, supervision in the community, boarding care, halfway house care, and other children and youth services and programs necessary to meet the needs of those children or may obtain appropriate services from other state agencies, local public agencies, or private agencies, subject to section 115o. If the program of another state agency is considered to best serve the needs of the child, the other state agency shall give priority to the child.

(2) The department shall study and act upon a request for service as to, or a report received of, neglect, exploitation, abuse, cruelty, or abandonment of a child by a parent, guardian, custodian, or person serving in loco parentis, or a report concerning a child in need of protection. On the basis of the findings of the study, the department shall assure, if necessary, the provision of appropriate social services to the child, parent, guardian, custodian, or person serving in loco parentis, to reinforce and supplement the parental capabilities, so that the behavior or situation causing the problem is corrected or the child is otherwise protected. In assuring the provision of services and providing the services, the department shall encourage participation by other existing governmental units or licensed agencies and may contract with those agencies for the purchase of any service within the scope of this subsection. The department shall initiate action in an appropriate court if the conduct of a parent, guardian, or custodian requires. The department shall promulgate rules necessary for implementing the services authorized in this subsection. The rules shall include provision for local citizen participation in the program to assure local understanding, coordination, and cooperative action with other community resources. In the provision of services, there shall be maximum utilization of other public, private, and voluntary resources available within a community.

(3) If an agency or organization proposes to place for adoption, with a person domiciled in this state, a child who is a citizen of or resides in a country other than the United States or Canada, the department shall conduct, within 180 days after receipt of the request from the agency or organization, the investigation prescribed by section 46 of chapter X of the probate code of 1939, 1939 PA 288, MCL 710.46. In a county in which the department determines it to be more feasible both geographically and economically, the department may purchase the adoption services up to the actual cost of providing those services. The department shall charge parent fees prescribed by the legislature.

(4) The office is responsible for the development, interpretation, and dissemination of policy regarding

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departmental investigations requested or ordered by the probate court or the family division of circuit court under section 55(h) and the provision of foster care services authorized by this act. Foster care services shall include foster care of state wards, aid to dependent children foster care, foster care of wards of the family division of circuit court placed under the care and supervision of the department by order of the court, and voluntary parental placement of children in foster care.

(5) All rights to current, past due, and future support payable on behalf of a child committed to or under the supervision of the department and for whom the department is making state or federally funded foster care maintenance payments are assigned to the department while the child is receiving or benefiting from those payments. When the department ceases making foster care maintenance payments for the child, both of the following apply:

(a) Past due support that accrued under the assignment remains assigned to the department.

(b) The assignment of current and future support rights to the department ceases.

(6) The maximum amount of support the department may retain to reimburse the state, the federal government, or both for the cost of care shall not exceed the amount of foster care maintenance payments made from state or federal money, or both.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1988, Act 75, Eff. Oct. 1, 1988;—Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999;—Am. 2004, Act 193, Imd. Eff. July 8, 2004.

Compiler's note: Section 3 of Act 75 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 178 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.115c Placement of children in family homes; approval or disapproval; information; supervision.

Sec. 115c. The office may approve or disapprove the placing of a child in this state in a family home of persons unrelated to the child by a person not a resident of this state or in any family home of this state by an agency or organization which does not have a place of business in this state. Written approval of the proposed placement shall be obtained from the office. The person, agency, or organization shall furnish the office with necessary information regarding the child and the prospective foster parents and a guaranty required by the office to protect the interests of the county in which the child is to be placed. The information shall be forwarded to the county agency of the county in which the prospective home is located, if the judge of probate has given prior general consent to the procedure, or to the director of a licensed child-placing agency, or to an employee of the department who shall investigate the home. If, in the employee's opinion, the placement should be made, the employee shall file an approval with the office. If the proposed placement is or appears to be planned with a view to an adoption of the child under the law of this state by the family with whom the child is to be placed, the prior approval of the proposed placement by the judge of probate of the county of residence of the family is also required. When requested, the office may require supervision of the child in the home until the child is legally adopted or otherwise discharged from care.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.115d Plan for establishment, maintenance, and operation of regional facilities to detain children.

Sec. 115d. (1) The office shall develop a plan for the establishment, maintenance, and operation of regional facilities to detain children concerning whom an order of detention has been issued under section 14, 15, or 16 of chapter XIIA of Act No. 288 of the Public Acts of 1939, as amended, being sections 712A.14 to 712A.16 of the Michigan Compiled Laws, or section 27a of chapter IV of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 764.27a of the Michigan Compiled Laws. The primary focus of the plan shall be on providing a service network to areas of the state which do not have detention facilities.

(2) The plan shall include:

(a) An assessment of need for secure detention beds, and a proposal for providing and funding the needed beds.

(b) An evaluation of detention alternatives and a proposal for caring for children needing custody while awaiting court hearings.

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(c) Provisions for a transportation network to serve areas at a distance from secure facilities.

(3) The plan shall encourage the use of emergency shelter facilities and alternatives to secure detention where appropriate.

(4) The plan shall provide that the county from which an order of detention is issued by the juvenile division of the probate court or the court of general criminal jurisdiction shall be liable to the state for 50% of the cost of care of the child.

(5) In formulating the plan, the office shall consult with law enforcement agencies, judges of probate and judges of courts of general criminal jurisdiction, public and private agencies which deal with children's services, and other persons concerned with children and youth services.

(6) The plan shall be submitted to the legislature not later than March 31, 1979, and shall be revised annually.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1988, Act 75, Eff. Oct. 1, 1988.

Compiler's note: Section 3 of Act 75 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 178 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.115e Detention home; assumption of administration, operation, and facilities; agreement; state classified service.

Sec. 115e. (1) The department, to the extent of funds appropriated for that purpose, may assume the administration and operation or the administration, operation, and facilities of a detention home established as an agency of the probate court under section 16 of chapter 12A of Act No. 288 of the Public Acts of 1939, being section 712A.16 of the Michigan Compiled Laws.

(2) The department shall not assume the administration and operation nor the administration, operation, and facilities of a detention home unless an agreement is made with the county board of commissioners and the presiding judge of the probate court to transfer the administration and operation or the administration, operation, and facilities of the detention home to the department.

(3) The department may offer persons employed at a detention home transferred pursuant to this section, as of the effective date of the transfer, the opportunity to be employed in the state classified service in accordance with procedures established by the Michigan civil service commission.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.115f Definitions.

Sec. 115f. As used in this section and sections 115g to 115s:

(a) "Adoptee" means the child who is to be adopted or who is adopted.

(b) "Adoption assistance" means a support subsidy or medical assistance, or both.

(c) "Adoption assistance agreement" means an agreement between the department and an adoptive parent regarding adoption assistance.

(d) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.

(e) "Adoptive parent" means the parent or parents who adopt a child under the adoption code.

(f) "Certification" means a determination of eligibility by the department that an adoptee is eligible for a support subsidy or a medical subsidy or both.

(g) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(h) "Child with special needs" means an individual under the age of 18 years for whom the state has determined all of the following:

(*i*) There is a specific judicial finding that the child cannot or should not be returned to the home of the child's parents.

(*ii*) A specific factor or condition, or a combination of factors and conditions, exists with respect to the child so that it is reasonable to conclude that the child cannot be placed with an adoptive parent without providing adoption assistance under this act. The factors or conditions to be considered may include ethnic or family background, age, membership in a minority or sibling group, medical condition, physical, mental, or emotional disability, or length of time the child has been waiting for an adoptive home.

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(*iii*) A reasonable but unsuccessful effort was made to place the adoptee with an appropriate adoptive parent without providing adoption assistance under this act or a prospective placement is the only placement in the best interest of the child.

(i) "Compact" means the interstate compact on adoption and medical assistance as enacted in sections 115r and 115s.

(j) "Court" means the family division of circuit court.

(k) "Department" means the family independence agency.

(*l*) "Foster care" means placement of a child outside the child's parental home by and under the supervision of a child placing agency, the court, the department, or the department of community health.

(m) "Medical assistance" means the federally aided medical assistance program under title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(n) "Medical subsidy" means payment for medical, surgical, hospital, and related expenses necessitated by a specified physical, mental, or emotional condition of a child who has been placed for adoption.

(o) "Medical subsidy agreement" means an agreement between the department and an adoptive parent regarding a medical subsidy.

(p) "Nonrecurring adoption expenses" means reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs. Nonrecurring adoption expenses do not include costs or expenses incurred in violation of state or federal law or that have been reimbursed from other sources or funds.

(q) "Other expenses that are directly related to the legal adoption of a child with special needs" means adoption costs incurred by or on behalf of the adoptive parent and for which the adoptive parent carries the ultimate liability for payment, including the adoption study, health and psychological examinations, supervision of the placement before adoption, and transportation and reasonable costs of lodging and food for the child or adoptive parent if necessary to complete the adoption or placement process.

(r) "Party state" means a state that becomes a party to the interstate compact on adoption and medical assistance.

(s) "Placement" means a placement or commitment, including the necessity of removing the child from his or her parental home, as approved by the court under an order of disposition issued under section 18(1)(c) or (d) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

(t) "Residence state" means the state in which the child is a resident by virtue of the adoptive parent's residency.

(u) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.

(v) "Support subsidy" means payment for support of a child who has been placed for adoption.

History: Add. 1980, Act 292, Eff. Nov. 18, 1980;—Am. 1992, Act 40, Eff. June 28, 1992;—Am. 1994, Act 238, Eff. July 5, 1994;—Am. 1998, Act 22, Imd. Eff. Mar. 12, 1998;—Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002;—Am. 2004, Act 193, Imd. Eff. July 8, 2004.

Compiler's note: Act 288 of 1939, referred to in this section, was repealed by Act 34 of 1952, Act 143 of 1970, Act 543 of 1978, and Act 642 of 1978.

For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.115g Support subsidy; payment; requirements; determination of amount; completion of certification process.

Sec. 115g. (1) The department may pay a support subsidy to an adoptive parent of an adoptee who is placed in the home of the adoptive parent under the adoption code or under the adoption laws of another state or a tribal government, if all of the following requirements are met:

(a) The department has certified that the adoptee is a child with special needs.

(b) Certification is made before the adoptee's eighteenth birthday.

(c) Certification is made before the petition for adoption is filed.

(d) The adoptive parent requests the support subsidy not later than the date of confirmation of the adoption.

(2) The department shall determine eligibility for the support subsidy without regard to the income of the adoptive parent or parents. The amount shall be equal to the family foster care rate, including the difficulty of care rate, that was paid for the adoptee while the adoptee was in family foster care, except that the amount shall be increased to reflect increases made in the standard age appropriate foster care rate paid by the department.

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(3) The department shall complete the certification process within 30 days after it receives a request for a support subsidy.

History: Add. 1990, Act 356, Imd. Eff. Dec. 26, 1990;—Am. 1994, Act 238, Eff. July 5, 1994;—Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002;—Am. 2004, Act 193, Imd. Eff. July 8, 2004.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.115h Medical subsidy; payment; requirements; determination of amount; third party payment; waiver of subsection (2); time of request; payment for treatment of mental or emotional condition.

Sec. 115h. (1) The department may pay a medical subsidy to the adoptive parent or parents of an adoptee who is placed for adoption in the home of the adoptive parent or parents pursuant to the adoption code or the laws of any other state or a tribal government, if all of the following requirements are met:

(a) The expenses to be covered by the medical subsidy are necessitated by a physical, mental, or emotional condition of the adoptee that existed or the cause of which existed before the adoption petition was filed or certification was established, whichever occurred first.

(b) The adoptee was in foster care at the time the petition for adoption was filed. This subdivision does not apply to adoptions confirmed pursuant to the adoption code before June 28, 1992.

(c) Certification was made before the adoptee's eighteenth birthday.

(2) The department shall determine the amount of the medical subsidy without respect to the income of the adoptive parent or parents. The department shall not pay a medical subsidy until all other available public money and third party payment is used. For purposes of this subsection, third party payment is available if an adoptive parent has an option, at or after the time of certification, to obtain from the parent's employer health coverage for the child, with or without cost to the adoptive parent. The department may waive this subsection in cases of undue hardship.

(3) The adoptive parent or parents may request a medical subsidy before or after the confirmation of the adoption. A medical subsidy requested after the adoptee is placed in adoption is effective the date the request is received by the department if the necessary documentation for certification is received within 90 days after the request is made. In allocating available funding for medical subsidies, the department shall not give preferential treatment to requests that are made before the confirmation of an adoption, but shall allocate funds based on a child's need for the subsidy.

(4) Payment of a medical subsidy for treatment of a mental or emotional condition is limited to outpatient treatment unless 1 or more of the following apply:

(a) Certification for the medical subsidy was made before the adoption confirmation date.

(b) The adoptee was placed in foster care by the court pursuant to section 18(1)(d) or (e) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.18 of the Michigan Compiled Laws, before the petition for adoption was filed.

(c) The adoptee was certified for a support subsidy.

History: Add. 1994, Act 238, Eff. July 5, 1994.

Popular name: Act 280

400.115i Adoptive assistance; agreement; medical subsidy eligibility; copies; modification or discontinuance; legal status, rights, and responsibilities not affected; report.

Sec. 115i. (1) If adoption assistance is to be paid, the department and the adoptive parent or parents shall enter into an adoption assistance agreement covering all of the following:

(a) The duration of the adoption assistance to be paid.

(b) The amount to be paid and, if appropriate, eligibility for medical assistance.

(c) Conditions for continued payment of the adoption assistance as established by statute.

(2) If medical subsidy eligibility is certified, the department and the adoptive parent shall enter into a medical subsidy agreement covering all of the following:

(a) Identification of the physical, mental, or emotional condition covered by the medical subsidy.

(b) The duration of the medical subsidy agreement.

(c) Conditions for continued eligibility for the medical subsidy as established by statute.

(3) The department shall give a copy of the adoption assistance agreement or medical subsidy agreement, or both, to the adoptive parent or parents.

(4) Unless the medical condition of the adoptee no longer exists, or an event described in section 115j has

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occurred, as indicated in a report filed under subsection (6) or as otherwise determined by the department, the department shall not modify or discontinue a medical subsidy.

(5) An adoption assistance agreement or medical subsidy agreement does not affect the legal status of the adoptee or the legal rights and responsibilities of the adoptive parent or parents.

(6) The adoptive parent or parents shall file a verified report with the department at least once each year as to the location of the adoptee and other matters relating to the continuing eligibility of the adoptee for adoption assistance or a medical subsidy, or both.

History: Add. 1994, Act 238, Eff. July 5, 1994;—Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002.

Popular name: Act 280

400.115j Adoption assistance; medical subsidy; duration.

Sec. 115j. (1) Adoption assistance or a medical subsidy, or both, shall continue until 1 of the following occurs:

(a) The adoptee becomes 18 years of age.

(b) The adoptee is emancipated.

(c) The adoptee dies.

(d) The adoption is terminated.

(e) A determination of ineligibility is made by the department.

(2) If sufficient money is appropriated, the department may continue adoption assistance or a medical subsidy, or both, for an adoptee under 21 years of age if the department determines that the adoptee is a student regularly attending a high school, college, university, or vocational school in pursuance of a course of study leading to a high school diploma, college degree, or gainful employment.

(3) Adoption assistance and a medical subsidy shall continue even if the adoptive parent leaves the state.

(4) An adoption support subsidy shall continue during a period in which the adoptee is removed for delinquency from his or her home as a temporary court ward based on proceedings under section 2(a) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(5) Upon the death of the adoptive parent, the department shall continue making support subsidy payments or continue medical subsidy eligibility, or both, to the guardian of the adoptee if a guardian is appointed as provided in section 5202 or 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5202 and 700.5204.

History: Add. 1994, Act 238, Eff. July 5, 1994;—Am. 2000, Act 61, Eff. Apr. 1, 2000;—Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002
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Popular name: Act 280

400.115k Appeal of determination; notice of rights of appeal.

Sec. 115k. (1) An adoptee, the adoptee's guardian, or the adoptive parent or parents may appeal a determination of the department made under this act. The appeal shall be conducted pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. An appeal brought pursuant to chapter 6 of Act No. 306 of the Public Acts of 1969, being sections 24.301 to 24.306 of the Michigan Compiled Laws, shall be heard as follows:

(a) In the case of an adoptee residing in this state, by the probate court for the county in which the petition for adoption was filed or the county in which the adoptee is found.

(b) In the case of an adoptee not residing in this state, by the probate court for the county in which the petition for adoption was filed.

(2) The department shall notify the adoptee and the adoptive parent or parents of their rights of appeal under this section.

History: Add. 1994, Act 238, Eff. July 5, 1994.

Popular name: Act 280

400.115*l* Child with special needs; agreement for payment of nonrecurring adoption expenses; limitation; signature; filing claims; notice to potential claimants.

Sec. 115*l*. (1) The department shall enter into an agreement with the adoptive parent or parents of a child with special needs under this section for the payment of nonrecurring adoption expenses incurred by or on behalf of the adoptive parent or parents. The agreement may be a separate document or part of an adoption assistance agreement under section 115i. The agreement under this section shall indicate the nature and amount of nonrecurring adoption expenses to be paid by the department, which shall not exceed $2,000.00 for each adoptive placement meeting the requirements of this section. The department shall make payment as

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provided in the agreement.

(2) An agreement under this section shall be signed at or before entry of an order of adoption under the adoption code. Claims for payment shall be filed with the department within 2 years after entry of the order of adoption.

(3) The department shall take all actions necessary and appropriate to notify potential claimants under this section, including compliance with federal regulations.

History: Add. 1994, Act 238, Eff. July 5, 1994;—Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002.

Popular name: Act 280

400.115m Pamphlet describing adoption process and adoption assistance and medical subsidy programs; preparation; distribution; contents.

Sec. 115m. (1) The department shall prepare and distribute to adoption facilitators and other interested persons a pamphlet describing the adoption process and the adoption assistance and medical subsidy programs established under sections 115f to 115s. The state department shall provide a copy of the pamphlet to each prospective adoptive parent before placing a child with that parent.

(2) The description of the adoption process required under subsection (1) shall include at least all of the following:

(a) The steps that must be taken under the adoption code to complete an adoption, and a description of all of the options available during the process.

(b) A description of the services that are typically available from each type of adoption facilitator.

(c) Recommended questions for a biological parent or prospective adoptive parent to ask an adoption facilitator before engaging that adoption facilitator's services.

(d) A list of the rights and responsibilities of biological parents and prospective adoptive parents.

(e) A description of the information services available to biological and prospective adoptive parents including, but not limited to, all of the following:

(*i*) The registry of adoptive homes established and maintained by the department under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(*ii*) The directory of children produced under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(*iii*) The public information forms maintained by the department pursuant to section 14d of 1973 PA 116, MCL 722.124d.

(f) A statement about the existence of the children's ombudsman and its authority as an investigative body.

(g) A statement about the importance and availability of counseling for all parties to an adoption and that a prospective adoptive parent must pay for counseling for a birth parent or guardian unless the birth parent or guardian waives the counseling.

History: Add. 1994, Act 207, Eff. Jan. 1, 1995;—Am. 2002, Act 648, Imd. Eff. Dec. 23, 2002.

Popular name: Act 280

400.115n Escape of juvenile from facility or residence; notification; definitions.

Sec. 115n. (1) If a juvenile escapes from a facility or residence funded or authorized under this act in which he or she has been placed, other than his or her own home or the home of his or her parent or guardian, the individual at that facility or residence having responsibility for maintaining custody of the juvenile at the time of the escape shall immediately notify 1 of the following of the escape or cause 1 of the following to be immediately notified of the escape:

(a) If the escape occurs in a city, village, or township that has a police department, the police department of that city, village, or township.

(b) Except as provided in subdivision (a), 1 of the following:

(*i*) The sheriff department of the county in which the escape occurs.

(*ii*) The department of state police post having jurisdiction over the area in which the escape occurs.

(2) A police agency that receives notification of an escape under subsection (1) shall enter that notification into the law enforcement information network without undue delay.

(3) As used in this section:

(a) “Escape” means to leave without lawful authority or to fail to return to custody when required.

(b) “Juvenile” means 1 or more of the following:

(*i*) An individual under the jurisdiction of the juvenile division of the probate court or the family division of circuit court under section 2(a)(1) of chapter XIIA of Act No. 288 of the Public Acts of 1939, being section 712A.2 of the Michigan Compiled Laws.

(*ii*) An individual under the jurisdiction of the circuit court under section 606 of the revised judicature act

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of 1961, Act No. 236 of the Public Acts of 1961, being section 600.606 of the Michigan Compiled Laws.

(*iii*) An individual under the jurisdiction of the recorder's court of the city of Detroit under section 10a(1)(c) of Act No. 369 of the Public Acts of 1919, being section 725.10a of the Michigan Compiled Laws.

History: Add. 1996, Act 483, Eff. Jan. 1, 1997.

Popular name: Act 280

400.115o Residential care bed space for juveniles; "appropriate juvenile residential care provider" defined.

Sec. 115o. (1) Both of the following apply to residential care bed space for juveniles who are within or likely to come within the court's jurisdiction under section 2(a) or (d) of chapter XIIA of 1939 PA 288, MCL 712A.2, or committed to the department under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309:

(a) If 1 or more appropriate juvenile residential care providers located or doing business in this state have bed space available, the department shall use that space rather than a space available by a provider located or doing business in another state. This requirement does not apply if the provider located or doing business in another state offers a specialized program that is not available in this state.

(b) If an excess of bed spaces is available within a security level, the department shall use the bed spaces of private providers with whom it has contracted and allow state owned bed spaces to go unused first. However, in applying this subdivision, a bed space that is available because a facility refused to accept a juvenile does not count toward a surplus.

(2) As used in this section, "appropriate juvenile residential care provider" means a private nonprofit entity domiciled in this state that is licensed by the department of consumer and industry services and that entered into 1 or more contracts with the family independence agency to provide residential care services for juveniles on or before the effective date of the amendatory act that added this section.

History: Add. 1998, Act 516, Imd. Eff. Jan. 12, 1999.

Popular name: Act 280

400.115p Local elected official or employee as advisor to juvenile facility; "elected official" and "juvenile facility" defined.

Sec. 115p. (1) An appointed board, commission, or similar entity that acts in an advisory capacity to a juvenile facility shall have at least 1 member who is an elected official or administrative employee of the city, village, or township in which the juvenile facility is located.

(2) As used in this section:

(a) "Elected official" means the elected chief executive officer of the city, village, or township or a member of the legislative body of the city, village, or township.

(b) "Juvenile facility" means a facility operated or administered by the state that houses juveniles who are within or likely to come within the court's jurisdiction under section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

History: Add. 1999, Act 169, Imd. Eff. Nov. 8, 1999.

Popular name: Act 280

400.115q Field investigation or home visit; training program; documentation of safety risk; completion with another department employee or law enforcement officer.

Sec. 115q. (1) The department shall develop, implement, and provide a training program to each department employee who is required to perform a field investigation or home visit. The training program shall include both of the following:

(a) Mandatory training on defusing threatening behavior.

(b) Mandatory training on how to perform a safe investigation or home visit and recognize a potentially dangerous situation.

(2) If a department employee who is required to perform a field investigation or home visit has documented a risk that leads to a reasonable apprehension regarding the safety of performing a field investigation or home visit, that employee shall complete the field investigation or home visit with another department employee who has been trained as required in subsection (1) or with a law enforcement officer.

History: Add. 2001, Act 14, Eff. Sept. 1, 2001.

Popular name: Act 280

400.115r Interstate compact on adoption and medical assistance; citation of MCL 400.115r and 400.115s.

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Sec. 115r. (1) Sections 115r and 115s shall be known and may be cited as the "interstate compact on adoption and medical assistance".

(2) By the enactment of sections 115r and 115s, this state becomes a party state.

(3) Sections 115r and 115s shall be liberally construed to accomplish all of the following:

(a) Strengthen protections for each adoptee who is a child with special needs on behalf of whom a party state commits to pay adoption assistance when that child's residence state is a state other than the state committed to provide the adoption assistance.

(b) Provide substantive assurances and operating procedures that promote the delivery of medical assistance and other services to a child on an interstate basis through medical assistance programs established by the laws of each state that is a party to the compact.

History: Add. 2002, Act 648, Imd. Eff. Dec. 23, 2002.

Popular name: Act 280

400.115s Interstate compacts; authorization; force and effect; contents.

Sec. 115s. (1) The family independence agency is authorized to negotiate and enter into interstate compacts with agencies of other states for the provision of adoption assistance for an adoptee who is a child with special needs, who moves into or out of this state, and on behalf of whom adoption assistance is being provided by this state or another state party to such a compact.

(2) When a compact is so entered into and for as long as it remains in force, the compact has the force and effect of law.

(3) A compact authorized under this act must include:

(a) A provision making it available for joinder by all states.

(b) A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of 1 year between the date of the notice and effective date of the withdrawal.

(c) A requirement that the protections under the compact continue in force for the duration of the adoption assistance and are applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode.

(d) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state that undertakes to provide the adoption assistance. An agreement required by this subdivision shall be expressly for the benefit of the adopted child and be enforceable by the adoptive parents and the state agency providing the adoption assistance.

(e) Other provisions as may be appropriate to implement the proper administration of the compact.

History: Add. 2002, Act 648, Imd. Eff. Dec. 23, 2002.

Popular name: Act 280

400.116 Duties of department with respect to juvenile court probation staff; consultation and assistance services; plan for voluntary transfer of county juvenile court probation staff to department.

Sec. 116. (1) With respect to juvenile court probation staff in a county that is not a county juvenile agency, the department shall do all of the following:

(a) Develop and recommend to the supreme court standards and qualifications for employment and other criteria designed to develop an adequate career service.

(b) Maintain information as to court employment needs and assist in recruiting qualified personnel.

(c) Provide, with legislative approval, a statewide system of preservice and inservice training, which may include full or part-time scholarships.

(d) Develop recommendations regarding the functions of the office of county juvenile officer.

(2) The department may provide consultation and assistance services to the juvenile probation service of the court in a county that is not a county juvenile agency.

(3) The department shall develop a plan that permits the voluntary transfer of county juvenile court probation staff in a county that is not a county juvenile agency to the department by the joint concurrence of the county board of commissioners or county executive, as applicable, and the chief judge of the family division of circuit court. The plan shall include procedures for negotiations between the state, as represented by the department, and the affected county board of commissioners or county executive, the county family independence agency board, and the chief judge of the family division of circuit court for that county. The plan shall afford juvenile court probation staff transferred under the plan the opportunity to be employed in the state classified civil service in compliance with procedures established by the Michigan civil service

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commission. The plan shall enable the court to maintain sufficient staff to enforce court orders and to perform the preliminary inquiry and monitoring of court wards required by chapter XIIA of 1939 PA 288, MCL 712A.1 to 712A.32. The plan shall be submitted to the legislature not later than 18 months after the effective date of this subsection.

(4) As used in this section, "county juvenile agency" means that term as defined in section 2 of the county juvenile agency act.

History: Add. 1969, Act 338, Imd. Eff. Dec. 8, 1969;—Am. 1972, Act 301, Eff. Jan. 1, 1973;—Am. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.117 Repealed. 1972, Act 301, Eff. Jan. 1, 1973.

Compiler's note: The repealed section pertained to avoiding the loss of federal matching funds.

Popular name: Act 280

400.117a Definitions; juvenile justice funding system; rules; distribution of money for cost of juvenile justice services; guidelines; reports; reporting system for reimbursement.

Sec. 117a. (1) As used in sections 117a to 117g:

(a) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act.

(b) "County juvenile agency services" means all juvenile justice services for a juvenile who is within the court's jurisdiction under section 2(a) or (d) of chapter XIIA of 1939 PA 288, MCL 712A.2, or within the jurisdiction of the court of general jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if that court commits the juvenile to a county or court juvenile facility under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a. If a juvenile who comes within the court's jurisdiction under section 2(a) or (d) of chapter XIIA of 1939 PA 288, MCL 712A.2, is at that time subject to a court order in connection with a proceeding for which the court acquired jurisdiction under section 2(b) or (c) of chapter XIIA of 1939 PA 288, MCL 712A.2, juvenile justice services provided to the juvenile before the court enters an order in the subsequent proceeding are not county juvenile agency services, except for juvenile justice services related to detention.

(c) "Juvenile justice service" means a service, exclusive of judicial functions, provided by a county for juveniles who are within or likely to come within the court's jurisdiction under section 2 of chapter XIIA of 1939 PA 288, MCL 712A.2, or within the jurisdiction of the court of general criminal jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if that court commits the juvenile to a county or court juvenile facility under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a. A service includes intake, detention, detention alternatives, probation, foster care, diagnostic evaluation and treatment, shelter care, or any other service approved by the office or county juvenile agency, as applicable, including preventive, diversionary, or protective care services. A juvenile justice service approved by the office or county juvenile agency must meet all applicable state and local government licensing standards.

(2) A juvenile justice funding system for counties that are not county juvenile agencies, including a child care fund, is established and shall be administered under the department's superintending control.

(3) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to monitor juvenile justice services money and to prescribe child care fund accounting, reporting, and authorization controls and procedures and child care fund expenditure classifications. For counties required to have a child care fund, the department shall fund services that conform to the child care rules promulgated under this act.

(4) The department shall provide for the distribution of money appropriated by the legislature to counties for the cost of juvenile justice services as follows:

(a) For a county that is not a county juvenile agency, the amount distributed shall equal 50% of the annual expenditures from the child care fund of the county established under section 117c, except that expenditures under section 117c(3) and expenditures that exceed the amount of a budget approved under section 117c shall not be included. A distribution under this subdivision shall not be made to a county that does not comply with the requirements of this act. The department may reduce the amount distributed to a county by the amount owed to the state for care received in a state operated facility or for care received under 1935 PA 220, MCL 400.201 to 400.214, or under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309. The distribution may be reduced by the amount of uncontested liability.

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(b) For a county that is a county juvenile agency, the county's block grant amount as determined under section 117g in equal distributions on October 1, January 1, April 1, and July 1 of each state fiscal year.

(5) The department is liable for the costs of all juvenile justice services in a county that is a county juvenile agency other than county juvenile agency services.

(6) The department shall establish guidelines for the development of county juvenile justice service plans in counties that are not county juvenile agencies.

(7) A county that is not a county juvenile agency and receives state funds for in-home or out-of-home care of children shall submit reports to the department at least quarterly or as the department otherwise requires. The reports shall be submitted on forms provided by the executive director and shall include the number of children receiving foster care services and the number of days of care provided.

(8) The department shall develop a reporting system providing that reimbursement under subsection (4)(a) shall be made only on submission of billings based on care given to a specific, individual child. The system shall be implemented not later than October 1, 1982.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1980, Act 328, Imd. Eff. Dec. 19, 1980;—Am. 1988, Act 75, Eff. Oct. 1, 1988;—Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 75 of 1988 provides: "This amendatory act shall take effect June 1, 1988." This section was amended by Act 178 of 1988 to read as follows: "This amendatory act shall take effect October 1, 1988."

For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.117b Office of children and youth services; powers generally.

Sec. 117b. The office may:

(a) Provide juvenile justice program planning and technical assistance to units of county and state government and to the private sector.

(b) Enter into agreements with the federal government, state, county, or municipal departments, or private foundations or trusts for the receipt of funds for purposes consistent with the powers and duties of the office, including subcontracts with the office of criminal justice programs to develop the state plan required by Public Law 93-415.

(c) Contract with state, county, or other public agencies or private corporations to provide training programs for service personnel or to provide services to children and youth.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.117c County treasurer as custodian of money; creation and maintenance of child care fund; deposits in fund; use of fund; separate account for fund; subaccounts; plan and budget for funding foster care services; records of juvenile justice services and expenditures; applicability of section to county juvenile agency.

Sec. 117c. (1) The county treasurer is designated as the custodian of all money provided for the use of the county family independence agency, the family division of circuit court, and the agency designated by the county board of commissioners or, if a county has a county executive, chief administrative officer, or county manager, that individual to provide juvenile justice services. The county treasurer shall create and maintain a child care fund. The following money shall be deposited in the child care fund:

(a) All money raised by the county for the use of the county family independence agency for the foster care of children with respect to whom the family division of circuit court has not taken jurisdiction.

(b) Money for the foster care of children under the jurisdiction of the family division of circuit court raised by the county with the view of receiving supplementary funds for this purpose from the state government as provided in section 117a.

(c) All funds made available by the state government for foster care of children.

(d) All payments made in respect to support orders issued by the family division of circuit court for the reimbursement of government for expenditures made or to be made from the child care fund for the foster care of children.

(e) All prepayments and refunds for reimbursement of county family independence agencies for the foster care of children.

(f) All funds made available to the county for the foster care of children from any other source, except gifts

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that are conditioned on a different disposition or reimbursements of the general fund.

(g) Money for the foster care of children under the jurisdiction of the court of general criminal jurisdiction committed to a county facility or a court facility for juveniles in the county in which the court of general criminal jurisdiction is located.

(h) All payments made in respect to support orders issued by the court of general criminal jurisdiction for the reimbursement of government for expenditures made or to be made from the child care fund for the foster care of children.

(2) The child care fund shall be used for the costs of providing foster care for children under sections 18c and 117a and under the jurisdiction of the family division of circuit court or court of general criminal jurisdiction.

(3) The child care fund may be used to pay the county's share of the cost of maintaining children at the Michigan children's institute under 1935 PA 220, MCL 400.201 to 400.214, or public wards under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(4) The account for the child care fund shall be maintained separate and apart from all other accounts of county funds. The fund shall be used exclusively for carrying out the purposes authorized by this act. The county board of commissioners shall distinguish in its appropriations for the child care fund the sums of money to be used by the family division of circuit court, the county family independence agency, and the agency designated by the county board of commissioners or the county executive to provide juvenile justice services. The county treasurer shall keep these segregated in proper subaccounts.

(5) A county annually shall develop and submit a plan and budget for the funding of foster care services to the office for approval. Funds shall not be distributed under section 117a except for reimbursement of expenditures made under an approved plan and budget. The office shall not approve plans and budget that exceed the amount appropriated by the legislature.

(6) A county shall make and preserve accurate records of its juvenile justice services and expenditures. Upon the department's request, the information contained in the records shall be available to the office.

(7) This section does not apply to a county that is a county juvenile agency.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1980, Act 328, Imd. Eff. Dec. 19, 1980;—Am. 1988, Act 75, Eff. Oct. 1, 1988;—Am. 1988, Act 223, Eff. Apr. 1, 1989;—Am. 1998, Act 516, Imd. Eff. Jan. 12, 1999.

Compiler's note: Section 3 of Act 75 of 1988 provides: “This amendatory act shall take effect June 1, 1988.” This section was amended by Act 178 of 1988 to read as follows: “This amendatory act shall take effect October 1, 1988.”

For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.117d Allocation of funds to county juvenile justice services program; considerations.

Sec. 117d. In making an allocation of state appropriated funds to a county juvenile justice services program, the office shall consider:

(a) The state's juvenile justice needs.

(b) The county's juvenile justice needs.

(c) The state's need for a reasonable degree of statewide standardization and control of juvenile justice services.

(d) The need for a reasonable degree of flexibility and freedom to design, staff, and administer services in a manner that the county considers appropriate to its circumstances.

(e) The demonstrated relevancy, quality, effectiveness, and efficiency of the existing and planned county juvenile justice services.

(f) The adequacy of the county juvenile justice accounting procedures for the expenditure of federal, state, county, other public and private funds.

(g) The maximum use of existing juvenile justice services, whether county, state, or privately administered.

(h) An equitable statewide distribution of funds for juvenile justice programs.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1980, Act 328, Imd. Eff. Dec. 19, 1980.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.117e Annual basic grant of state money; eligibility; use of basic grant; criteria and conditions for basic grant; money for early intervention to treat problems of delinquency and neglect.

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Sec. 117e. (1) A county having a population of less than 75,000 is eligible to receive an annual basic grant of state money of $15,000.00.

(2) To be eligible to receive state financial support under subsection (1), a county shall meet the requirements of this act. A county shall not be required to contribute matching funds to receive state financial support under subsection (1).

(3) A basic grant may be used only to supplement added juvenile justice service costs and shall not be used to replace county money currently being expended on juvenile justice services.

(4) The office shall establish qualifying criteria for awarding the basic grants and may specify conditions for each grant.

(5) To provide for early intervention to treat problems of delinquency and neglect within the child's home and to expedite a child's return to his or her home, the office may expend money from the child care fund or from other sources authorized in legislative appropriations for new or expanded programs, if the office determines that the programs are alternatives to out-of-home institutional or foster care. The office shall establish criteria for the approval of expenditures made under this subsection. The office shall submit to the legislature and the governor a report summarizing and evaluating the implementation of this subsection and containing recommendations for its future use.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1983, Act 222, Imd. Eff. Nov. 28, 1983;—Am. 2004, Act 193, Imd. Eff. July 8, 2004.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.117f Joint program for providing juvenile justice services.

Sec. 117f. Two or more adjoining counties may establish a joint program for providing juvenile justice services.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1983, Act 222, Imd. Eff. Nov. 28, 1983.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.117g County block grant; calculation; adjustment; deduction.

Sec. 117g. (1) The base amount of the block grant for a county that is a county juvenile agency equals the amount determined under subdivision (a) minus the amount determined under subdivision (b):

(a) The total of all distributions or expenditures from state or federal funds for the state fiscal year beginning October 1, 1997 for that county related to county juvenile agency services, including the following:

(*i*) That portion of the distribution to the county under section 117a for county juvenile agency services calculated without regard to any exclusion of expenditure on the basis that the expenditure exceeded the amount of a budget approved under section 117c.

(*ii*) Detention and assessment costs.

(*iii*) Community-based programs, including halfway house or day treatment.

(*iv*) Staff costs, including salaries and fringe benefits, for all employees employed to administer or deliver programs providing county juvenile agency services, including county juvenile officers, delinquency or service workers, and related supervisory, clerical, and administrative staff support. The staff costs of state employees shall be calculated using staff levels on March 30, 1997 as the staff levels for the entire state fiscal year.

(*v*) Operational expenses related to programs providing county juvenile agency services, including supplies, equipment, buildings, rent, training costs, and costs of the management information system.

(*vi*) The total cost of care for public wards under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(b) One-half of the amount of state and county expenditures charged to the county's child care fund for juvenile justice services provided in the state fiscal year beginning October 1, 1997 that were not county juvenile agency services, without regard to any exclusion of expenditure on the basis that the expenditure exceeded the amount of a budget approved under section 117c.

(2) For the state fiscal year beginning October 1, 1999, the base amount for a county shall be adjusted by both of the multipliers calculated under subsection (3) to determine the block grant amount for that state fiscal year. The block grant amount for each subsequent state fiscal year is calculated by adjusting the block grant

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amount for the previous state fiscal year by the multipliers calculated under subsection (3).

(3) For each state fiscal year, the following multipliers shall be calculated:

(a) The percentage change appropriated in that state fiscal year to change the rate of payments to vendors providing placements for juveniles for that state fiscal year from the previous state fiscal year.

(b) The percentage change in the county's juvenile population from the county's juvenile population for the previous fiscal year as determined from the United States decennial census or projections by the United States census bureau. As used in this subdivision, “county's juvenile population” means the number of individuals residing in the county who are 10 or more years of age but less than 18 years of age.

(4) The calculations under subsections (2) and (3) apply regardless of the state fiscal year in which a county becomes a county juvenile agency.

(5) A block grant for a county determined under subsections (1) to (4) for a state fiscal year shall be reduced by the amount calculated by subtracting the amount determined under subdivision (a) from the amount determined under subdivision (b) and multiplying that difference by 50% of the per-child cost for educational services to state wards in state operated training schools and treatment and detention facilities during the state fiscal year beginning October 1, 1998:

(a) The average daily population of public wards in state operated training schools and treatment and detention facilities for whom the county has assumed responsibility as a county juvenile agency.

(b) The average daily population of public wards for the county.

(6) Fifty percent of the amount of block grant funds expended during the state fiscal year for educational services to public wards for whom the county has assumed responsibility as a county juvenile agency shall be deducted from the amount calculated under subsection (5).

History: Add. 1998, Act 516, Imd. Eff. Jan. 12, 1999.

Popular name: Act 280

400.118 Youth advisory commission; creation; appointment, qualifications, terms, and compensation of members.

Sec. 118. (1) A youth advisory commission is created within the office to consist of 7 members appointed by the governor with the advice and consent of the senate. Not more than 4 of the members shall be from the same political party. Members shall be appointed for terms of 4 years and shall serve until their successors are appointed and qualified.

(2) The per diem compensation of the advisory commission and the schedule for reimbursement of expenses shall be established annually by the legislature.

History: Add. 1969, Act 338, Imd. Eff. Dec. 8, 1969;—Am. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.119 Youth advisory commission; duties.

Sec. 119. (1) The youth advisory commission shall:

(a) Provide the executive director of the office with advice and recommendations concerning the formulation and implementation of programs and policies administered by the office.

(b) Inform the legislature, the executive office, the judiciary, and the public of the needs and interests of children and the programs and needs of the office.

(2) The youth advisory commission shall cooperate with the office and the office of criminal justice programs in the development of the state plan required by Public Law 93-415, 5 U.S.C. 5108; 18 U.S.C. 4351 to 4353, 5031 to 5042; and 42 U.S.C. 3701, 3723, 3733, 3768, 3772 to 3774, 3811 to 3814, 3821, 3882, 3883, 3888, and 5601 to 5751.

History: Add. 1969, Act 338, Imd. Eff. Dec. 8, 1969;—Am. 1972, Act 301, Eff. Jan. 1, 1973;—Am. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.119a Departments and agencies of executive branch of government; duties.

Sec. 119a. Departments and agencies of the executive branch of government shall:

(a) Cooperate with the office in the development of plans, budgets, programs, and evaluations pertaining to children and youth services and programs.

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(b) Provide the executive director with information and reports required in the administration of the responsibilities of the office.

(c) Conform to any directives or orders of the governor pertaining to the coordination, establishment, consolidation, continuation, or revision of children and youth services and programs.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.119b Report by office to governor and legislature; contents; review of effectiveness of office; report and recommendations.

Sec. 119b. (1) Not later than August 1, 1978, the office shall make a written report to the governor and legislature setting forth principal objectives of the office for the next 2 years, which relate to its program goals and administrative responsibilities. The office shall also establish a basis for the measurement of its effectiveness.

(2) A thorough, independent review of the effectiveness of the office shall be initiated by the governor in March 1981 to be completed with a report and recommendations to the legislature and governor not later than March 1982. This review shall take into account and assess, but shall not be limited to, the following:

(a) The need for further change in the system of delivering and administering children and youth services.

(b) Existing statutes and rules affecting children and youth.

(c) Advancement toward the prevention of delinquency, neglect, alienation, and child abuse, and the provision of least detrimental dispositional alternatives for children and youth in trouble or at risk.

(d) The effectiveness of the office in insuring equity in the availability of services and the protection of the rights of children and youth.

(e) The effectiveness of the office in establishing standards of uniform practice of children and youth services.

(f) The budgetary adequacy and utilization of funds, including the administration of title 20 of the social security act, 42 U.S.C. 1397 to 1397f, and juvenile justice services fund.

(g) Coordination of services in the public and private sectors and the judiciary.

(h) The development and implementation of an information system.

(i) Research on the problems of and services to children and youth.

(j) The development of a network of regional detention and shelter care.

(k) The option to transfer services staff from the judicial branch to the office.

(*l*) Policy development and leadership.

(m) The need to continue, terminate, or modify the status and function of the office as established by this act.

History: Add. 1978, Act 87, Eff. Apr. 1, 1978;—Am. 1980, Act 155, Imd. Eff. June 12, 1980.

Compiler's note: For transfer of powers and duties of the Office of Children and Youth Services as a single-purpose entity within the Department of Social Services to the Department of Social Services, see E.R.O. No. 1991-8, compiled at MCL 400.221 of the Michigan Compiled Laws.

Popular name: Act 280

400.120, 400.121 Repealed. 1988, Act 75, Eff. June 1, 1991.

Compiler's note: The repealed sections pertained to the youth parole and review board.

Popular name: Act 280

400.122 Repealed. 1978, Act 87, Eff. Apr. 1, 1978.

Compiler's note: The repealed section pertained to additional duties of chief administrator.

Popular name: Act 280

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1993-7

400.130 Amendment of Executive Reorganization Order No. 1993-7; establishment of committee on juvenile justice within family independence agency; rescission of Executive Orders 1976-6 and 1990-4.

WHEREAS, on July 27, 1993, the Committee on Juvenile Justice was established by Executive Order 1993-14; and amended by Executive Order 1994-8; and

WHEREAS, it is necessary to further amend Executive Order 1993-14, so that, while the composition of the Committee conforms to the requirements of federal law, it prescribes a size and diversity that makes possible the most effective fulfillment of its mission.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, do hereby order that Executive Order 1993-14 be amended to read as follows:

WHEREAS, on May 7, 1976, the Advisory Committee on Juvenile Justice was established by Executive Order 1976-6; and

WHEREAS, on February 6, 1990, the Committee on Juvenile Justice was reestablished within the Department of Management and Budget by Executive Order 1990-4; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Congress enacted the Juvenile Justice and Delinquency Prevention Act of 1974 (the "Act"), being 42 USC 5601 et seq., to provide a comprehensive, coordinated approach to the problems of juvenile delinquency and a funding mechanism for projects and programs intended to reduce and prevent delinquency; and

WHEREAS, the Act makes funds available to participating states to assist in planning, establishing, operating, coordinating and evaluating, either directly or through grants and/or contracts with public or private agencies, projects to improve education, training, research, prevention, diversion, treatment and rehabilitation programs in the area of juvenile justice; and

WHEREAS, Sec. 223(a)(3) of the Act requires that any state receiving money create an advisory group, appointed by the chief executive of the state, in order to advise the state planning agency on juvenile justice and delinquency prevention matters and to advise the state planning agency on the award grants to state and local government and private non-profit agencies and colleges and universities; and

WHEREAS, it is in the interest of the State of Michigan to have the advice of a committee constituted to review and recommend policy in the area of reducing juvenile delinquency and improving the state's system of juvenile justice.

NOW THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, and Public Law 93-415, do hereby establish the Committee on Juvenile Justice (the "Committee") within the Family Independence Agency (the "Department"), which I hereby designate as the "state agency" responsible to supervise, prepare and administer the comprehensive Juvenile Justice and Delinquency Prevention Plan (the "Plan") required by the Act; and direct that appropriate staff support be provided by the Director thereof.

FURTHERMORE, I do hereby rescind Executive Orders 1976-6 and 1990-4, which rescissions shall be deemed effective as of the date of this Order. All records, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Management and Budget Grant Management Division, "The State Planning Agency," are hereby transferred to the Family Independence Agency. Appropriate staff and equipment are hereby transferred from the Department of Management and Budget to the Family Independence Agency.

The Committee on Juvenile Justice shall submit to the Governor and the legislature annual recommendations related to its functions which shall include a report of state compliance with the federal program requirements.

The Committee shall participate in the annual review of the federally required Juvenile Justice and Delinquency Prevention Plan; may review and comment upon all juvenile justice and delinquency prevention grant applications submitted to the state agency; and shall contact and regularly seek comments from juveniles currently under the jurisdiction of the juvenile court system.

The Committee may be delegated a role in monitoring state compliance with federal program requirements.

IT IS FURTHER ORDERED THAT, the Governor shall appoint, with the advice and consent of the

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Senate, a Committee on Juvenile Justice consisting of twenty-three (23) members. The members of the Committee shall be appointed for terms of three (3) years. The Governor shall designate a chairperson of the Committee. Not more than fifteen (15) members shall be of the same gender. Not more than twelve (12) members shall be from the same political party. A vacancy on the Committee shall be filled in the same manner as the original appointment. A quorum shall consist of a majority of the members serving.

Members of the Committee on Juvenile Justice appointed shall include representatives of all of the following:

(a) Local units of government;

(b) Law Enforcement;

(c) Probate judges involved in juvenile justice matters;

(d) Public agencies concerned with the prevention and treatment of juvenile delinquency; and

(e) Private organizations concerned with the prevention and treatment of juvenile delinquency.

Members of the Committee shall be selected in accordance with the requirements of Sec. 223(a)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, being 42 U.S.C. 5633(a)(3). A majority of the Committee members shall not be full-time employees of the federal, state or local government, nor shall the chairperson of the Committee be a full-time employee of the federal, state or local government. One-fifth of the members of the Committee shall be under the age of 24 years of age at the time of appointment. Three (3) members of the Committee shall have been or shall be at the time of appointment under the jurisdiction of the juvenile justice system. Members shall receive no compensation for their services as members and may be reimbursed only for those actual expenses incurred which are reimbursable under the laws, rules and practices of the state.

The Committee shall advise the Department, the Governor and the Legislature annually on matters related to the juvenile justice system in this state.

The provisions of this Executive Order shall become effective upon filing.

History: 1993 E.R.O. No. 1993-7, Eff. Oct. 1, 1993;—Am. 1994, E.R.O. No. 1994-5, Eff. May 15, 1994;—Am. 1997, E.R.O. No. 1997-10, Eff. Sept. 7, 1997.

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OPTOMETRIC SERVICES
Act 350 of 1965

AN ACT to require agencies administering relief, social security, health insurance or health service to accept the services of optometrists on the same basis as other professionals authorized to render similar service.

History: 1965, Act 350, Imd. Eff. July 23, 1965.

The People of the State of Michigan enact:

400.131 Optometric services; welfare agencies, acceptance and payment.

Sec. 1. Any agency of the state or county or municipality, or any commission, clinic, or board administering relief, social security, health insurance or health service under the laws of the state of Michigan shall accept the services of optometrists registered in the state in accordance with law for the purposes of rendering services defined under the optometric law to any person under the jurisdiction of said agency, clinic, commission or board administering such relief, social security, health insurance or health service, on the same basis and on a parity with any other person authorized by law to render similar professional service, when such services are needed, and shall pay for such services in the same way as other professions may be paid for similar services.

History: 1965, Act 350, Imd. Eff. July 23, 1965.

AID TO DISABLED PERSONS
Act 203 of 1964

400.141,400.142 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

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BOARD OF COUNTY INSTITUTIONS
Act 181 of 1962

AN ACT to authorize county boards of supervisors to establish a board of county institutions; to prescribe the composition, powers and duties of the board; and to transfer and change the powers and duties of other boards and agencies affected by this act.

History: 1962, Act 181, Eff. Mar. 28, 1963.

The People of the State of Michigan enact:

400.151 Board of county institutions; creation; purpose; abolition.

Sec. 1. In counties having a population of less than 1,000,000 and having an approved county tuberculosis hospital, the board of supervisors, by a 2/3 vote of the members elect, may create and appoint a board of county institutions for the purpose of maintaining and operating a county tuberculosis hospital, a county medical care facility and a county psychiatric facility; or may operate and administer as a single medical institution. The board may be abolished by a 2/3 vote of the members elect of the board of supervisors.

History: 1962, Act 181, Eff. Mar. 28, 1963;—Am. 1968, Act 149, Imd. Eff. June 12, 1968.

400.152 Board of county institutions; members, oath, terms.

Sec. 2. The members of the board shall be residents of the county. The board shall be composed of 7 members appointed for terms of 3 years each. Of the members first appointed 3 shall be appointed for a term of 1 year, 2 for 2 years and 2 for 3 years. Thereafter each member shall hold office for a period of 3 years beginning January 1 next ensuing and until a successor is appointed and qualified. Each member shall file with the county clerk the constitutional oath of office.

History: 1962, Act 181, Eff. Mar. 28, 1963.

400.152a Conducting business at public meeting; notice.

Sec. 2a. The business which the board of county institutions may perform shall be conducted at a public meeting of the board of county institutions held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: Add. 1978, Act 202, Imd. Eff. June 4, 1978.

400.153 Board of county institutions; duties, employees, budget, policies, cooperation with state agencies.

Sec. 3. Subject to the provisions of this act, the board of county institutions shall operate the hospital or institution for the care and treatment of persons suffering from tuberculosis or any physical or mental ailment or impairment, including the condition of senility. The board of county institutions shall employ an executive head and such other employees as may be necessary to carry out the provisions of this act. The compensation and expenses necessary to the discharge of official duties of the executive head and employees and the number thereof shall be within the funds made available therefor. The board shall be responsible for the establishment of an annual budget and all charges and disbursements shall be within the budget so prepared and approved by the board of supervisors. The board shall be responsible for establishing the policies covering the operation of the hospital or institution, including the conditions of admission and the rates to be charged for the care of patients. The board of county institutions shall cooperate with all agencies and departments of the state, particularly the public health department, the mental health department and the department of social services.

History: 1962, Act 181, Eff. Mar. 28, 1963;—Am. 1968, Act 149, Imd. Eff. June 12, 1968.

400.154 Board of county institutions; members; compensation; meetings.

Sec. 4. Not more than 4 members of the county board of commissioners shall be members of the board of county institutions. They shall be entitled, for attending meetings, to per diem compensation and other expenses in the same manner as members of the county board of commissioners. The members of the board of county institutions who are not members of the county board of commissioners shall also be entitled to per diem compensation and other expense for attending meetings the same as members of the board of county institutions who are members of the county board of commissioners. The board shall meet at least once a month. However they may not claim reimbursement for attending more than 36 meetings a year.

History: 1962, Act 181, Eff. Mar. 28, 1963;—Am. 1966, Act 88, Imd. Eff. June 14, 1966;—Am. 1976, Act 304, Imd. Eff. Oct. 27,

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1976.

400.155 Board of trustees of tuberculosis hospital; transfer of powers to board of county institutions.

Sec. 5. The powers and duties now vested in the board of trustees of the tuberculosis hospital are hereby transferred to and vested in the board of county institutions of those counties in which the county board of supervisors appoints such a board of county institutions.

History: 1962, Act 181, Eff. Mar. 28, 1963.

400.156 Social welfare board; transfer of powers as to county medical facility to board of county institutions.

Sec. 6. The powers and duties now vested in the social welfare board pertaining to the direction and administration of a county medical facility or county home are hereby transferred to and vested in the board of county institutions of those counties in which the county board of supervisors appoints a board of county institutions.

History: 1962, Act 181, Eff. Mar. 28, 1963.

400.157 Board of county institutions; responsibility to board of supervisors; budgets.

Sec. 7. The board of county institutions will be responsible to the board of supervisors for the administration and management of different county institutions placed under the responsibility of the board.

The board of county institutions may not be required, if it operates as a single institution to prepare separate budgets for each hospital or institution, but may prepare 1 budget for the operation of the single institution.

History: 1962, Act 181, Eff. Mar. 28, 1963;—Am. 1968, Act 149, Imd. Eff. June 12, 1968.

400.158 Board of county institutions; financial assistance.

Sec. 8. The county board of institutions, if eligible, shall qualify for any grants-in-aid, subsidy or other financial assistance granted by the state or the United States.

History: Add. 1968, Act 149, Imd. Eff. June 12, 1968.

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FOOD STAMPS
Act 43 of 1973

AN ACT to permit associations, institutions and credit unions to process or handle food stamps; and to prescribe powers and duties.

History: 1973, Act 43, Imd. Eff. July 4, 1973.

The People of the State of Michigan enact:

400.171 Definitions.

Sec. 1. As used in this act:

(a) "Association" means an association as defined in section 108 of the savings and loan act of 1980, 1980 PA 307, MCL 491.108.

(b) "Department" means the family independence agency.

(c) "Food stamps" means the coupons issued pursuant to the food stamp program established pursuant to the food stamp act of 1977, Public Law 88-525, 7 U.S.C. 2011 to 2012 and 2013 to 2036.

(d) "Institution" means an institution as defined in section 1202 of the banking code of 1999, 1999 PA 276, MCL 487.11202.

(e) "Credit union" means a domestic credit union as that term is defined in section 102 of the credit union act.

History: 1973, Act 43, Imd. Eff. July 4, 1973;—Am. 2003, Act 218, Imd. Eff. Dec. 2, 2003.

400.172 Food stamps; handling or processing by association, institution, or credit union.

Sec. 2. An association, institution or credit union may handle or process food stamps upon request of the director of the department.

History: 1973, Act 43, Imd. Eff. July 4, 1973.

400.173 Rules.

Sec. 3. The department may promulgate rules in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to implement this act.

History: 1973, Act 43, Imd. Eff. July 4, 1973.

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COMMODITIES SURPLUS FOOD DISTRIBUTION
Act 14 of 1959

AN ACT to transfer the functions of the commodities surplus food distribution section from the department of administration to the department of social welfare; to provide for the transfer of staff, records, files and other property; to provide that hearings shall not be abated; to transfer appropriations and other funds; to prescribe the powers and duties of the department of administration and the department of social welfare; and to fix the effective date of this act.

History: 1959, Act 14, Eff. Mar. 19, 1960.

The People of the State of Michigan enact:

400.181 Commodities surplus food distribution; transfer of powers and duties to department of social welfare.

Sec. 1. All powers and duties now vested by law with the department of administration with reference to the commodities surplus food distribution section are hereby transferred to and vested in the state department of social welfare. The commodities food surplus distribution section within the department of administration is hereby abolished and the state department of social welfare shall be vested with full authority, and shall be required to exercise such powers and perform such duties with reference to the commodities surplus food distribution section as have heretofore been vested in, and required to be performed by, the department of administration.

History: 1959, Act 14, Eff. Mar. 19, 1960.

400.182 Commodities surplus food distribution; transfer of staff, records, files and property.

Sec. 2. All of the staff, records, files and other property including property held in trust belonging to the commodities surplus food distribution section within the department of administration shall be transferred to the department of social welfare and shall be continued as part of the staff, records, files and property of the department of social welfare.

History: 1959, Act 14, Eff. Mar. 19, 1960.

400.183 Commodities surplus food distribution; transfer of hearings and proceedings; orders, rules and regulations, continuation.

Sec. 3. All hearings and proceedings of whatever nature now pending before the department of administration with respect to the commodities surplus food distribution section shall not be abated, but shall be transferred to the state department of social welfare, without notice to interested parties, and shall be conducted in the same manner and determined in accordance with the provisions of law concerning such hearings and proceedings. All orders, rules and regulations of the commodities surplus food distribution section shall continue in effect as though the transfer were not made and, to the extent applicable, they shall be binding upon the department of social welfare.

History: 1959, Act 14, Eff. Mar. 19, 1960.

400.184 Commodities surplus food distribution; transfer of appropriations.

Sec. 4. All appropriations and all other funds necessary to carry out the duties, functions and responsibilities of the commodities surplus food distribution section shall be transferred to the state department of social welfare.

History: 1959, Act 14, Eff. Mar. 19, 1960.

400.185 Commodities surplus food distribution; services and functions, continuation.

Sec. 5. The department of administration and the state department of social welfare shall make all other arrangements as are necessary to provide for the uninterrupted conduct of the services and functions of government as prescribed by this act.

History: 1959, Act 14, Eff. Mar. 19, 1960.

400.186 Effective date of act.

Sec. 6. This act shall take effect on January 1, 1960.

History: 1959, Act 14, Eff. Mar. 19, 1960.

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TRUMAN COBB FUND
Act 287 of 1913

AN ACT to authorize the board of control of the state public school to sell certain lands belonging to said school and invest the proceeds derived therefrom and use the income thereof for the wards of such school.

History: 1913, Act 287, Eff. Aug. 14, 1913.

The People of the State of Michigan enact:

400.191 Sale of certain land by state public school; tract, description.

Sec. 1. The board of control of the state public school is hereby authorized to sell a certain tract of land now owned by the said school, devised to it by one Truman Cobb, and described as follows:

That part of the west half of the northwest quarter of section 23 in town 5 south of range 7 west, Branch county, Michigan, lying north of the Coldwater river, containing 50 acres more or less, subject, however, to rights of flowage; said board of control being authorized to sell said lands either as a whole or subdivided into smaller tracts, whichever, in the judgment of said board, may be most advantageous, and to give a warranty deed or deeds for said tract or tracts.

History: 1913, Act 287, Eff. Aug. 14, 1913;—CL 1915, 1531;—CL 1929, 7955;—CL 1948, 400.191.

Compiler's note: The state public school was abolished and replaced by the Michigan children's institute by Act 220 of 1935, being MCL 400.201 et seq.

400.192 Sale of certain land by state public school; Truman Cobb fund, establishment.

Sec. 2. The said board of control is hereby authorized to hold the net proceeds derived from such sale or sales in a fund, apart from the other moneys belonging to said school, to be known as the Truman Cobb fund, to be kept invested in first class securities, to be approved by said board of control, and the income to be used by said board of control for the benefit of the wards of said school.

History: 1913, Act 287, Eff. Aug. 14, 1913;—CL 1915, 1532;—CL 1929, 7956;—CL 1948, 400.192.

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MICHIGAN CHILDREN'S INSTITUTE
Act 220 of 1935

AN ACT to provide family home care for children committed to the care of the state, to create the Michigan children's institute under the control of the Michigan social welfare commission, to prescribe the powers and duties thereof, and to provide penalties for violations of certain provisions of this act.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944;—Am. 1955, Act 220, Eff. Oct. 14, 1955.

The People of the State of Michigan enact:

400.201 Michigan children's institute; creation; transfer of records and property from state public school.

Sec. 1. That in order the state may more effectively exercise the duty and obligation which it owes to unfortunate children, there is hereby created and established the Michigan children's institute. Such records, papers, equipment and appurtenances as needed from the state public school shall be transferred to the said institute and whenever the name “state public school” appears in any statute of this state it shall be taken and deemed to mean the Michigan children's institute.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—CL 1948, 400.201.

Former law: See Act 143 of 1903 and Act 164 of 1931.

400.202 Children's institute; control by social welfare commission; superintendent, officers and employees.

Sec. 2. The said Michigan children's institute shall be under the control and management of the Michigan social welfare commission, hereinafter referred to as “the commission”, whose appointment and duties are provided in Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.90, inclusive, of the Compiled Laws of 1948, and as further expressly provided for in this act. The commission shall appoint the superintendent, and such other officers and employees as it shall deem necessary, who shall severally hold their offices and positions during the pleasure of the commission.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944;—CL 1948, 400.202;—Am. 1955, Act 220, Eff. Oct. 14, 1955.

400.203 Provisions for admission of child under 17 to Michigan children's institute.

Sec. 3. (1) A child under 17 years of age, provision for whose support and education has been made under regulations of the family independence agency, may be admitted to the Michigan children's institute by commitment to the family independence agency. All children committed to the Michigan children's institute shall be considered committed to the family independence agency and shall be subject to review by the juvenile division of the probate court under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32. The superintendent of the institute shall represent the state as guardian of each child committed beginning with the day the child is admitted and continuing until the child is 19, unless the superintendent or the family independence agency discharges the child sooner as provided in section 8 or 9. Wherever commitment to the Michigan children's institute is mentioned in any law of this state, it shall be construed to mean commitment to the family independence agency. A child may be committed to the family independence agency by either of the following:

(a) By the juvenile division of the probate court, if the child is within the court's jurisdiction under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(b) By the probate court, if the child is a ward of the court and the court has denied an order of adoption for the child.

(c) By observation order. If a child has been decreed to be a ward of the probate court or the juvenile division of the probate court has acquired formal jurisdiction of a child, and it appears to the probate court that, because of the circumstances of the case or because the child's condition might be benefited, the court may make a temporary commitment to the family independence agency and direct that the child be taken to a facility of the Michigan children's institute for observation for a period not to exceed 90 days. Before the expiration of this order of observation, the superintendent of the institute shall report to the probate court the results of the observation of the child. If the superintendent reports to the probate court that the order of observation should be extended or that the child is in need of treatment for emotional disturbance that does not require hospital care and for which the institute has facilities, then the court may extend the temporary commitment and continue the observation order or establish a treatment period for the child to any date prior

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to the nineteenth birthday of the child. If the child has ceased to be a ward of the court, written consent of the person or persons lawfully having custody of the child shall be secured. Before the expiration of this extended order of observation or treatment, the superintendent shall report to the probate court the results of the observation or treatment of the child and an opinion stating what disposition can be made of the child. Before any child is sent to a facility of the institute for observation, the superintendent of the institute shall notify the probate court that there is room to receive the child and shall designate the facility of the institute for the reception of the child. The commission may by regulation establish conditions for the reimbursement of the expense of caring for the child while under the supervision of the institute if the parents or other persons responsible for the child's support are financially able to pay reasonable costs of the child's care.

(2) The superintendent of the institute has the power to make decisions on behalf of a child committed to the institute. The attorney general or his or her representative shall represent the Michigan children's institute superintendent in any court proceeding in which the superintendent considers such representation necessary to carry out his or her duties under this act.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1943, Act 207, Eff. July 30, 1943;—Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944;—CL 1948, 400.203;—Am. 1951, Act 120, Eff. Sept. 28, 1951;—Am. 1955, Act 220, Eff. Oct. 14, 1955;—Am. 1957, Act 74, Eff. Sept. 27, 1957;—Am. 1959, Act 90, Eff. Mar. 19, 1960;—Am. 1988, Act 225, Eff. Apr. 1, 1989;—Am. 2004, Act 470, Imd. Eff. Dec. 28, 2004.

400.204 Michigan children's institute; commitment order; transportation; expense; communication with child's attorney.

Sec. 4. (1) Within 30 days after an order is made committing a child to the superintendent of the Michigan children's institute, the court shall send to the superintendent a certified copy of the petition, the order of disposition in the case, and the report of the physician who examined the child. Upon receipt of the order the superintendent of the Michigan children's institute shall notify the court of the child's placement so that the court may cause the child to be transported to that placement. The expense of the child's transportation shall be audited by the auditor general or a certified public accountant appointed by the auditor general and paid from the general fund in the same manner as the expense of conveying children to other institutions of the state.

(2) During the time a child is committed to the superintendent of the Michigan children's institute, the superintendent and the child's attorney may communicate with each other regarding issues of commitment, placement, and permanency planning; and if the child's attorney has an objection or concern regarding such an issue, the superintendent and the child's attorney shall consult with each other regarding that issue.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1943, Act 207, Eff. July 30, 1943;—CL 1948, 400.204;—Am. 1997, Act 171, Eff. Mar. 31, 1998.

400.205 Committed children; placement in private home, investigation, court order.

Sec. 5. In case a child has been committed to said institute, and a person in the same county has been found who is willing to take said child into his home under the same conditions as children placed out on agreement, or for adoption from the said institute, the court, county agent, probation officer or any other person representing the court or state in the placement of children may notify the superintendent of said institute, giving the name and the address of the party interested in taking the child into his home; whereupon the superintendent shall order an investigation be made, and if it appears that the home is a suitable one for said child, the child shall be placed and the order of the court entered on the records of the said institute. Upon entering the order of the court on the records of the said institute, the child shall be considered a ward of said institute and may be supervised, or adopted as are other wards of the said institute: Provided, In case the investigation indicates that the child is not eligible for admission to the said institute because of some mental or physical defect, or should not be offered for adoption because of a mental defect in its forbears, or being of unknown parentage and too young to determine its mental and physical development, the superintendent shall so notify the court with reasons thereof and further disposition shall be made by said court.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—CL 1948, 400.205.

400.206 Committed children; temporary residential facilities.

Sec. 6. The commission shall maintain at Ann Arbor and at such other places as may be made available to the commission, temporary residential facilities for the reception of children sent to the institute under sections 3 or 4 of this act, or for their care between placements in family homes, or for other temporary purposes. Such facilities may include office space for employees of the commission engaged in the maintenance of the facilities or who work in their vicinity.

History: Add. 1955, Act 220, Eff. Oct. 14, 1955.

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Former law: See section 6 of Act 220 of 1935, which was repealed by Act 207 of 1943.

400.207 Rules for maintenance, health, instruction, and training of children; liability for cost of child's care; superintendent as authorized agent; receipt and disposition of donation, grant, or personal property; investments; crediting earnings; expenditures; requisition from trust fund; utilization of county facilities; services of voluntary organization; enforcement of rules; cancellation of agreement; restoration of child to parent or relative; assistance to parent or relative; licensed boarding home; expense; reimbursement; investigation; report.

Sec. 7. (1) The department shall promulgate necessary rules for the maintenance, health, instruction, and training of the children under the control of the Michigan children's institute, for placing them in homes, and for their supervision while they remain public wards. The liability of a county for the cost of a child's care shall be determined under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(2) The superintendent is the authorized agent of the department to implement this act.

(3) The superintendent or the department may receive any donation, grant, or personal property for the benefit of the children of the Michigan children's institute. Upon receiving a donation, grant, or personal property, the superintendent or the department shall remit it within 30 days to the state treasury to be credited to the Michigan children's institute trust fund, which is created in the state treasury. The state treasurer may keep as much of the fund as the treasurer considers advisable invested in United States government bonds, notes, bills, certificates, or other obligations, and shall credit the earnings on the investments to the fund.

(4) The department may expend necessary amounts for the purposes of the Michigan children's institute for the care and education of the children during minority or until released as provided in this act. When a part of the trust fund is required by the department for these purposes, the superintendent shall obtain those funds by requisition.

(5) The department may utilize facilities existing in a county in caring for children and may accept the services of a voluntary organization for the benefit of the children, subject to rules promulgated by the department. The superintendent shall enforce these rules on behalf of the department.

(6) An agreement entered into with a person for the care of a child who is a ward of the Michigan children's institute shall provide that the department may cancel the agreement if, in the department's opinion, the interest of the child requires it. If a parent or relative within the third degree of consanguinity or affinity of a child who is a ward of the institute establishes a suitable home and is capable and willing to support the child, the department may restore the child to his or her parent or relative. The institute may assist the parent or relative with the support of the child if the aid is less than the cost of care the institute would otherwise provide.

(7) The department may place and maintain a child under the control of the institute in a licensed boarding home for children. The expense of supervision and transportation of the child to the home shall be paid out of money appropriated to the institute, subject to partial reimbursement by the county liable as provided in this section. The superintendent shall cause an investigation of the condition and suitability of each boarding home to be made and a report to be made and kept on file at the superintendent's office. The report shall have the superintendent's approval before a child of the institute may be placed in the licensed boarding home.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944;—CL 1948, 400.207;—Am. 1951, Act 26, Imd. Eff. Apr. 20, 1951;—Am. 1951, Act 120, Eff. Sept. 28, 1951;—Am. 1955, Act 106, Eff. Apr. 1, 1956;—Am. 1980, Act 306, Eff. Dec. 19, 1980;—Am. 1998, Act 525, Imd. Eff. Jan. 12, 1999.

Administrative rules: R 400.1 et seq. of the Michigan Administrative Code.

400.208 Committed children; return to home county.

Sec. 8. The said commission is authorized to return to the counties from which they were sent, the following classes of children:

First, those who have become 16 years of age and who, for any reason, cannot be placed or retained in family homes.

Second, those who by reason of vicious habits or incorrigibility, cannot be placed in or retained in family homes.

Third, those who are of unsound mind or body, or have some physical disability, which prevents their being placed in family homes. Whenever a child shall be ordered by said commission to be returned to a county, as herein provided, the guardianship of the said commission shall cease, and the child thereupon becomes a charge on the county from which it was sent, and the superintendent shall report to the court the reasons thereof, and any other information which may assist the court in a further disposition of the child.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—CL 1948, 400.208.

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400.209 Committed children; adoption, marriage, emancipation; consent by superintendent; preliminary consent denial review process.

Sec. 9. (1) The superintendent of the institute is authorized to consent to the adoption, marriage, or emancipation of any child who may have been committed to the institute, according to the laws for the adoption, marriage, or emancipation of minors. On such adoption, marriage, or emancipation, the child so adopted, married, or emancipated shall cease to be a ward of the state.

(2) On the effective date of the amendatory act that added this subsection, the family independence agency shall discontinue the Michigan children's institute preliminary consent denial review process.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944;—CL 1948, 400.209;—Am. 1955, Act 220, Eff. Oct. 14, 1955;—Am. 2004, Act 470, Imd. Eff. Dec. 28, 2004.

400.210 Committed children; application for removal from institute, procedure; visitation to homes.

Sec. 10. Any person desiring to take a child from said institute by agreement or adoption shall apply for that purpose in writing, on such form as said commission shall prescribe, to the superintendent or to the judge of probate of the county in which the applicant resides. The superintendent of said institute shall require an investigation of the home of the applicant upon such forms as the commission shall prescribe. Said commission shall procure 1 or more reports, at least 4 times each year, for each child placed in a home for adoption or on an agreement, either from the county agent, officer of the institute or the person with whom the child is placed, and at such times as the superintendent of said institute may direct.

It shall be the duty of county agents or child welfare workers of the state department of social welfare in their respective counties, to visit the wards of the said institute at such times as they are requested to do so, by said superintendent, and to report on said homes and children to said institute.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944;—CL 1948, 400.210.

400.211 Preservation of records; confidentiality.

Sec. 11. The commission shall preserve in said institute all legal and other papers of importance including reports of investigation of parentage, of family conditions of the children committed to said institute, and also a brief history of each child, showing its name, age, county, former residence, occupations, habits and character, so far as can be ascertained, and the name and residence and occupation of the person who has taken the child by agreement, or for adoption. In any report of any officer of the institute, or any agent of the state department of social welfare or any state or county officer, no names of such children, wards of the state, shall be published. Act No. 142 of the Public Acts of 1909, as amended, and Act No. 115 of the Public Acts of 1925, being sections 6733 to 6736, inclusive, of the Compiled Laws of 1929 shall not apply to said institute. All records pertaining to any child committed to said institute shall be filed as confidential and shall not be made public thereafter, excepting as the said commission shall authorize, when deemed necessary for the best interest of the child.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—Am. 1944, 1st Ex. Sess., Act 8, Imd. Eff. Feb. 19, 1944;—CL 1948, 400.211.

Compiler's note: Act 142 of 1909, referred to in this section, was repealed by Act 138 of 1958. For provisions of Act 115 of 1925, referred to in this section, see MCL 328.101 et seq.

400.212 Repealed. 1955, Act 220, Eff. Oct. 14, 1955.

Compiler's note: The repealed section conveyed land for use of Michigan children's village, gave state hospital commission jurisdiction over village, and regulated admissions.

400.213 Construction of act; severing clause.

Sec. 13. This bill being remedial in its nature and purposes shall be liberally construed in order to accomplish the beneficial purposes herein sought. Should any clause, paragraph, or section of this bill be declared unconstitutional by any court of competent jurisdiction, such decision shall not affect the remainder thereof.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—CL 1948, 400.213.

400.214 Aiding child to escape; penalty.

Sec. 14. Any person who shall aid or assist, or entice a child under the control of the said institute to escape from a home in which said child has been placed, or shall aid, entice or assist any such child to leave the state, or shall marry any such child without the consent of the said commission, shall be guilty of a misdemeanor and shall be punished by a fine not exceeding 100 dollars and costs of prosecution, or by imprisonment in a county jail, or any of the state prisons for a term not exceeding a year, or by both such fine and imprisonment

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according to the discretion of the court.

History: 1935, Act 220, Imd. Eff. June 8, 1935;—CL 1948, 400.214.

400.215, 400.216 Repealed. 1955, Act 220, Eff. Oct. 14, 1955.

Compiler's note: The repealed sections regulated location of Michigan children's institute, limited acquisition and construction costs, repealed inconsistent acts, abolished name “state public school”, and saved pending proceedings.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1991-8

400.221 Office of children and youth services; transfer of statutory authority, powers, duties, functions, and responsibilities to the department of social services by type II transfer.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963, empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, The Office of Children and Youth Services was created by Act 87 of the Public Acts of 1978, as a single purpose entity within the Department of Social Services; and

WHEREAS, the duty of the Office of Children and Youth Services is to be responsible for the planning, development, implementation, and evaluation of children and youth services conducted, administered, or purchased by the Department of Social Services; and

WHEREAS, the functions, duties, and responsibilities assigned to the Office of Children and Youth Services can be more effectively organized and carried out under the supervision and direction of the head of the Department of Social Services; and,

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963, and the laws of the State of Michigan, do hereby order the following:

(1) All the statutory authority, powers, duties, functions, and responsibilities, including the functions of budgeting, procurement, and management-related functions, created under Act 87 of the Public Acts of 1978, are hereby transferred from the Office of Children and Youth Services to the Department of Social Services by Type II transfer, as defined by Section 3 of Act 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

(2) The Director of the Department of Social Services may appoint the Executive Director of the Office of Children and Youth Services or may administer the assigned functions in other ways to promote efficient administration.

(3) The Director of the Department of Social Services shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director, and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards, and adjudications, shall be transferred to the Director of the Department of Social Services.

(4) All records, personnel, property, and unexpended balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to the Office of Children and Youth Services for the activities transferred to the Department of Social Services by this Order are hereby transferred to the Department of Social Services.

(5) The Director of the Department of Social Services shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

(6) The Executive Director of the Office of Children and Youth Services and the Director of the Department of Social Services shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations to be resolved by the Office of Children and Youth Services.

(7) All rules, orders, contracts, and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

(8) Any suit, action, or other proceeding lawfully commenced by or against any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by or against the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective March 31, 1991, at 12:01 a.m.

History: 1991, E.R.O. No. 1991-8, Eff. Mar. 31, 1991.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1991-14

400.222 Policymaking and administrative functions pertaining to disabled persons' portion of general assistance program; transfer to office of income assistance of family services administration by type II transfer.

WHEREAS, Article V, Section 2, of the constitution of the State of Michigan of 1963 empowers the governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Section 55 of Act No. 280 of the Public Acts of 1939, as amended, being Section 400.55 of the Michigan Compiled Laws, provides for a program of general assistance, including assistance for disabled persons; and

WHEREAS, the Office of Income Assistance of the Family Assistance Administration of the Department of Social Services administers a program of state supplements to the federal Supplemental Security Income Program created under Title 16 of the Social Security Act, 42 U.S.C. 1381 et seq.; and

WHEREAS, the functions of policy making and administration for the assistance to disabled persons' portion of the General Assistance Program can best be carried out if merged with similar functions of the program of state supplements to the federal Supplemental Security Income Program in the Office of Income Assistance of the Family Services Administration of the Department of Social Services; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

(1) The functions of policy making and administration for the assistance to disabled persons' portion of the General Assistance Program provided for in Section 55 of Act No. 280 of the Public Acts of 1939, as amended, being Section 400.55 of the Michigan Compiled Laws, and all statutory authority, powers, duties and functions related thereto, are hereby transferred to the Office of Income Assistance of the Family Services Administration of the Department of Social Services by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

(2) The Director of the Department of Social Services shall provide executive direction and supervision for the implementation of the transfer. The transferred functions shall be administered under the direction and supervision of the Director, and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall be transferred to the Director of the Department of Social Services.

(3) All records, personnel, property and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available for the activities transferred by this Order are hereby transferred to the Office of Income Assistance of the Family Services Administration of the Department of Social Services. All unexpended balances of appropriations for the assistance to disabled persons' portion of the General Assistance Program are hereby transferred to the appropriation unit for supplemental security income.

(4) The Director of the Department of Social Services shall immediately initiate coordination or facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or other obligations to be resolved in connection with the assistance to disabled persons' portion of the General Assistance Program.

(5) All rules, orders, contracts, and agreements relating to the transferred functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, or repealed.

(6) Any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after the filing of this Executive Order.

History: 1991, E.R.O. No. 1991-14, Eff. July 7, 1991.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1996-4

400.223 Transfer of powers and duties of the special supplemental food program for women, infants and children (WIC) and related management support functions to community public health agency by type II transfer; rescission of section VII of E.R.O. No. 1996-1.

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Article V, Section 8, of the Constitution of the State of Michigan of 1963 provides that each principal department shall be under the supervision of the Governor, unless otherwise provided by the Constitution; and

WHEREAS, Section VII of Executive Order 1996-1 transferred all the authority, powers, duties, functions and responsibilities of the Special Supplemental Food Program for Women, Infants and Children (WIC program) from the Department of Public Health to the Director of the Department of Social Services (now Family Independence Agency), as were all the authority, powers, duties, functions and responsibilities of the management support functions in the Bureau of Finance and Administrative Services and the Office of Management Support Services for the WIC program; and

WHEREAS, the United States Secretary of Agriculture has notified the state that the federal government has determined that the WIC program can only be administered by a state's public health department.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. Section VII of Executive Order 1996-1 is hereby rescinded in its entirety.

2. All the authority, powers, duties, functions and responsibilities of the Special Supplemental Food Program for Women, Infants and Children (WIC program) and of the management support functions for the WIC program in the Bureau of Finance and Administrative Services and the Office of Management Support Services, are hereby transferred to the Community Public Health Agency by a Type II transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days from the filing of this order.

History: 1996, E.R.O. No. 1996-4, Eff. June 3, 1996.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1997-5

400.224 Transfer of powers and duties of the office of services to the aging from the department of management and budget to the department of community health by type I transfer; transfer of powers and duties of commission on services to the aging from executive office of the governor to the department of community health by type I transfer; transfer of powers and duties of home help program and physical disabilities program from family independence agency to the director of the department of community health by type II transfer.

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Article V, Section 8, of the Constitution of the State of Michigan of 1963 provides that each principal department shall be under the supervision of the Governor unless otherwise provided by the Constitution; and

WHEREAS, Article IV, Section 51, states that the public health and general welfare of the people of the state are matters of public concern; and

WHEREAS, the welfare of Michigan's senior citizens is of primary concern to the State; and

WHEREAS, the Department of Community Health is currently allocated over $850 million for services pertaining to aging and long term care, and it is important to directly involve the aging network in the planning of the future long term care delivery system; and

WHEREAS, the future in state-funded and administered health, behavioral and support services lies in integrating administrative systems and pooling state purchasing power for more efficient use of resources; and

WHEREAS, the administration of services dedicated to older Michiganians can be enhanced by integration with similar services in state government; and

WHEREAS, Executive Order 1996-1 provided for a foundation of integrated administration of health related programs; and

WHEREAS, the protection of the health and safety of the citizens of Michigan can more effectively and efficiently be carried out by continuing the alignment of health-related administrative functions in state government; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

I. Department of Management and Budget

1. All of the statutory powers, duties, functions and responsibilities of the Office of Services to the Aging, including but not limited to its statutory authority, powers, duties, functions and responsibilities set forth in Act No. 180 of the Public Acts of 1981, as amended, being Section 400.581 et seq. of the Michigan Compiled Laws, are hereby transferred from the Department of Management and Budget to the Department of Community Health by a Type I transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Community Health shall administer the budget, procurement and management related functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Community Health shall provide executive direction and supervision for the implementation of the transfers. The budgeting, procurement, and related management functions of the Office of Services to the Aging shall be performed under the direction and supervision of the Director of the Department of Community Health.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Department of Management and Budget for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the

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Department of Community Health.

5. The Directors of the Department of Community Health, the Department of Management and Budget, and the Director of the Office of Services to the Aging shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

II. Executive Office of the Governor

1. All the authority, powers, duties, functions and responsibilities of the Commission on Services to the Aging, including but not limited to the statutory authority, powers, duties, functions and responsibilities set forth in Act No. 180 of the Public Acts of 1981, as amended, being Section 400.583, Section 400.584, Section 400.588(1), Section 400.589, Section 400.591 and Section 400.592 of the Michigan Compiled Laws, are hereby transferred from the Executive Office of the Governor to the Department of Community Health by a Type I transfer as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Community Health shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

3. The Director of the Department of Community Health shall provide executive direction and supervision for the implementation of the transfer. The budgeting, procurement and related management functions of the Commission on Services to the Aging will be performed under the direction and supervision of the director of the Department of Community Health.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Executive Office of the Governor for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

5. The Director of the Department of Community Health and a designated representative of the Executive Office of the Governor shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

III. Family Independence Agency

1. All the statutory authority, powers, duties, functions and responsibilities of the Home Help Program and the Physical Disabilities Program, as set forth in Act 280 of the Public Acts of 1939, as amended, being Section 400.106, Section 400.109 and Section 400.109c of the Michigan Compiled Laws, and Title XIX of the Social Security Act, are hereby transferred from the Family Independence Agency to the Director of the Department of Community Health by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Community Health, in cooperation with the Director of the Family Independence Agency, shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered under the direction and supervision of the Director of the Department of Community Health.

3. The Director of the Department of Community Health shall administer the assigned functions in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

4. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Family Independence Agency for the activities, powers, duties, functions, and responsibilities transferred by this Order are hereby transferred to the Department of Community Health.

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5. The Directors of the Department of Community Health and the Family Independence Agency shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Department of Community Health.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order, shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective sixty (60) days from the date of filing of this Order.

History: 1997, E.R.O. No. 1997-5, Eff. May 21, 1997.

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2004-3

400.225 Rescinded. 2004, E.O. No. 2004-37, Eff. Mar. 13, 2005.

Compiler's note: Executive Reorganization Order No. 2004-3 was promulgated Dec. 9, 2004, as Executive Order No. 2004-35, Eff. Mar. 13, 2005. This Executive Reorganization Order was rescinded by Executive Order No. 2004-37, Eff. Mar. 13, 2005.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2004-4

400.226 Family independence agency renamed to department of human services.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, the Department of Social Services was created as a principal department of state government by Section 450 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.550;

WHEREAS, the Department of Social Services was renamed the Family Independence Agency by 1995 PA 223, MCL 400.1;

WHEREAS, the Family Independence Agency is the state's public assistance, child, and family welfare agency focused on protecting children and vulnerable adults, delivering juvenile justice services, and providing support to strengthen families and individuals;

WHEREAS, renaming the Family Independence Agency will more effectively communicate its status as a principal department and its mission focused on the provision of social services for families, children, and other Michigan residents in need;

WHEREAS, it is necessary in the interests of efficient administration and effective government to make changes in the organization of the Executive Branch of state government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law, order:

A. The Family Independence Agency is renamed the Department of Human Services.

B. Any and all statutory references to the Family Independence Agency or the Department of Social Services shall be deemed references to the Department of Human Services.

History: 2004, E.R.O. No. 2004-4, Eff. Mar. 15, 2005.

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OFFICE OF CHILD SUPPORT ACT
Act 174 of 1971

AN ACT to create the office of child support; and to prescribe certain powers and duties of the office, certain public and private agencies, and certain employers and former employers.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Eff. Mar. 1, 1986;—Am. 1998, Act 112, Eff. June 30, 1998.

The People of the State of Michigan enact:

400.231 Definitions.

Sec. 1. As used in this act:

(a) "Account" means any of the following:

(*i*) A demand deposit account.

(*ii*) A draft account.

(*iii*) A checking account.

(*iv*) A negotiable order of withdrawal account.

(*v*) A share account.

(*vi*) A savings account.

(*vii*) A time savings account.

(*viii*) A mutual fund account.

(*ix*) A securities brokerage account.

(*x*) A money market account.

(*xi*) A retail investment account.

(*xii*) An electronic access or debit card.

(b) "Account" does not mean any of the following:

(*i*) A trust.

(*ii*) An annuity.

(*iii*) A qualified individual retirement account.

(*iv*) An account covered by the employee retirement income security act of 1974, Public Law 93-406, 88 Stat. 829.

(*v*) A pension or retirement plan.

(*vi*) An insurance policy.

(c) "Address" means the primary address shown on the records of a financial institution used by the financial institution to contact an account holder.

(d) "Adult responsible for the child" means a parent, relative who has physically cared for the child, putative father, or current or former guardian of a child, including an emancipated or adult child.

(e) "Current employment" means employment within 1 year before a friend of the court request for information.

(f) "Department" means the family independence agency.

(g) "Financial asset" means stock, a bond, a money market fund, a deposit, an account, or a similar instrument.

(h) "Financial institution" means any of the following:

(*i*) A state or national bank.

(*ii*) A state or federally chartered savings and loan association.

(*iii*) A state or federally chartered savings bank.

(*iv*) A state or federally chartered credit union.

(*v*) An insurance company.

(*vi*) An entity that offers any of the following to a resident of this state:

(A) A mutual fund account.

(B) A securities brokerage account.

(C) A money market account.

(D) A retail investment account.

(*vii*) An entity regulated by the securities and exchange commission that collects funds from the public.

(*viii*) An entity that is a member of the national association of securities dealers and that collects funds from the public.

(*ix*) An entity that collects funds from the public.

(i) "Office" means the office of child support.

(j) "Friend of the court case" means that term as defined in section 2 of the friend of the court act, 1982 PA

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294, MCL 552.502. The term "friend of the court case", when used in a provision of this act, is not effective until on and after December 1, 2002.

(k) "Payer", "recipient of support", "source of income", and "support" mean those terms as defined in section 2 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.602.

(*l*) "State disbursement unit" or "SDU" means the entity established in section 6 for centralized state receipt and disbursement of support and fees.

(m) "Title IV-D" means part D of title IV of the social security act, 42 USC 651 to 655, 656 to 657, 658a to 660, and 663 to 669b.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Eff. Mar. 1, 1986;—Am. 1998, Act 112, Eff. June 30, 1998;—Am. 1999, Act 161, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 564, Eff. Mar. 31, 2003;—Am. 2004, Act 548, Imd. Eff. Jan. 3, 2005.

400.231a Short title.

Sec. 1a. This act shall be known and may be cited as the “office of child support act”.

History: Add. 1985, Act 209, Eff. Mar. 1, 1986.

400.232 Office of child support; establishment.

Sec. 2. The office of child support is established in the department.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Eff. Mar. 1, 1986;—Am. 1998, Act 112, Eff. June 30, 1998.

400.233 Office of child support; duties.

Sec. 3. The office shall do all of the following:

(a) Serve as a state agency authorized to administer title IV-D.

(b) Assist a governmental agency or department in locating an adult responsible for the child for any of the following purposes:

(*i*) To establish parentage.

(*ii*) To establish, set the amount of, modify, or enforce support obligations.

(*iii*) To disburse support receipts.

(*iv*) To make or enforce child custody or parenting time orders.

(c) Coordinate activity on a state level in a search for an adult responsible for the child.

(d) Obtain information that directly relates to the identity or location of an adult responsible for the child.

(e) Serve as the information agency as provided in the revised uniform reciprocal enforcement of support act, 1952 PA 8, MCL 780.151 to 780.183, and uniform interstate family support act, 1996 PA 310, MCL 552.1101 to 552.1901.

(f) Develop guidelines for coordinating activities of a governmental department, board, commission, bureau, agency, or council, or a public or private agency, in providing information necessary for the location of an adult responsible for the child.

(g) Develop, administer, and coordinate with the state and federal departments of treasury a procedure for offsetting the state tax refunds and federal income tax refunds of a parent who is obligated to support a child and who owes past due support. The procedure shall include a guideline that the office submit to the state department of treasury, not later than November 15 of each year, all requests for the offset of state tax refunds claimed on returns filed or to be filed for that tax year.

(h) Develop and implement a statewide information system to facilitate the establishment and enforcement of child support obligations.

(i) Publicize through regular and frequent, nonsexist public service announcements the availability of support establishment and enforcement services.

(j) Develop and implement in cooperation with financial institutions a data matching and lien and levy system to identify assets of and to facilitate the collection of support from the assets of individuals who have an account at a financial institution and who are obligated to pay support as provided in this act.

(k) Provide discovery and support for support enforcement activities as provided in the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(*l*) Have in effect safeguards against the unauthorized use or disclosure of case record information that are designed to protect the privacy rights of the parties as specified in sections 454 and 454a of title IV-D, 42 U.S.C. 654 and 654a, and that are consistent with the use and disclosure standards provided under section 64 of the social welfare act, 1939 PA 280, MCL 400.64.

(m) As provided in section 10 for friend of the court cases, centralize administrative enforcement remedies and develop and implement a centralized enforcement program to facilitate the collection of support.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Imd. Eff. Jan. 8, 1986;—Am. 1998, Act 112, Eff. June 30, 1998;—Am. 2002, Act 564, Eff. Mar. 31, 2003.

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400.233a Offset proceedings against tax refunds; initiation; notice; reimbursement.

Sec. 3a. (1) Upon receipt of a request from the office of the friend of the court under section 24 of the support and parenting time enforcement act, 1982 PA 295, MCL 552.624, the office of child support shall initiate offset proceedings against the state tax refunds and federal income tax refunds of a parent who is obligated to support a child and who owes past due support.

(2) The office shall send to a parent who is the subject of a request under subsection (1) advance written notice of the proposed offset. The notice shall inform the parent of the opportunity to contest the offset of his or her state income tax refund on the grounds that the offset is not proper because of a mistake of fact concerning the amount of overdue support or the identity of the parent.

(3) The office shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the amount of overdue support.

History: Add. 1985, Act 209, Imd. Eff. Jan. 8, 1986;—Am. 1996, Act 3, Eff. June 1, 1996;—Am. 1998, Act 112, Eff. June 30, 1998.

400.233b Child support arrearage amnesty period; designation; terms and conditions; administration; notification.

Sec. 3b. (1) The director of the department shall direct the office to designate a period of not less than 90 days that ends not more than 7 months after the effective date of this section as a child support arrearage amnesty period. Under the terms and conditions set forth in subsection (2), the director, or the director's designee, shall grant a payer amnesty, waiving all criminal and civil penalties provided by law for the payer's failure or refusal to pay past due child support. Amnesty granted under this section waives criminal and civil penalties for failure or refusal to pay child support only in regard to the child support arrearage that the payer pays in total to qualify for amnesty.

(2) To qualify for amnesty under this section, a payer shall pay his or her child support arrearage amount either in total with the submission of the written amnesty request or by paying not less than 50% of the total amount with the submission of the written amnesty request and the balance before the amnesty period ends. A payer's amnesty is effective on the date the director, or the director's designee, receives the payer's written amnesty request with the payment of not less than 50% of the total child support arrearage amount. If a payer pays less than 100% of the total child support arrearage amount with the amnesty request, the payer's amnesty terminates at the end of the amnesty period unless the balance is paid before the amnesty period ends.

(3) A payer is not eligible to qualify for amnesty under this section if, before the payer submits the written request for amnesty and a payment as required by subsection (2), 1 or more of the following occur:

(a) Prosecution is initiated against the payer under section 161, 165, or 167(1)(a) or (2) of the Michigan penal code, 1931 PA 328, MCL 750.161, 750.165, and 750.167.

(b) The payer is arrested on a criminal warrant or bench warrant related to the payer's failure or refusal to pay past due child support.

(4) The office shall administer the amnesty program established by this section. As part of its administrative duties, at least 60 days before the start of the amnesty period, the office shall notify payers who may be eligible for amnesty under this section because they owe a child support arrearage. A description of the amnesty program included in scheduled notices and posted on the department's website is sufficient compliance with this notification requirement.

History: Add. 2004, Act 564, Eff. June 1, 2005.

400.234 Information or records from other agencies.

Sec. 4. (1) Upon request of the office or the state agency of another state that administers a program under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b, a governmental department, board, commission, bureau, agency, or council; a public or private entity; or a financial institution shall provide any information or record that assists in implementing this act. The information and records include, but are not limited to, all of the following:

(a) Information on the current employment, compensation, and benefits of the individual employed as an employee or an independent contractor of the entity including a for-profit, nonprofit, and governmental employer.

(b) A state or local government agency record including, but not limited to, all of the following:

(*i*) Vital statistics.

(*ii*) State or local tax and revenue records including information on residence address, employer, income, and assets.

(*iii*) A real and titled personal property record.

(*iv*) An occupational, professional, recreational, or sporting license record.

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(*v*) A record on the ownership and control of a corporation, partnership, or other business entity.
(*vi*) An employment security agency record.
(*vii*) A record of an agency administering a public assistance program.
(*viii*) A motor vehicle record.
(*ix*) A corrections record.
(*x*) A worker's compensation record.
(c) Information from the law enforcement information network.
(d) Information from a financial institution as provided in section 4a.
(e) A public utility or cable television company record.

(2) The director of the office or his or her designee may issue an administrative subpoena to require an entity to furnish information or a record in the possession of the entity that pertains to a parent or putative father who is or was employed by or an independent contractor of the entity and that is demanded by the office for the purpose of administering or providing services pursuant to part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b. The entity's officers or employees shall furnish the information or record within 15 days after the subpoena is received by the entity. This subsection does not abrogate a confidentiality privilege established by law.

(3) An entity is not liable under a federal or state law to any person for a disclosure of information to the office or the designee of the office under this act or for another action taken in good faith to comply with this act.

(4) A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is not liable for a wrongful disclosure of information or records if the governmental department, board, commission, bureau, agency, or council or public or private entity or financial institution acted in good faith. A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is liable for a negligent wrongful disclosure of information or records in an amount of the damages incurred or $1,000.00, whichever is greater. A governmental department, board, commission, bureau, agency, or council or any public or private entity or financial institution is liable for a willful wrongful disclosure of information or records in an amount of 3 times the damages incurred or $3,000.00, whichever is greater, together with all costs and reasonable attorney's fees incurred. For the purposes of this subsection, each violation gives rise to a separate cause of action for which separate damages may be awarded. For the purposes of this subsection, damages include reasonable attorney fees.

(5) If an entity does not comply with a subpoena or request for information or records, the director of the office or his or her designee may petition the circuit court in the county in which the inquiry is being made to require the production of books, papers, and documents. In the case of refusal to comply with a subpoena or request for information, the circuit court may issue an order requiring the person to appear and to produce books, records, and papers. The court may punish a failure to comply with the court order as contempt.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1998, Act 112, Eff. June 30, 1998.

400.234a Reports or information provided by financial institution.

Sec. 4a. (1) The office shall enter into an agreement with financial institutions doing business in this state to collect the name, address, social security number, and account numbers for each parent who maintains an account at the financial institution and who owes past due child support as identified by the state.

(2) Not more than once each calendar quarter, the office may request from each financial institution the name, address, social security number, and account number for each person listed in the request who maintains an account at the financial institution.

(3) The office's request under subsection (2) shall contain the name and only 1 social security number for each person listed in the request.

(4) Except as otherwise provided in this subsection, the office shall remove an individual's name and social security number from a request to a financial institution under subsection (2) if the individual's name or social security number was on the requests to the financial institution in the 2 immediately preceding quarters and the financial institution did not find a match for that name or social security number for either of those requests. The office may include the individual's name and social security number on a request to the financial institution under subsection (2) in the succeeding quarter, if the office believes that the individual has opened an account subsequent to the 2 successive quarters in which a match was not found.

(5) All requests made by the office under subsection (2) shall be in machine readable form unless the financial institution expressly asks the office to submit the request in writing in which case the office shall submit the request and all subsequent requests to the financial institution in writing until the financial institution asks the office to submit the request in machine readable form after which time the office shall

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submit the request in machine readable form.

(6) Except as provided in subsection (10) or (12), the financial institution shall furnish the information in a machine readable form to the office unless the financial institution asked the office to submit the request in writing, in which case the financial institution may furnish the information in writing or in machine readable form. The financial institution shall furnish the information to the office within 45 days after receipt of the request from the office. A financial institution that files reports under this subsection is not required to comply with subsection (10).

(7) The financial institution may base its search of account records solely on the social security number that is provided for each person included in the request from the office.

(8) A financial institution may respond to the office that the name or the social security number, or both, that were contained in the office's request do not correspond to the records of the financial institution.

(9) A financial institution may choose only to furnish information on an account that has a balance of more than $500.00 at the time the request is processed by the financial institution.

(10) As an alternative to subsection (6), within 45 days of the end of the first calendar quarter of every year, a financial institution may submit to the office, or to the federal government or its designee, a report of the name, address, social security number, and account number of each person who maintains an account at the financial institution on the last day of the first calendar quarter. Within 45 days after the end of each subsequent quarter of the calendar year, the financial institution that elects the option under this subsection shall submit to the office a report of the name, address, social security number, and account number of each person who opens a new account during the quarter or closes an account that had been reported in a prior quarter during the calendar year. The financial institution may furnish the report in a machine readable form or in writing to the office at the discretion of the financial institution. A financial institution that files reports under this subsection is not required to comply with subsection (6).

(11) Unless otherwise required by law, a financial institution that furnishes a report or provides information to the office under subsection (6) or (10), or to the federal government or its designee under subsection (12), shall not disclose to a depositor or an account holder that the name of the depositor or account holder has been received from or furnished to the office, or to the federal government or its designee. However, a financial institution may disclose to its depositors and account holders and others that the office, or the federal government or its designee, has the authority to request information on depositors or account holders and that the financial institution may provide that information to the office.

(12) To the extent permitted by federal law or policy, a financial institution may furnish information to the federal government or its designee in accordance with data matching processes the federal government establishes under part D of title IV of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 651 to 660 and 663 to 669b.

History: Add. 1998, Act 112, Eff. June 30, 1998.

400.234b Obligation or liability incurred by financial institution.

Sec. 4b. (1) A financial institution incurs no obligation or liability to a depositor, account holder, or other person or entity arising from the furnishing of a report or information to the office, to an office agent or representative, or to the federal government or its designee under this act or from the failure to disclose to a depositor, account holder, or other person that the name of a person was included in the report or information provided.

(2) A financial institution incurs no obligation or liability to the office or another person or entity for an error or omission made in good faith compliance with this act.

(3) A financial institution incurs no obligation or liability for blocking, freezing, placing a hold upon, surrendering, or otherwise dealing with a person's or entity's financial assets in response to a lien imposed or information provided pursuant to this act.

(4) A financial institution is not obligated to block, freeze, place a hold upon, surrender, or otherwise deal with a person's or entity's financial assets until served with and having a reasonable opportunity to act upon a subpoena, summons, warrant, court order, administrative order, lien, or levy served upon the financial institution in accordance with the laws of this state. A financial institution that surrenders financial assets to the friend of the court in response to a lien imposed under state law is discharged from any obligation or liability to the depositor, account holder, or other person or entity related to the financial assets that are surrendered to the friend of the court.

(5) A financial institution that surrenders financial assets to the friend of the court may assess the account holder a service charge not to exceed 10% of the amount surrendered to the friend of the court. The service charge shall be in addition to any other fee or charge authorized by this act or otherwise not prohibited by law.

History: Add. 1998, Act 112, Eff. June 30, 1998.

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400.234c Conduct by financial institution.

Sec. 4c. This act does not prohibit a financial institution from doing any of the following:

(a) Assessing and collecting fees and other charges from an account holder or depositor including, but not limited to, fees and charges for the maintenance and activities on an account.

(b) Charging back or recouping a deposit to an account.

(c) Setting off a debt owed to the financial institution from an account held by the financial institution.

(d) Exercising a banker's lien on an account held by the financial institution for a debt owed to the financial institution.

(e) Disclosing information received from the office to an employee, agent, or representative of the financial institution or an affiliate of the financial institution for the purpose of complying with this act and otherwise dealing with a customer or account holder of the financial institution or an affiliate of the financial institution.

History: Add. 1998, Act 112, Eff. June 30, 1998.

400.235 Availability and purposes of information.

Sec. 5. (1) The information obtained by the office shall be available to a governmental department, board, commission, bureau, agency, political subdivision of any state, a court of competent jurisdiction, or the federal government for purposes of administering, enforcing, and complying with state and federal laws governing child support and domestic relations matters. Unless otherwise precluded by state or federal law, the information obtained by the office is also available for purposes specified in 45 CFR 303.21. The office shall not release information regarding the use or payment history of an electronic access or debit card. Information pertaining to this type of account, if needed, shall be obtained from the recipient of support or the recipient's financial institution.

(2) The office shall not release information on an address or other information concerning an adult responsible for a child to another adult responsible for the child if the release is prohibited by a court order or if the office has reason to believe that release of information may result in physical or emotional harm to that adult or to the child. The office shall notify the federal government, and courts and agents of courts, about domestic violence or child abuse under part D of title IV of the social security act, 42 USC 651 to 660 and 663 to 669b.

History: 1971, Act 174, Imd. Eff. Dec. 2, 1971;—Am. 1985, Act 209, Eff. Mar. 1, 1986;—Am. 1998, Act 112, Eff. June 30, 1998;—Am. 2004, Act 548, Imd. Eff. Jan. 3, 2005.

400.236 State disbursement unit; establishment; processes and procedures; collection; electronic disbursement.

Sec. 6. (1) The state disbursement unit is established as the direct responsibility of the office. The SDU shall use automated procedures, electronic processes, and computer-driven technology to the maximum extent feasible, efficient, and economical to receive and disburse support and fees.

(2) The SDU is the single location to which a payer or source of income subject to this section shall send a support or fee payment. The SDU shall disburse a support payment to the recipient of support within 2 business days after the SDU receives the support payment. Not less than twice each calendar month, the SDU shall disburse fees that it receives to the appropriate county treasurer or office of the friend of the court.

(3) If a payer or source of income attempts to make a support or fee payment to the SDU and the payment transaction fails due to nonsufficient funds, the SDU may take actions to collect from the payer or source of income the support or fee payment amount, plus an amount for the expense of those actions.

(4) By not later than 1 year after the effective date of the amendatory act that added this subsection, the SDU shall disburse support electronically, in not fewer than 3 counties in this state, to either the recipient of support's account in a financial institution or to a special account that may be accessed by the recipient of support by an electronic access card. By not later than 2 years after the effective date of the amendatory act that added this subsection, the SDU shall disburse support electronically either to the recipient of support's account in a financial institution or to a special account that may be accessed by the recipient of support by an electronic access card. This subsection does not apply under any of the following circumstances:

(a) If electronic transfer is not feasible to meet federal requirements on the disbursement of child support payments.

(b) If the support payment is from a source that is nonrecurring or that is not expected to continue in a 12-month period.

(c) The recipient of support is a person with a mental or physical disability that imposes a hardship in accessing an electronically transferred payment.

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(d) The recipient of support is a person with a language or literacy barrier that imposes a hardship in accessing an electronically transferred payment.

(e) The recipient of support's home and work addresses are more than 30 miles from an automated teller machine and more than 30 miles from a financial institution where funds in the recipient's account may be accessed.

History: Add. 1999, Act 161, Imd. Eff. Nov. 3, 1999;—Am. 2004, Act 548, Imd. Eff. Jan. 3, 2005.

400.236a Child support bench warrant enforcement fund; creation; deposit of fees, money, or other assets; investment; credit of interest and earnings; money remaining in fund; enforcement of civil warrants; report; limitation on use of money.

Sec. 6a. (1) The child support bench warrant enforcement fund is created in the state treasury. The fund shall be expended only as provided under this section.

(2) The fees collected under section 2529(4) of the revised judicature act of 1961, 1961 PA 236, MCL 600.2529, shall be deposited in the fund created under subsection (1).

(3) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(4) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(5) The office shall contract with law enforcement agencies to use the fund to enforce civil warrants related to child support. Money transmitted to the state treasurer under this section shall not supplant other money appropriated by the state for office of child support functions.

(6) The office shall make an annual report to the standing house and senate committees that consider child support issues and to the house and senate appropriations subcommittees that consider the family independence agency appropriation. The office shall report about the child support bench warrant enforcement fund all of the following:

(a) A listing of contracts entered into, including the amounts and agencies involved.

(b) The number of bench warrants served by personnel funded by each contract.

(c) The number of unserved, pending bench warrants as of the start date of the contract for each affected jurisdiction.

(7) Money used to administer the fund shall not exceed 10% of the annual money deposited to the fund.

History: Add. 2004, Act 203, Eff. Oct. 1, 2004.

400.237 Transition schedule.

Sec. 7. (1) The department shall develop a schedule for the transition from receipt and disbursement of support and fees by offices of the friend of the court to centralized receipt and disbursement by the state disbursement unit. The schedule may provide for the transition to take place in stages so that, during the transition period, the SDU is responsible for the receipt and disbursement of the support and fee payments of less than all the payers and recipients of support whose cases are administered by a particular office of the friend of the court. In developing the schedule, the department shall consult with other state agencies and with local agencies.

(2) In accordance with section 9 of the friend of the court act, 1982 PA 294, MCL 552.509, and the transition schedule developed under subsection (1), SDU receipt and disbursement applies to the case of a payer or recipient of support starting on the date specified in a notification to the office of the friend of the court, which administers the case, that the SDU is prepared to receive and disburse support and fees for the case or for a class of cases to which the case belongs. As of the date that SDU receipt and disbursement of support and fees applies to a particular support order, a provision in the order directing support and fees to be paid to an office of the friend of the court shall be considered to direct the payments to the SDU.

History: Add. 1999, Act 161, Imd. Eff. Nov. 3, 1999.

400.238 Disposition of money received as support payment; interest; duties of contractor; audit; disclosure of information.

Sec. 8. (1) While held by the state disbursement unit, money the SDU receives as a support payment is the money of the recipient of support, is not public revenue, and shall not be deposited in the state treasury. While held by the state disbursement unit, money the SDU receives as a support payment is not subject to levy, execution, garnishment, or offset.

(2) Interest that accrues on a payment after its receipt and before its disbursement is payable to the state general fund to offset program costs.

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(3) If a contractor operates the state disbursement unit, the contractor is directly responsible to the office. The office shall not enter a contract for operation of the SDU until the state budget director approves each contract provision that governs the accounting system to be used by the contractor. In addition to auditing by a private sector accounting firm, the contractor operating the SDU is subject to audit by the state executive branch and by the auditor general or an independent public accounting firm appointed by the auditor general. The auditor general or an independent public accounting firm appointed by the auditor general shall conduct an audit of the SDU not less than 1 year, but within 2 years, after the effective date of the amendatory act that added this section and not less than every 2 years after that initial audit. The department shall cooperate with the auditor general.

(4) Except for disclosure in a manner authorized by law, rule, or regulation, a person shall not disclose information regarding a payer or recipient of support that is provided to the SDU for the purpose of receipt or disbursement of support or fees. A person that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(5) A contractor or subcontractor, or an officer or employee of a contractor or subcontractor, that operates the SDU who negligently discloses information regarding a payer or recipient of support is liable for actual damages or $1,000.00, whichever is greater, plus costs and attorney fees. A contractor or subcontractor, or an officer or employee of a contractor or subcontractor, that operates the SDU who intentionally discloses information regarding a payer or recipient of support is liable for 3 times actual damages or $3,000.00, whichever is greater, plus costs and attorney fees. Each negligent or intentional disclosure that gives rise to liability under this section is a separate cause of action for which separate damages may be awarded.

History: Add. 1999, Act 161, Imd. Eff. Nov. 3, 1999.

400.239 Transition to centralized receipt and disbursement of support and fees.

Sec. 9. The department, the SDU, and each office of the friend of the court shall cooperate in the transition to the centralized receipt and disbursement of support and fees. An office of the friend of the court shall continue to receive and disburse support and fees through the transition, based on the schedule developed as required by section 7, and modifications to that schedule as the department considers necessary.

History: Add. 1999, Act 161, Imd. Eff. Nov. 3, 1999;—Am. 2002, Act 564, Eff. Mar. 31, 2003.

400.240 Centralized enforcement.

Sec. 10. (1) Based on criteria established by the office and the state court administrative office, the office may centralize administrative enforcement procedures for services provided under title IV-D. The office may also centralize enforcement activities for friend of the court cases based on criteria established by the office and the state court administrative office. The criteria for centralizing enforcement activities for a friend of the court case shall require, at a minimum, both of the following:

(a) That support enforcement measures undertaken by the office of the friend of the court have been unsuccessful, including, but not limited to, a lack of regular and substantial payments against the arrearage.

(b) That the arrearage is equal to or greater than the amount of support payable either for 12 months or, if the recipient of support requests centralization of enforcement activities, for 6 months.

(2) Each office of the friend of the court shall provide the office with information necessary for the office to identify cases eligible for centralized enforcement, as well as case information necessary for the office to pursue enforcement remedies.

(3) The office's centralized enforcement may include, but is not limited to, 1 or more of the following:

(a) An enforcement remedy available under the support and parenting time enforcement act, 1982 PA 295, MCL 552.601 to 552.650.

(b) Contracting with a public or private collection agency. Except upon the request of the recipient of support, an additional fee shall not be charged to the recipient of support for collection services by any public or private collection agency contracting under this subdivision.

(c) Contracting with a public or private locator service.

(d) Publishing a delinquent payer's name.

(e) A local or regional agreement with a law enforcement agency or prosecutor.

(4) The office shall notify the custodial parent in each friend of the court case that the office selects for centralized enforcement that the parent's case has been selected.

(5) The office shall develop a system to track each friend of the court case selected for centralized enforcement so that the office of the friend of the court from which the case is selected can be identified. The office shall process collections resulting from centralized enforcement through the SDU and, for the purpose of child support incentive calculations, shall credit those collections to the office of the friend of the court identified with the case. In consultation with the state court administrative office, the office shall establish

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policies and procedures for expenses related to enforcement activities under this act.

(6) This section does not limit the office's ability to enter into agreements for child support enforcement with an office of the friend of the court, law enforcement agency, prosecutor, government unit, or private entity as that ability existed on the effective date of this section.

(7) Within 1 year after the effective date of this section and within 1 year after the deadline for the previous report, the office shall submit an annual report to the legislature regarding friend of the court cases assigned to a private collection agency for support collection under a contract with the office. The report shall include at least all of the following for each private collection agency that was assigned friend of the court cases for support collection:

(a) Total number of friend of the court cases assigned.

(b) Total number of those friend of the court cases in which a support payment was received.

(c) Total support collected for those friend of the court cases.

(d) Total support due for those friend of the court cases.

History: Add. 2002, Act 564, Eff. Mar. 31, 2003.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1978-1

400.241 Transfer of medical assistance administration functions from department of public health and state department of highways and transportation to department of social services.

WHEREAS, a review of the Medical Assistance program administration functions performed by the Department of Public Health, the Department of Highways and Transportation, and the Department of Social Services reveals significant fragmentation and overlap of responsibilities; and

WHEREAS, such fragmentation and overlap creates considerable difficulty in coordinating program activities and results in diminished program effectiveness and accountability; and

WHEREAS, the Michigan Department of Social Services has been designated the single state agency responsible for Michigan's Medical Assistance Program pursuant to the requirements of Section 1902(a)(5) of the Federal Social Security Act; and

WHEREAS, Act 99 of the Public Acts of 1977, provides appropriation to the Department of Public Health for implementation of the medical surveillance function, and Act 102 of the Public Acts of 1977, provides appropriation to the Department of State Highways and Transportation for surveillance and utilization review of the Medical Management Information System; and

WHEREAS, Article V, Section 2, of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the Executive Branch or assignment of functions among its units which he considers necessary for efficient and effective administration;

NOW, THEREFORE, I, WILLIAM G. MILLIKEN, Governor of the State of Michigan, pursuant to the authority vested in me by the provisions of Article V, Section 2, of the Michigan Constitution of 1963, do hereby order the following:

1. All powers, duties, functions, and responsibilities of the Bureau of Health Care Administration of the Department of Public Health with respect to medical assistance surveillance functions are hereby transferred to the Department of Social Services, with the exception of the medical review and nursing evaluation component of the Bureau of Health Care Administration.

2. All of the powers, duties, functions, and responsibilities of the Michigan State Department of Highways and Transportation with respect to the surveillance and utilization review subsection of the Medicaid Management Information System are transferred to the Department of Social Services.

3. All records, personnel, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available, for the conduct of the above-stated functions are transferred to the Department of Social Services.

In fulfillment of the requirements of Article V, Section 2, of the Michigan Constitution of 1963, the provisions of this Order shall become effective May 15, 1978.

History: 1978, E.R.O. No. 1978-1, Eff. May 15, 1978.

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COUNTY JUVENILE OFFICERS
Act 22 of 1919 (Ex. Sess.)

AN ACT to provide for county agents of the probate courts; and to prescribe the powers, duties, and compensation of county agents.

History: 1919, Ex. Sess., Act 22, Eff. Sept. 25, 1919;—Am. 1944, 1st Ex. Sess., Act 11, Imd. Eff. Feb. 19, 1944;—Am. 1945, Act 93, Eff. Sept. 6, 1945;—Am. 1971, Act 212, Eff. Jan. 1, 1972;—Am. 1980, Act 248, Imd. Eff. July 28, 1980.

The People of the State of Michigan enact:

400.251 County juvenile officer or assistant county juvenile officer; appointment, term, and duties; compensation and expenses; salary adjustments; certification of vouchers; fringe benefits; vacancy; "population" defined.

Sec. 1. (1) Except as otherwise provided in section 2, this section shall apply to a person employed as a county juvenile officer or an assistant county juvenile officer as of September 30, 1980.

(2) The probate judge or judges in each county shall appoint a suitable person who shall serve as the county juvenile officer of the county. The county juvenile officer shall not be subject to or governed by civil service law of this state. Each juvenile officer shall hold office at the pleasure of the probate judge or judges of the county and shall perform the various duties required by law.

(3) The salaries of county juvenile officers shall be established and paid as follows:

Population of County	County Juvenile Officer Salary
Less than 40,000	$ 13,400.00
40,001 to 75,000	$ 14,100.00
75,001 to 150,000	$ 14,800.00
150,001 to 250,000	$ 15,600.00
250,001 to 500,000	$ 16,300.00
More than 500,000	$ 17,100.00

The salary designated in this subsection shall be paid biweekly by the state treasurer pursuant to the accounting laws of this state. A juvenile officer shall not receive other fees or compensation for services as county juvenile officer, except as provided by the county board of commissioners, and the juvenile officer shall devote his or her entire time to the performance of the duties of the office.

(4) The probate judge or judges in a county having a population of 75,000 or more inhabitants may appoint assistant county juvenile officers according to the following schedule:

Population of County	Number of Assistant County Juvenile Officers
75,000 to 150,000	1
150,001 to 250,000	2
250,001 to 500,000	4
More than 500,000	6

(5) The salaries of assistant county juvenile officers shall be established as follows:

Population of County	County Juvenile Officer Salary
75,000 - 150,000	$13,000.00
150,001 - 250,000	13,300.00
250,001 - 500,000	13,600.00
More than 500,000	13,900.00

The salaries shall be paid biweekly by the state treasurer pursuant to the accounting laws of the state.

(6) Subject to approval by the senate and house appropriations committees, the salaries designated in subsections (3) and (5) shall be adjusted annually by the same percentage as the salary adjustments made for state civil service employees excluded from representation under civil service rules.

(7) A county juvenile officer or an assistant county juvenile officer who elects the option prescribed in section 2(a) or (b) shall receive the necessary and actual expenses incurred in the performance of official duties, to be paid by the state treasurer pursuant to the accounting laws of the state.

(8) Vouchers for payment of compensation and expenses shall be certified by the director of social services. The amount provided in this section shall be compensation in full for services performed by each of the county juvenile officers or assistant county juvenile officers, unless the county board of commissioners votes to pay the county juvenile officer or assistant county juvenile officer an amount in addition to the salary designated in this section.

(9) Each county juvenile officer or assistant county juvenile officer who elects the option prescribed in

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section 2(a), regardless of the size of the county to which the officer is appointed, shall receive all of the fringe benefits made available to state civil service employees excluded from representation under civil service rules.

(10) A county juvenile officer or an assistant county juvenile officer who elects the option prescribed in section 2(b) shall receive the fringe benefits provided by the county for juvenile court employees.

(11) This section shall not prohibit a person employed as an assistant county juvenile officer as of September 30, 1980 who elects the option prescribed in section 2(a) or (b), from filling a vacancy in the county juvenile officer's position.

(12) As used in this section, "population" means the most recent population projection issued by the department of management and budget for the state.

History: 1919, Ex. Sess., Act 22, Eff. Sept. 25, 1919;—Am. 1921, 1st Ex. Sess., Act 25, Imd. Eff. June 15, 1921;—Am. 1923, Act 244, Eff. Aug. 30, 1923;—CL 1929, 8203;—Am. 1939, Act 150, Eff. Sept. 29, 1939;—Am. 1943, Act 220, Imd. Eff. Apr. 20, 1943;—Am. 1944, 1st Ex. Sess., Act 11, Imd. Eff. Feb. 19, 1944;—Am. 1947, Act 176, Eff. Oct. 11, 1947;—Am. 1947, 2nd Ex. Sess., Act 3, Imd. Eff. Nov. 12, 1947;—CL 1948, 400.251;—Am. 1951, Act 185, Imd. Eff. June 8, 1951;—Am. 1955, Act 115, Eff. Oct. 14, 1955;—Am. 1957, Act 285, Eff. July 1, 1957;—Am. 1960, Act 111, Imd. Eff. Apr. 26, 1960;—Am. 1961, Act 31, Eff. Sept. 8, 1961;—Am. 1963, Act 95, Eff. Sept. 6, 1963;—Am. 1966, Act 108, Eff. July 1, 1966;—Am. 1971, Act 212, Eff. Jan. 1, 1972;—Am. 1974, Act 315, Imd. Eff. Dec. 15, 1974;—Am. 1978, Act 377, Eff. Oct. 1, 1978;—Am. 1980, Act 248, Imd. Eff. July 28, 1980;—Am. 1984, Act 374, Eff. Mar. 29, 1985.

400.252 County juvenile officer or assistant county juvenile officer; options; election.

Sec. 2. A person employed as a county juvenile officer or assistant county juvenile officer as of September 30, 1980 shall elect 1 of the following options before October 1, 1980:

(a) To receive the applicable salary specified in section 1(3) or (4) and the expenses specified in section 1(5), and to participate in the retirement program provided by the state employees' retirement system in Act No. 240 of the Public Acts of 1943, as amended, being sections 38.1 to 38.47 of the Michigan Compiled Laws, and fringe benefits provided by the state civil service commission rules for members in state classified service, including retirement and insurance programs, sick leave, annual leave, and holidays as provided in section 1(7) and subject to section 4.

(b) To receive the applicable salary specified in section 1(3) or (4), the expenses specified in section 1(5), the fringe benefits prescribed in section 1(8), and the retirement program provided by the state employees' retirement system in Act No. 240 of the Public Acts of 1943, as amended. A person electing this option shall not participate in, nor be subject to, the fringe benefits provided by the state civil service commission rules for members in state classified service.

(c) To receive the salary, expenses, and fringe benefits provided by the county to juvenile court employees under section 3. This option shall not be elected without the approval of the presiding judge of the probate court for the county.

History: 1919, Ex. Sess., Act 22, Eff. Sept. 25, 1919;—CL 1929, 8204;—CL 1948, 400.252;—Am. 1980, Act 248, Imd. Eff. July 28, 1980.

400.253 Employment of county juvenile officer or assistant county juvenile officer subject to section; salary, expenses, and fringe benefits; annual grant; salary adjustment; “population” defined.

Sec. 3. (1) This section shall apply to a person who commences employment as a county juvenile officer or an assistant county juvenile officer after September 30, 1980, and to a county juvenile officer or an assistant county juvenile officer who elects the option prescribed in section 2(c).

(2) A county juvenile officer or an assistant county juvenile officer subject to this section shall be employed in the same manner as other juvenile court employees are employed in the county in which the officer serves and shall receive only the salary, expenses, and fringe benefits provided by the county in which the officer serves.

(3) The state shall make an annual grant to each county for the employment of county juvenile officers and assistant county juvenile officers. The amount of the grant is established as follows:

Population of County	Grant
Less than 75,000	$ 17,200.00
75,001 to 150,000	$ 33,200.00
150,001 to 250,000	$ 49,300.00
250,001 to 500,000	$ 81,400.00
More than 500,000	$113,500.00

(4) The amount of the grant established in subsection (3) shall be reduced by $17,200.00 for each county juvenile officer and by $16,200.00 for each assistant county juvenile officer serving in the county who elects

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the option prescribed in section 2(a) or (b). Subject to approval by the senate and house appropriations committees, the amount of the grant designated in subsection (3) shall be adjusted annually by the same percentage as the annual salary adjustment made for state civil service employees excluded from representation under civil service rules.

(5) A grant made under this section shall be paid by the state treasurer pursuant to the accounting laws of the state and shall be subject to audit by the auditor general. A grant made under this section shall be used solely for the purpose stated in subsection (3).

(6) As used in this section, "population" means the most recent population projection for this state issued by the department of management and budget.

History: Add. 1971, Act 212, Eff. Jan. 1, 1972;—Am. 1980, Act 248, Imd. Eff. July 28, 1980;—Am. 1984, Act 374, Eff. Mar. 29, 1985.

400.254 Fringe benefits of county juvenile officer or assistant county juvenile officer electing option under MCL 400.252(a); conditions.

Sec. 4. The fringe benefits of a county juvenile officer or an assistant county juvenile officer who elects the option prescribed in section 2(a) are subject to the following conditions:

(a) Annual leave accumulated before October 1, 1978, under a formal county policy shall be credited to the officer's annual leave balance. This leave may be used during the officer's service. When the officer separates from service as an officer, the time credited under this subdivision shall be subtracted from the officer's annual leave balance before payment by this state of the unused annual leave.

(b) Sick leave accumulated before October 1, 1978, under a formal county policy shall be credited to the officer's sick leave balance. This leave may be used during the officer's service and shall be included in the sick leave balance for purposes of long-term disability insurance computation. Upon retirement or death or separation from service as an officer, the time credited under this subdivision shall be subtracted from the officer's sick leave balance before payment by this state of a prorated amount for unused sick leave.

(c) For purposes of longevity computation, a person shall not be considered to have begun service as an officer before October 1, 1978.

(d) For purposes of determining earned sick leave, annual leave, and longevity, a biweekly work period shall consist of the standard number of hours during a standard 2-week period worked by the employees of the probate court of the county in which the officer serves.

History: Add. 1980, Act 248, Imd. Eff. July 28, 1980.

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ANNUAL MEETING OF COUNTY AGENTS
Act 21 of 1929

AN ACT to provide for the state welfare commission to call annual meetings of the county agents of the state and to defray the expenses incident thereto.

History: 1929, Act 21, Eff. Aug. 28, 1929.

The People of the State of Michigan enact:

400.261 Annual meeting of county agents; time, place, purpose.

Sec. 1. Hereafter on such day in the month of either September, October or November of each year, as the director of the state welfare department shall designate, the said director may call a meeting of the county agents of the respective counties of the state to meet in the city of Lansing for the purpose of planning the work pertaining to the duties of their office for the ensuing year.

History: 1929, Act 21, Eff. Aug. 28, 1929;—CL 1929, 8205;—Am. 1931, Act 253, Eff. Sept. 18, 1931;—CL 1948, 400.261.

400.262 Annual meeting of county agents; adjournment; registration; certificate of attendance.

Sec. 2. The director of the state welfare department shall have the power to adjourn such meeting to a future date, and in case of such adjournment shall give notice to each county agent. The respective county agents shall, upon attending said meeting, register with the director of the state welfare department, and at the close of said meeting the said director shall issue to each county agent so attending a certificate showing the attendance at such meeting.

History: 1929, Act 21, Eff. Aug. 28, 1929;—CL 1929, 8206;—Am. 1931, Act 253, Eff. Sept. 18, 1931;—CL 1948, 400.262.

400.263 Annual meeting of county agents; expenses of attendance.

Sec. 3. The county agents of the state shall be paid their necessary and actual expenses in attending such meeting by the county treasurer of their respective counties, if approved by the board of supervisors, upon presentation by said county agent of a certificate so issued by the director of the state welfare department, showing his attendance at such meeting.

History: 1929, Act 21, Eff. Aug. 28, 1929;—CL 1929, 8207;—Am. 1931, Act 253, Eff. Sept. 18, 1931;—CL 1948, 400.263.

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CHARITABLE ORGANIZATIONS AND SOLICITATIONS ACT
Act 169 of 1975

AN ACT to regulate organizations and persons soliciting or collecting contributions for charitable purposes; to require registration, disclosure of information and licensing before solicitation of contributions; to provide for reporting of financial and other information by those licensed or registered and those claiming exemption; to prescribe standards of conduct and administration, and to prohibit certain actions; to provide for enforcement, investigation, and promulgation of rules by the attorney general; to preempt local regulation; to provide penalties for violations; and to repeal certain acts and parts of acts.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

The People of the State of Michigan enact:

400.271 Short title.

Sec. 1. This act shall be known and may be cited as the "charitable organizations and solicitations act".

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.272 Definitions.

Sec. 2. As used in this act:

(a) "Charitable organization" means a benevolent, educational, philanthropic, humane, patriotic, or eleemosynary organization of persons which solicits or obtains contributions solicited from the public for charitable purposes. A chapter, branch, area office, or similar affiliate or person soliciting contributions within the state for a charitable organization which has its principal place of business outside the state is a charitable organization. This definition does not include duly constituted religious organizations or a group affiliated with and forming an integral part of a religious organization no part of the net income of which inures to the direct benefit of any individual if it has received a declaration of current tax exempt status from the United States. The affiliated group shall not be required to obtain a declaration if the parent or principal organization has obtained tax exempt status. Charitable organization does not include a candidate or committee as defined in section 901 of Act No. 116 of the Public Acts of 1954, being section 168.901 of the Michigan Compiled Laws, or a political party qualified to be on the general election ballot pursuant to section 560a of Act No. 116 of the Public Acts of 1954, as added, being section 168.560a of the Michigan Compiled Laws.

(b) "Contribution" means the promise, grant, or payment of money or property of any kind or value, including promises to pay, except payments by members of an organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from a governmental authority or foundation restricted as to use.

(c) "Person" means an individual, organization, group, association, partnership, corporation, trust, or any combination of them.

(d) "Soliciting material" means printed or similar material, including but not limited to labels, posters, television scripts, radio scripts, or recordings used in soliciting funds from the public.

(e) "Solicitor" means a person who solicits on behalf of a charitable organization.

(f) "Professional fund raiser" means a person who for compensation or other consideration plans, conducts, manages, or carries on a drive or campaign of soliciting contributions for or on behalf of a charitable organization, religious organization, or any other person; or who engages in the business of or holds himself out as independently engaged in the business of soliciting contributions for such purposes. A bona fide officer or employee of a charitable organization is not a professional fund raiser unless his salary or other compensation is computed on the basis of funds to be raised or actually raised.

(g) "Professional solicitor" means a person who is employed or retained for compensation by a professional fund raiser to solicit contributions for charitable purposes.

(h) "Prohibited transaction" is that dealing, activity, conduct, administration, or management of the charitable organization or by any of its officers, trustees, personnel, or related persons which may be prohibited as constituting activity contrary to proper administration of the charitable organization or conduct of a fund raising campaign or solicitation by a professional fund raiser or solicitor.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.273 Charitable organization; application for license.

Sec. 3. Before a solicitation, a charitable organization which is not an exempt organization and which is

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not described in section 13, which solicits or intends to solicit or receives or intends to receive contributions from persons by any means whatsoever, shall file with the attorney general upon forms prescribed by him, an application for a license. It shall include the following information:

(a) The name of the organization and the name under which it intends to solicit contributions.

(b) The principal address of the organization and the address of any office in this state. If the organization does not maintain a principal office, the name and address of the person having custody of its financial records.

(c) The names and addresses of the officers, directors, trustees, chief executive officer, and state agent.

(d) Where and when the organization was legally established, the form of its organization, and its tax exempt status.

(e) The purpose for which it is organized and the purposes for which contributions to be solicited will be used.

(f) The fiscal year date of the organization.

(g) Whether the organization is or has ever been enjoined from soliciting contributions.

(h) All methods by which solicitations will be made.

(i) Copies of contracts between charitable organizations and professional fund raisers relating to financial compensation or profit to be derived by the professional fund raisers. When the contract is executed after filing of application statement, a copy shall be filed within 10 days of the date of execution.

(j) Other information as required by rule.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.274 Copies of contracts and soliciting materials.

Sec. 4. (1) True and correct copies of the contracts of professional fund raisers shall be kept on file in the offices of the charitable organization and the professional fund raiser during the term of employment and for 6 years subsequent to the date the solicitation of contributions provided for therein actually terminates.

(2) Copies of all soliciting materials shall be supplied upon request of the attorney general.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.275 Examination of license application; issuance of license; exceptions; purpose of license; suspension or revocation of license; notice; hearing; evidence of compliance.

Sec. 5. (1) An application in proper form and supported by material information required shall be examined by the attorney general. If the application and supporting material conforms to the requirements of this act and the rules, the attorney general shall issue a license to the charitable organization within 30 days, except where the organization has materially misrepresented or omitted information required or the organization has acted or is acting in violation of this act or rules promulgated hereunder.

(2) The license shall be without charge and issued to the charitable organization, its agents and representatives for the purpose of soliciting and receiving contributions and donations or to sell memberships or otherwise raise moneys from the public for the specified charitable purpose.

(3) A license issued to a professional fund raiser, professional solicitor, or a charitable organization, its agents and representatives may be suspended or revoked by the attorney general for violation of this act or rules promulgated hereunder, after reasonable notice and opportunity to be heard. The attorney general may suspend on an emergency basis, without hearing, any license issued to a professional fund raiser, professional solicitor, or a charitable organization when the attorney general specifies in the notice of emergency suspension the reasons and grounds indicating a violation of this act or any rule which constitutes the emergency. The notice shall set forth that within 48 hours, at a designated time and place, a hearing shall be held on whether the license should be permanently suspended or revoked. The professional fund raiser, professional solicitor, or charitable organization may show compliance with the requirements of this act or the rules and shall have the burden of adducing the evidence.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.276 Notice of change in information; report.

Sec. 6. A charitable organization shall notify the attorney general within 30 days of any change in the information required to be furnished under section 3. A report shall be filed and signed by the president or other authorized officer and the chief fiscal officer of the organization.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.277 Expiration of license; renewal application and supporting information.

Sec. 7. The license of a charitable organization shall expire 1 year after the date of issuance. A charitable

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organization desiring renewal of a license shall file with the attorney general a renewal application and supporting information on or before 30 days prior to the expiration date.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.278 Documents; books and records; inspection.

Sec. 8. Documents required to be filed with the attorney general shall be open to public inspection. Persons subject to this act shall maintain accurate and detailed books and records at the office of the resident agent or the principal office which shall be open to inspection at all reasonable times by the attorney general or his authorized representative.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.279 Local, county, or area division supervised and controlled by superior or parent organization; registration; application statement; annual report.

Sec. 9. If a local, county, or area division of a charitable organization is directly supervised and controlled by a superior or parent organization, which is incorporated, qualified to do business or doing business within this state, the local, county, or area division is not required to register under section 3 if the superior or parent organization files an application statement on behalf of the local, county, or area division in addition to or as part of its application statement. When an application statement has been filed by a superior or parent organization, it shall file the annual report required under sections 14 and 16 on behalf of the local, county, or area division in such detail as required by the rules.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.280 Rules.

Sec. 10. The attorney general may promulgate rules necessary for the administration of this act in accordance with and subject to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. Emergency rules may not be promulgated pursuant to this act.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.281 Designation of resident agent; service of process.

Sec. 11. (1) An application for a license shall not be accepted from a charitable organization located in another state or country unless it first designates a resident agent in this state for the acceptance of process issued by any court.

(2) A charitable organization, person, professional fund raiser, or professional solicitor, soliciting contributions in this state but not maintaining an office within the state shall be subject to service of process as follows:

(a) By service on its registered agent within the state or if there is no registered agent, then upon the person who has been designated in the application statement as having custody of books and records within this state. When service is effected upon the person designated in the registration statement a copy of the process shall be mailed to the charitable organization at its last known address.

(b) When a charitable organization has solicited contributions in this state but does not maintain an office within the state, have a registered agent within this state and have a designated person having custody of its books and records within the state, or when a registered agent or person having custody of its books and records within the state cannot be found as shown by the return of the sheriff of the county in which the registered agent or person having custody of books and records has been represented by the charitable organization as maintaining an office, service may be made as otherwise provided by law or court rules.

(3) Solicitation of a contribution within this state by any means, is the agreement of the charitable organization, person, professional fund raiser, or professional solicitor, that any process against it or him which is served in accordance with this section is of the same legal force and effect as if served personally.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.282 Suspending filing of reports; written application and statement.

Sec. 12. Upon initial filing of an application statement pursuant to section 3, the attorney general may suspend for a reasonable, specifically designated time the filing of reports otherwise required by sections 14 and 15 as to a particular charitable corporation, trust, or organization incorporated or established for charitable purposes, upon written application filed with the attorney general, and after the attorney general has determined and acquiesced by a written statement that the interest of the public will not be prejudiced thereby.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.283 Exemptions from licensing and financial statement requirements.

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Sec. 13. The licensing and financial statement requirements of this act do not apply to any of the following:

(a) A person who requests a contribution for the relief or benefit of an individual, specified by name at the time of the solicitation, if the contributions collected are turned over to the named beneficiary after deducting reasonable expenses for costs of solicitation, if any, and if all fund-raising functions are carried on by persons who are unpaid, directly or indirectly, for their services.

(b) A person who does not intend to solicit and receive and does not actually receive contributions in excess of $8,000.00 during any 12-month period if all of its fund-raising functions are carried on by persons who are unpaid for their services and if the organization makes available to its members and the public a financial statement of its activities for the most recent fiscal year. If the gross contributions received during any 12-month period exceed $8,000.00, the person shall file an application for license with required supporting information as provided in section 3 within 30 days after the date it has received total contributions in excess of $8,000.00.

(c) An organization that does not invite the general public to become a member of the organization and confines solicitation activities to solicitation drives solely among its members and the members' immediate families, if the drives are not held more frequently than quarterly. “Immediate family” means the grandparents, parents, spouse, brothers, sisters, children, and grandchildren.

(d) An educational institution certified by the state board of education.

(e) A veterans' organization incorporated under federal law.

(f) An organization that receives funds from a charitable organization licensed under this act that does not solicit or intend to solicit or receive or intend to receive contributions from persons other than a charitable organization, if the organization makes available to its members and the public a financial statement of its activities for the most recent fiscal year.

(g) A licensed hospital, hospital based foundation, and hospital auxiliary that solicit funds solely for 1 or more licensed hospitals.

(h) A nonprofit service organization that is exempt from taxation pursuant to a provision of the United States internal revenue code other than section 501(c)(3), whose principal purpose is not charitable, but solicits from time to time funds for a charitable purpose by members of the organization who are not paid for the solicitation. The funds shall be wholly used for the charitable purposes for which they were solicited, and the organization shall file with the attorney general a federal form 990 or 990 AR.

(i) A nonprofit corporation whose stock is wholly owned by a religious or fraternal society that owns and operates facilities for the aged and chronically ill in which no part of the net income from the operation of the corporation inures to the benefit of a person other than the residents.

(j) Charitable organizations licensed by the department of social services that serve children and families.

(k) A person registered under and complying with the requirements of the public safety solicitation act.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976;—Am. 1992, Act 299, Imd. Eff. Dec. 18, 1992.

400.284 Financial statement.

Sec. 14. A charitable organization subject to this act in support of its application for a license or renewal shall file with the attorney general a financial statement covering the immediately preceding 12-month period of operation containing information and detail as shall be required on forms prescribed by the attorney general.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.285 Repealed. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

Compiler's note: The repealed section required statement of basis for claiming continuing exemption.

400.286 Continuing license upon noncompliance.

Sec. 16. The attorney general may continue under conditions the license of an organization, professional fund raiser, or professional solicitor which fails to comply with this act including failure to comply with the rules regarding prohibited transactions, standards of solicitation, conduct, or administration.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.287 Professional fund raiser; application for license; bond; renewal of license; registration or reregistration of professional solicitor.

Sec. 17. (1) A person shall not act as a professional fund raiser for a charitable organization or charitable purpose before he has filed an application for a license with the attorney general or after the expiration or cancellation of a license or renewal thereof. Applications for license shall be in writing, under oath, in the

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form prescribed by the attorney general. The applicant when making application, shall file with and have approved by the attorney general a bond in which the applicant shall be the principal obligor, in the sum of $10,000.00. The bond shall run to the people of the state and to any person including charitable organizations who may have a cause of action against the obligor of the bond for any malfeasance or misfeasance in the conduct of the solicitation. The aggregate limit of liability of the surety to the state and to all the persons shall not exceed the sum of the bond. Application for renewal of licenses when effected shall be for a period of 1 year, or a part thereof, expiring on June 30, and may be renewed for additional 1-year periods upon written application, under oath, in the form prescribed by the attorney general and the filing of the bond.

(2) A person shall not act as a professional solicitor in the employ of a professional fund raiser required to be licensed before he has registered with the attorney general or after the expiration or cancellation of registration. Application for registration or reregistration shall be in writing, under oath, in the form prescribed by the attorney general. Registration or reregistration when effected shall be for a period of 1 year, or a part thereof, expiring on June 30, and may be renewed upon written application, under oath, in the form prescribed by the attorney general for additional 1-year periods.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.288 Using name of another for purpose of soliciting contributions; publishing names of contributors; prohibited names, symbols, or statements; identification.

Sec. 18. (1) A person shall not use for the purpose of soliciting contributions the name of another person, except that of an officer, director, or trustee of the charitable organization by or for which contributions are solicited, without the consent of such other person.

(2) A person has used the name of another person for the purpose of soliciting contributions if the latter person's name is listed on stationery, an advertisement, brochure, or in correspondence by which a contribution is solicited by or on behalf of a charitable organization or the name is listed or referred to in connection with a request for a contribution as one who has contributed to, sponsored, or indorsed the organization or its activities.

(3) This section does not prevent the publication of names of contributors without their written consent in an annual or other periodic report issued by a charitable organization for the purpose of reporting on its operations and affairs to its membership or for the purpose of reporting contributions to contributors.

(4) A charitable organization or professional fund raiser soliciting contributions shall not use a name, symbol, or statement so closely related or similar to that used by another charitable organization or governmental agency that would tend to confuse or mislead the public.

(5) A charitable organization, whether exempt or not from this act, shall supply to each solicitor and each solicitor shall have in immediate possession identification which sets forth the name of the solicitor and the name of the charitable organization on whose behalf the solicitation is conducted.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.289 Repealed. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

Compiler's note: The repealed section contained provisions to licensure or registration.

400.290 Grounds for injunction, suspension of license, or revocation of license; operating under guise or pretense.

Sec. 20. (1) The attorney general may institute an action in any circuit court to enjoin preliminarily or permanently a charitable organization, professional fund raiser, solicitor, or other person who:

(a) Engages in a method, act, or practice in violation of this act or any of the rules promulgated hereunder.

(b) Employs or uses in a solicitation or collection of contributions for a charitable organization on behalf of any other person for a charitable purpose a device, scheme, or artifice to defraud, or for obtaining money or property by means of any false pretense, deception, representation, or promise.

(2) In addition to any relief afforded under this section, the attorney general may exercise the authority to suspend or revoke a license issued pursuant to this act.

(3) The attorney general may exercise the authority granted in this section against a charitable organization or person which or who operates under the guise or pretense of being an organization or person exempted by this act and is not in fact an organization or person entitled to such an exemption.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.291 Investigation; appearance; order; service; contempt; oath or affirmation.

Sec. 21. (1) The attorney general may investigate the operations or conduct of charitable organizations, professional fund raisers, or professional solicitors subject to this act. He may require a person, corporation,

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institution, or association, and the officers, members, and employees and agents thereof, to appear at a named time and place in the county designated by the attorney general or where the person resides or is found, to give information under oath and to produce books, memoranda, papers, records, documents of title, evidence of assets, liabilities, receipts, or disbursements in the possession or control of the person ordered to appear.

(2) When the attorney general requires the attendance of a person, he shall issue an order setting forth the time when and the place where attendance is required and shall cause the same to be served upon the person in the manner provided for service of process in civil cases at least 5 days before the date fixed for attendance. The order shall have the same force and effect as a subpoena and, upon application of the attorney general, obedience to the order may be enforced by a court having jurisdiction over the person, the circuit court for the county of Ingham, or for the county where the person receiving it resides or is found, in the same manner as though the notice were a subpoena. In case of contumacy or refusal to obey the order issued by the attorney general, the court may issue an order requiring the person to appear before the court or to produce documentary evidence, if so ordered, or to give evidence touching the matter in question. Failure to obey the order of the court shall be punished by that court as a contempt. The investigation may be made by or before an assistant attorney general designated in writing by the attorney general to conduct the investigation. The attorney general or the assistant attorney general acting in his behalf may administer the necessary oath or affirmation to witnesses.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.292 Powers and duties of attorney general not restricted.

Sec. 22. This act shall not be construed to limit or restrict the exercise of powers or the performance of the duties of the attorney general which he otherwise is authorized to exercise or perform under any other provisions of law.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

400.293 Conduct constituting misdemeanor; penalty; prosecution.

Sec. 23. (1) A person who does any of the following is guilty of a misdemeanor punishable by a fine of not more than $500.00, or imprisonment for not more than 6 months, or both:

(a) Violates this act.

(b) Solicits and receives public donations, or sells memberships in this state for and on behalf of any organization, institution, or association subject to the provisions of this act and which is not duly licensed pursuant to this act.

(c) Solicits funds under a license and thereafter diverts the same to purposes other than that for which the funds were contributed.

(2) This section shall not be construed to limit or restrict prosecution under the general criminal statutes of the state.

History: 1975, Act 169, Imd. Eff. July 20, 1975;—Am. 1976, Act 368, Imd. Eff. Dec. 23, 1976.

400.294 Repeal of MCL 400.301 to 400.304.

Sec. 24. Act No. 68 of the Public Acts of 1915, being sections 400.301 to 400.304 of the Compiled Laws of 1970, is repealed.

History: 1975, Act 169, Imd. Eff. July 20, 1975.

SOLICITATION OF PUBLIC FOR CHARITABLE PURPOSES
Act 68 of 1915

400.301-400.304 Repealed. 1975, Act 169, Imd. Eff. July 20, 1975.

INDIAN AFFAIRS COMMISSION
Act 300 of 1965

400.311-400.315 Repealed. 1972, Act 195, Eff. July 1, 1972.

LEGISLATIVE ADVISORY COUNCIL ON PROBLEMS OF THE AGING
Act 200 of 1955

400.351-400.353 Repealed. 1960, Act 11, Eff. July 1, 1960.

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MEDICAL ASSISTANCE FOR THE AGED ACT
Act 2 of 1960 (1st Ex. Sess.)

400.361-400.371 Repealed. 1965, Act 304, Imd. Eff. July 22, 1965;—1969, Act 80, Eff. Mar. 20, 1970.

MEDICAL CARE AND HOSPITALIZATION OF OLD AGE RECIPIENTS
Act 1 of 1960 (1st Ex. Sess.)

400.381,400.382 Repealed. 1980, Act 180, Imd. Eff. July 2, 1980.

MICHIGAN COMMISSION ON AGING
Act 11 of 1960

400.501-400.514 Repealed. 1965, Act 215, Imd. Eff. July 16, 1965;—1973, Act 106, Imd. Eff. Aug. 19, 1973.

OFFICE OF SERVICES TO THE AGING
Act 106 of 1973

400.521-400.533 Repealed. 1975, Act 146, Imd. Eff. July 9, 1975.

SERVICES TO THE AGING
Act 146 of 1975

400.541-400.553 Repealed. 1981, Act 180, Imd. Eff. Dec. 15, 1981.

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 2006-3

400.561 Transfer of duties and responsibilities of community service commission from department of labor and economic growth to department of human services by type II transfer.

WHEREAS, Section 1 of Article V of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the Governor;

WHEREAS, Section 2 of Article V of the Michigan Constitution of 1963 empowers the Governor to make changes in the organization of the executive branch of state government or in the assignment of functions among its units that the Governor considers necessary for efficient administration;

WHEREAS, Michigan residents, beginning at an early age and continuing for a lifetime, meet community needs and find personal fulfillment through service-learning and volunteerism;

WHEREAS, the State of Michigan is an ideal place to live and is recognized nationally because its citizens believe so strongly in the value of service as a way of life;

WHEREAS, this administration continues to be committed to encouraging all residents, organizations, and institutions in Michigan to help in solving our most critical problems by volunteering their time, effort, energy, and service;

WHEREAS, the Michigan Community Service Commission, which was originally established by Executive Order 1991-25, has as its mission the building of a culture of service by providing vision and resources to strengthen communities through volunteerism;

WHEREAS, since 1991, the Michigan Community Service Commission has granted more than $41 million in public and private funds to community organizations enabling them to engage thousands of Michigan citizens in volunteer service and leveraging more than $34 million in additional local resources;

WHEREAS, the mission of the Michigan Community Service Commission and the ability to secure additional support for the Commission can be enhanced by locating the Commission within the Department of Human Services;

WHEREAS, there is a continuing need to reorganize functions amongst state departments to ensure efficient administration and effectiveness of government;

NOW, THEREFORE, I, Jennifer M. Granholm, Governor of the State of Michigan, by virtue of the power and authority vested in the Governor by the Michigan Constitution of 1963 and Michigan law order:

I. DEFINITIONS

As used in this Order:

A. "Community Service Commission" or "Commission" means the Michigan Community Service Commission created under 1994 PA 219, MCL 408.221 to 408.232, which was subsequently transferred to the Department of Career Development by Executive Order 1999-1, as amended, MCL 408.40, and then transferred to the Department of Labor and Economic Growth by Executive Order 2003-18, MCL 445.2011.

B. "Department of Human Services" means the principal department of state government created as the Department of Social Services under Section 450 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.550, renamed the Family Independence Agency under 1995 PA 223, MCL 400.1, and renamed the Department of Human Services under Executive Order 2004-38, MCL 400.226.

C. "Department of Labor and Economic Growth" means the principal department of state government created as the Department of Commerce under Section 225 of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.325, renamed the Department of Consumer and Industry Services under Executive Order 1996-2, MCL 445.2001, and renamed the Department of Labor and Economic Growth under Executive Order 2003-18, MCL 445.2011.

D. "State Budget Director" means the Director of the State Budget Office created under Section 321 of The Management and Budget Act, 1984 PA 431, MCL 18.1321.

E. "Type II Transfer" means that type of transfer as defined in Section 3(b) of the Executive Organization Act of 1965, 1965 PA 380, MCL 16.103(b).

II. TRANSFER OF AUTHORITY

A. All of the authority, powers, duties, functions, and responsibilities of the Community Service Commission are transferred by Type II Transfer from the Department of Labor and Economic Growth to the Department of Human Services.

III. IMPLEMENTATION OF TRANSFERS

A. The Director of the Department of Human Services shall provide executive direction and supervision for the implementation of all transfers under this Order and shall make internal organizational changes as

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necessary to complete the transfers under this Order.

B. The functions transferred under this Order shall be administered by the Director of the Department of Human Services in such ways as to promote efficient administration.

C. All rule-making, licensing, and registration functions related to the functions of the Commission transferred under this Order, including, but not limited to, the prescription of rules, regulations, standards, and adjudications, under the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.201 to 24.328, are transferred to the Director of the Department of Human Services.

D. The Director of the Department of Human Services may delegate within the Department of Human Services a duty or power conferred on the Director of the Department of Human Services by this Order or by other law or order, and the individual to whom the duty or power is delegated may perform the duty or exercise the power at the time and to the extent that the power is delegated by the Director of the Department of Human Services.

E. All records, property, and unexpended balances of appropriations, allocations, and other funds used, held, employed, available, or to be made available to the Department of Labor and Economic Growth or the Commission for the activities, powers, duties, functions, and responsibilities transferred under this Order are transferred to the Department of Human Services.

F. The Director of the Department of Human Services and the Director of the Department of Labor and Economic Growth shall develop a memorandum of record identifying any pending settlements, issues of compliance with any applicable state or federal laws or regulations, or other obligations to be resolved by the Department of Labor and Economic Growth.

G. The Director of the Department of Human Services and the Director of the Department of Labor and Economic Growth shall identify the program positions, administrative function positions, and personnel that will be transferred to the Department of Human Services under this Order. The Director of the Department of Human Services and the Director of the Department of Labor and Economic Growth shall enter into a memorandum of understanding identifying the positions and personnel transferred.

H. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system necessary to implement this Order for Fiscal Year 2006-2007.

IV. MISCELLANEOUs

A. All rules, orders, contracts, and agreements relating to the functions transferred under this Order lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended, repealed, or rescinded.

B. This Order shall not abate any suit, action, or other proceeding lawfully commenced by, against, or before any entity affected under this Order. Any suit, action, or other proceeding may be maintained by, against, or before the appropriate successor of any entity affected under this Order.

C. The invalidity of any portion of this Order shall not affect the validity of the remainder of the Order, which may be given effect without any invalid portion. Any portion of this Order found invalid by a court or other entity with proper jurisdiction shall be severable from the remaining portions of this Order.

History: 2006, E.R.O. No. 2006-3, Eff. Oct. 22, 2006.

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ACTIVITIES OR SERVICES FOR OLDER PERSONS
Act 39 of 1976

AN ACT to authorize local units of government to appropriate funds for purposes of providing activities or services to older persons, to authorize local units of government to levy taxes for services to older persons, and to repeal certain acts and parts of acts.

History: 1976, Act 39, Imd. Eff. Mar. 12, 1976.

The People of the State of Michigan enact:

400.571 Services to older persons as valid public purpose.

Sec. 1. It is a valid public purpose to provide services to older persons.

History: 1976, Act 39, Imd. Eff. Mar. 12, 1976.

400.572 Definitions.

Sec. 2. As used in this act:

(a) "Governing body" means board, council, or body in which the legislative powers of a local unit of government are vested.

(b) "Local unit of government" means a county, township, city, or village.

(c) "Activities or services" means identifiable actions directed toward the improvement of the social, legal, health, housing, educational, emotional, nutritional, recreational, or mobility status of older persons.

(d) "Older person" means an individual 60 years of age or older.

(e) "Funds" means general tax revenues, federal revenue sharing funds, state revenue sharing funds, and other funds under the control of the governing body.

History: 1976, Act 39, Imd. Eff. Mar. 12, 1976.

400.573 Appropriations; authorization; purposes.

Sec. 3. A local unit of government may appropriate funds to public or private nonprofit corporations or organizations for the purposes of planning, coordinating, evaluating, and providing services to older persons.

History: 1976, Act 39, Imd. Eff. Mar. 12, 1976.

400.574 Appropriations; approval; terms as public record; notice.

Sec. 4. (1) The appropriations of funds for services to an older person shall be approved by the majority of the members of the governing body of the local unit of government. The terms of the appropriation shall be a matter of public record and shall be entered into the journal of the official proceedings of the governing body.

(2) Notification of an appropriation to a private organization shall be published in a newspaper of general circulation within 10 days following approval by the governing body. The notice shall specify the terms of appropriation as required by this act.

History: 1976, Act 39, Imd. Eff. Mar. 12, 1976.

400.575 Terms of appropriation; specifications.

Sec. 5. The terms of the appropriation authorized by this act shall specify:

(a) Name, address, and general purpose of the organization.

(b) A description of the functions and responsibilities to be performed by the recipient of the appropriation.

(c) The effective date and length of the grant.

(d) Program and financial reporting requirements as established by the local unit of government.

History: 1976, Act 39, Imd. Eff. Mar. 12, 1976.

400.576 Millage proposition authorized.

Sec. 6. A governing body of a local unit of government may submit a millage proposition to the electorate to levy up to 1 mill for services to older citizens. This proposition may be submitted at any election held by the local unit of government, but shall not be submitted at a special election of the local unit of government called solely for the purpose of submitting this millage proposition.

History: 1976, Act 39, Imd. Eff. Mar. 12, 1976;—Am. 1982, Act 41, Imd. Eff. Mar. 16, 1982.

400.577 Repeal of MCL 46.261.

Sec. 7. Act No. 9 of the Public Acts of 1972, being section 46.261 of the Compiled Laws of 1970, is repealed.

History: 1976, Act 39, Imd. Eff. Mar. 12, 1976.

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OLDER MICHIGANIANS ACT
Act 180 of 1981

AN ACT to create a commission on services to the aging within the executive office of the governor; to create an office of services to the aging as an autonomous entity within the department of management and budget; to authorize the designation of area agencies on services to the aging and to prescribe their powers and duties; to establish certain programs relating to older persons; to prescribe the powers and duties of certain state departments, officers, and agencies; to create funds; to provide penalties; to repeal certain acts and parts of acts; and to repeal certain parts of this act on specific dates.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1986, Act 259, Imd. Eff. Dec. 9, 1986;—Am. 1987, Act 35, Imd. Eff. May 27, 1987;—Am. 1988, Act 235, Eff. Oct. 7, 1988.

Popular name: Act 180

The People of the State of Michigan enact:

400.581 Short title.

Sec. 1. This act shall be known and may be cited as the "older Michiganians act".

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the department of management and budget to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 180

400.582 Definitions.

Sec. 2. As used in this act:

(a) "Area agency on aging" means an agency designated by the commission under section 4(i).

(b) "Chief elected official administrative officer" means any of the following:

(*i*) The president of a village.

(*ii*) The mayor of a city.

(*iii*) The supervisor of a township.

(*iv*) The elected county executive or appointed county manager of a county; or if the county has not adopted an optional unified form of county government, the chairperson of the county board of commissioners of the county.

(c) "Commission" means the commission on services to the aging established under section 3.

(d) "Director" means the director of the office of services to the aging.

(e) "Long-term care facility" means 1 or more of the following:

(*i*) A home for the aged as defined in section 20106(3) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20106 of the Michigan Compiled Laws.

(*ii*) An adult foster care facility as defined in section 3(4) of the adult foster care facility licensing act, Act No. 218 of the Public Acts of 1979, being section 400.703 of the Michigan Compiled Laws.

(*iii*) A nursing home as defined in section 20109(1) of Act No. 368 of the Public Acts of 1978, being section 333.20109 of the Michigan Compiled Laws.

(*iv*) A county medical care facility as defined in section 20104(4) of Act No. 368 of the Public Acts of 1978, being section 333.20104 of the Michigan Compiled Laws.

(*v*) A hospital long-term care unit as defined in section 20106(6) of Act No. 368 of the Public Acts of 1978.

(f) "Office" means the office of services to the aging created by section 5.

(g) "Older person" means a state resident who is 60 years of age or older, and the spouse of the older person, regardless of age.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1987, Act 35, Imd. Eff. May 27, 1987.

Popular name: Act 180

400.583 Commission on services to the aging; establishment; appointment, qualifications, and term of members; vacancies; members of commission created by former act; compensation and expenses; chairperson.

Sec. 3. (1) A commission on services to the aging is established within the executive office of the governor. The commission shall consist of 15 members appointed by the governor by and with the advice and consent of the senate. Commission membership shall reflect the broad geographical balance as well as the distribution of older persons in the state. Members of the commission shall serve the broad interests of the

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state's aging and older persons. A majority of the members shall be 60 years of age or older, and no more than 8 members shall be from the same political party. The term of each member shall be 3 years. Vacancies on the commission shall be filled by appointment by the governor in a similar manner as members are appointed under this subsection, for the remainder of the unexpired term.

(2) Members of the commission created by former Act No. 146 of the Public Acts of 1975 shall continue to serve until the expiration of their terms.

(3) A member of the commission shall be entitled to receive per diem compensation and reimbursement of actual and necessary expenses while acting as an official representative of the commission as defined by commission policies and rules. The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature.

(4) The governor shall designate a person from among the members to serve as chairperson of the commission. The chairperson shall serve in that position at the pleasure of the governor.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: Act 146 of 1975, referred to in this section, was repealed by Act 180 of 1980.

For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 180

400.584 Duties of commission.

Sec. 4. (1) The commission shall do all of the following:

(a) Serve as an effective and visible advocate for aging and older persons in all government decisions.

(b) Advise the governor, the legislature, and the office of services to the aging concerning the coordination and administration of state programs serving older persons.

(c) Make recommendations to the governor and the legislature regarding changes in federal and state programs, statutes, and policies.

(d) Advise the governor and legislature of the nature and magnitude of the priorities of aging and older persons.

(e) Participate in the preparation of and approve the state plan and budget required by the older Americans act of 1965, 42 U.S.C. 3001 to 3058d, before submission of the plan to the federal administration on aging.

(f) Review and approve grants to be made from state, federal, or other funds which are administered by the office.

(g) Review and advise the governor and the legislature on the state's policies concerning services to older persons.

(h) Participate in the development of and approve the statements and reports required in section 6(n).

(i) Designate planning and service areas and an agency which shall be recognized as an area agency on services to the aging within each planning and service area.

(j) Establish a state advisory council under the direction of the commission. A member of the commission shall chair the state advisory council. The commission shall establish procedures for the selection of the council.

(k) Convene public meetings or hearings to identify and discuss issues or concerns relating to aging and older persons.

(*l*) Establish additional specialized advisory committees as needed which shall be under the direction of the commission.

(m) Provide adequate and effective opportunities for aging and older persons to express their views on policy development and program implementation.

(n) Establish policies pertaining to implementation of federal and state statutes involving funds administered by the office.

(o) Establish a formula for funding the state and local or regional long-term care ombudsman programs. This formula shall be based on square miles, number of nursing homes, the number of nursing home beds, and the percentage of nursing home residents receiving medicaid within the geographic area to be served.

(2) The commission shall make and enter into contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, subject to all of the following limitations:

(a) A commission member shall not participate in the selection, award, or administration of a contract if, to his or her knowledge, any of the following persons or organizations has a financial interest in that contract:

(*i*) A commission member.

(*ii*) A member of a commission member's immediate family.

(*iii*) A commission member's partner.

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(*iv*) An organization in which any of the persons listed in subparagraphs (*i*) to (*iii*) is an officer, director, or employee.

(*v*) A person or organization with whom any of the persons listed in subparagraphs (*i*) to (*iii*) is negotiating or has any arrangement concerning prospective employment.

(b) A commission member shall make known a potential conflict of interest under subdivision (a) before a vote regarding a contract.

(c) A commission member shall abstain from discussing a relevant motion, making a recommendation, or voting in regard to a contract, grant, or policy if his or her personal or business interest is involved as described in subdivision (a).

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1987, Act 35, Imd. Eff. May 27, 1987.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 180

400.585 Office of services to the aging; creation; exercise of powers and functions; appointment of director; exemption; compensation; director as special assistant to governor and liaison to commission.

Sec. 5. The office of services to the aging is created within the department of management and budget. The office shall exercise its powers and functions, including the functions of budgeting and procurement and management-related functions, as an autonomous entity, independent of the director of the department of management and budget. The governor shall appoint a director of the office by and with the advice and consent of the senate. The director shall be exempt from the state classified civil service. The director shall receive compensation as provided by the legislature. The director shall serve as a special assistant to the governor on the problems of aging and older persons. The director or a designee of the director shall serve as office liaison to the commission.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Popular name: Act 180

400.586 Office of services to the aging; duties.

Sec. 6. The office of services to the aging shall do all of the following:

(a) Serve as a visible and effective advocate for aging and older persons.

(b) Function as the single state agency within this state to supervise and administer the state plan required by the older Americans act of 1965, 42 U.S.C. 3001 to 3058d.

(c) Be primarily responsible for the coordination of all state activities related to the purposes of this act.

(d) Cooperate with agencies of the state and federal government and receive funds for any purpose authorized by the legislature.

(e) Make necessary contracts incidental to the performance of its duties and the execution of its policies.

(f) Provide technical assistance to state and local agencies for the purposes of planning, program development, administration, and evaluation; and encourage, promote, and aid in the establishment of services for aging and older persons.

(g) Collect, analyze, and disseminate data concerning services which affect aging and older persons.

(h) Establish an educational and public information program to foster public understanding of the problems and opportunities of aging and older persons; provide information on programs available to assist older persons; and encourage the development of private and public community programs to improve the status of older persons.

(i) Evaluate the effect of federal and state statutes on aging and older persons and recommend to the governor and the legislature appropriate changes.

(j) Evaluate, in cooperation with appropriate state departments and agencies, the effectiveness of public and private policies which affect older persons in the state and which are funded by federal, state, local, and private resources, including services which provide a comprehensive and integrated system of health and social services which respond to individual needs.

(k) Supervise, monitor, assess, evaluate, and provide technical assistance to area agencies on aging, and other agencies receiving funds from the office, in meeting specified objectives.

(*l*) Make recommendations to the governor and the legislature on budget and grant requests for programs for aging and older persons.

(m) Participate in the development of the annual report of services that is required to be submitted to the department of health and human services under section 2004 of Title XX of the social security act, 42 U.S.C. 1397c, and provide recommendations to the governor on the components of the plan which relate to services

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to aging and older persons.

(n) Develop a comprehensive triennial state plan on aging with yearly updates regarding the priority needs of aging and older persons, as well as recommendations for future action. The office shall prepare an annual report to be submitted to the governor and the legislature by January 31 of each year. The annual report shall detail the progress of the office and the commission in implementing the triennial plan.

(o) Establish an appeals procedure, subject to approval by the commission, the applicability of which shall not be limited to denials of funding.

(p) Serve as a clearinghouse for the collection and distribution of information on aging and older persons.

(q) Establish demonstration programs for services to the aging and older persons in selected communities in the state. Particular emphasis shall be given to services designed to foster continued participation of older persons in family and community life and to prevent as nearly as possible unnecessary institutionalization of older persons. The programs shall be established to demonstrate and test their effectiveness, to stimulate continued support for them, and to create new services, using federal, state, local, or private funds and resources.

(r) Function as the state agency for voluntary services for, and provided by, older persons. The office shall do all of the following:

(*i*) Be designated as the state agency for coordination and development of foster grandparent and senior companion programs. The office is authorized: to receive and allocate funds from federal, state, and other sources for foster grandparent and senior companion programs; to negotiate waivers with the federal agency responsible for administering foster grandparent and senior companion programs and funds; and, in cases where federal foster grandparent and senior companion programs cannot be modified, to institute policies and rule variations with subprograms of foster grandparent and senior companion programs distinctly established through the use of state funds. Administrative agencies established before October 6, 1976, to develop and administer foster grandparent and senior companion programs are continued under this act pursuant to contracts initiated with the federal government. This subparagraph shall not be construed to prohibit the termination of a grantee for cause. Expansion of foster grandparent and senior companion programs shall be administered under existing programs where feasible. Other state and local governmental agencies serving children, youth, and mentally retarded persons in need of protective care and treatment in institutional and community settings shall cooperate with the office in the development and administration of voluntary services for, and provided by, aging and older persons. The office may negotiate with the federal administration to obtain the same nontaxable status for state funded foster grandparent and senior companion stipends as that given to participants in the federal program.

(*ii*) Be designated as the state agency for coordination and development of retired senior volunteer programs. The office is authorized: to receive and allocate funds from federal, state, and other sources for retired senior volunteer programs; to negotiate waiver of rules with the federal agency responsible for administering retired senior volunteer programs and funds; and, in cases where federal retired senior volunteer programs cannot be modified, to institute policies and rule variations with subprograms of retired senior volunteer programs distinctly established through the use of state funds. Administrative agencies established before October 1, 1978, to develop and administer retired senior volunteer programs are continued under this act pursuant to contracts initiated with the federal government. Nothing in this subparagraph shall be construed to prohibit the termination of a grantee for cause. Expansion of retired senior volunteer programs shall be administered under existing programs where feasible. Other state and local governmental agencies shall cooperate with the office in the development and administration of voluntary services for, and provided by, aging and older persons.

(s) Establish, evaluate, and improve opportunities for aging and older persons to provide volunteer services.

(t) Pursue and receive on behalf of the state any grant or gift and accept any grant or gift so that the title passes to the state. All grants and gifts shall be deposited with the state treasurer and used for the purposes set forth in the grant or the gift if the purposes are within the powers conferred on the office and the use is approved by the legislature. If the use is not approved, the grant or gift shall revert to the donor, or the donor's administrator or assigns.

(u) Train and assign staff who shall institute food delivery systems, inform older persons of the delivery systems, and train older persons to operate the food delivery systems. The office shall also do all of the following:

(*i*) Develop means to reduce the cost of food to older persons and increase the nutritional adequacy of food purchased and consumed.

(*ii*) Provide technical assistance to local clubs, groups, or organizations of older persons for the development of buying clubs, food cooperatives, or shopping assistance programs; provide education in

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purchase and preparation of foods; and encourage retail grocers to package raw food in meal-size portions.

(*iii*) Provide ongoing assistance until the individual projects become self-sufficient.

(*iv*) Coordinate and develop efforts in conjunction with those of other state or local public or private agencies such as the cooperative extension services, public health agencies, senior nutrition projects, the department of social services, the retail grocers association, the department of agriculture, and others considered appropriate by the office.

(*v*) Provide in its annual report to the governor and the legislature under subdivision (n), a report on the effect of the programs.

(*vi*) Provide trained personnel, technical assistance, and coordination with other state agencies.

(v) Function as the administrator of employment programs and related services for, and provided by, older persons. The office shall encourage the employment of older persons in government agencies and private organizations.

(w) Subject to Act No. 370 of the Public Acts of 1941, as amended, being sections 38.401 to 38.428 of the Michigan Compiled Laws, and the rules of the state civil service commission, ensure that preference is given to older persons in employment by the office and all recipients of funds from the office.

(x) Encourage the development of preretirement and postretirement programs for older persons.

(y) Develop, in consultation with the various components of the aging network, basic core needs assessment and evaluation instruments. The office shall provide technical assistance to aid local organizations in augmenting these core instruments.

(z) Provide adequate and effective opportunities for older persons to express their views on policy development and program implementation.

(aa) Establish a long-term care ombudsman program consisting of a state long-term care ombudsman and a system of local or regional ombudsman offices having the duties and powers described in section 6g. The local or regional ombudsman programs shall be funded through area agencies on aging.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1987, Act 35, Imd. Eff. May 27, 1987.

Popular name: Act 180

****** 400.586a THIS SECTION DOES NOT APPLY AFTER MARCH 29, 1988: See (3) of 400.586a ******

400.586a Older persons' shared housing program; establishment; duties of office; applicability of section.

Sec. 6a. (1) There is established an older persons' shared housing program to be administered by the office. The office may contract with private or public nonprofit agencies or local governmental agencies to establish shared housing for the older persons in local areas.

(2) In administering the older persons' shared housing program, the office shall do all of the following:

(a) Develop proposed model living arrangements in which 2 or more older persons share housing and the expenses of maintaining the housing.

(b) Develop 1 or more model shared housing agreements fixing the rights and responsibilities of older persons who share housing.

(c) Communicate with landlords and housing rental businesses to encourage shared rental housing for older persons.

(d) Locate older persons who could benefit from living in shared housing arrangements, and identify areas in the state that have the greatest need for shared housing for older persons.

(e) Match older persons with homeowners, renters, or landlords and with other older persons to create shared housing arrangements.

(f) Identify impediments to the development of shared housing for older persons, including impediments resulting from zoning laws and ordinances; building, housing, and fire safety laws and ordinances; and rules, policies, and practices of state and local agencies.

(3) This section shall not apply after 3 years from its effective date.

History: Add. 1984, Act 357, Eff. Mar. 29, 1985.

Popular name: Act 180

****** 400.586b THIS SECTION DOES NOT APPLY AFTER MARCH 29, 1987: See (2) of 400.586b ******

400.586b Report; applicability of section.

Sec. 6b. (1) Within 2 years after the effective date of this section, the office shall report to the house and senate committees having jurisdiction over legislation relating to older persons. The report shall include all of the following:

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(a) A summary of the proposed model living arrangements described in section 6a.

(b) The model shared housing agreements described in section 6a.

(c) An estimate of the number of older persons in the state, by county or other region, who would benefit from continuation of the older persons' shared housing program.

(d) A description of the shared housing arrangements and the number of older persons placed in those shared housing arrangements since the effective date of this section.

(e) A summary of the impediments to the development of shared housing for older persons identified pursuant to section 6a.

(2) This section shall not apply after 2 years from its effective date.

History: Add. 1984, Act 357, Eff. Mar. 29, 1985.

Popular name: Act 180

400.586c Volunteer service credit program.

Sec. 6c. (1) The office may establish a program in 1 or more counties under which an older person, or a person of any age who is a member of an organization that is exempt from taxation under section 501(c)(3) of the internal revenue code, 26 U.S.C. 501, may volunteer his or her time and services to an in-home service or volunteer agency that serves older persons and is approved by the office, and receive credit for providing volunteer respite services and other volunteer services. A volunteer shall not be credited with more than 10 hours of volunteer services for any week.

(2) A person who has earned volunteer service credit or a person who has had volunteer service credit designated to him or her and who needs to receive volunteer services, or whose spouse needs volunteer services, shall notify the office. If the office determines that the person needs volunteer services and is 60 years of age or older, or the person's spouse needs volunteer services and otherwise qualifies under this act, the office shall assist in arranging for the person or the person's spouse to receive those services from an in-home service or volunteer agency in the person's locality that participates in the service credit program. The receipt of volunteer services by a person who has earned volunteer service credit or who has had volunteer service credit designated to him or her shall not be based on financial need, but shall be based on the person's living situation and medical condition.

(3) In order to ensure the integrity of the service credit program, the office shall, to the extent possible, recruit and train a sufficient number of volunteers to assure their availability, on an emergency basis, to meet the needs of persons who have earned volunteer service credits under subsection (1) and who need to receive volunteer services. However, volunteer service credits have no cash value, and the state has no obligation to pay or reimburse any person for the value of his or her volunteer service credits under any circumstances.

History: Add. 1986, Act 247, Eff. Dec. 9, 1986;—Am. 1988, Act 235, Eff. Oct. 7, 1988.

Popular name: Act 180

400.586d-400.586f Repealed. 1988, Act 235, Eff. Apr. 1, 1990.

Compiler's note: The repealed sections pertained to computer-based volunteer skills bank, program sites, and grants to establish demonstration service credit programs.

Popular name: Act 180

400.586g State long-term care ombudsman; job qualifications; operation; duties; immunity from liability; rebuttable presumption.

Sec. 6g. (1) Job qualifications for the state long-term care ombudsman established pursuant to section 6(2)(aa) shall include, but not be limited to, experience in all of the following:

(*i*) The field of aging.

(*ii*) Health care.

(*iii*) Working with community programs.

(*iv*) Long-term care issues, both regulatory and policy.

(2) The state long-term care ombudsman may operate either directly or by contract with any public agency or other appropriate private nonprofit organization other than an agency or organization which is responsible for licensing or certifying long-term care facilities or which is an association of long-term care facilities.

(3) The state long-term care ombudsman shall do all of the following:

(a) Establish and implement confidential complaint, investigatory, informational, educational, and referral procedures and programs.

(b) Establish a statewide uniform reporting system to collect and analyze complaints about the health, safety, welfare, and rights of residents of long-term care facilities for the purpose of publicizing improvements and significant problems.

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(c) Assist in the development of and monitor the implementation of state and federal laws, rules, and regulations concerning the delivery of services to older persons.

(d) Annually report to the governor and legislature on the long-term care ombudsman program and make recommendations for improving the health, safety, welfare, and rights of residents of long-term care facilities.

(e) Recommend changes in state and federal law, rules, regulations, policies, guidelines, practices, and procedures to improve the health, safety, welfare, and rights of residents of long-term care facilities.

(f) Cooperate with persons and public or private agencies and undertake or participate in conferences, inquiries, meetings, or studies which may lead to improvements in the health, safety, welfare, and rights of residents and the functioning of long-term care facilities.

(g) Widely publicize the long-term care ombudsman program.

(h) Provide training for local and regional long-term care ombudsmen, which shall include, but not be limited to, familiarity with all of the following:

(*i*) Relevant state and federal regulatory and enforcement agencies.

(*ii*) The common characteristics, conditions, and treatments of long-term care residents.

(*iii*) Long-term care facility operations.

(*iv*) Long-term care facility licensing and certification requirements.

(*v*) Titles XVIII and XIX of the social security act, 42 U.S.C. 1395 to 1396s.

(*vi*) Interviewing, investigating, mediation, and negotiation skills.

(*vii*) Management of volunteer programs.

(i) Recommend that the attorney general institute actions for injunctive relief or civil damages relative to complaints.

(4) If acting in good faith and within the authority granted by this act, the state long-term care ombudsman is immune from any civil or criminal liability that otherwise might result by reason of taking, investigating, or pursuing a complaint under this section. For purposes of any civil or criminal proceeding, there is a rebuttable presumption that when acting under the authority of this act, the state long-term care ombudsman does so in good faith.

History: Add. 1987, Act 35, Imd. Eff. May 27, 1987.

Popular name: Act 180

400.586h Local or regional long-term care ombudsman programs; requirements.

Sec. 6h. The local or regional long-term care ombudsman programs established pursuant to section 6(2)(aa) shall do all of the following:

(a) Accept, investigate, verify, and work to resolve complaints, whether reported to or initiated by an ombudsman, relating to any action which may adversely affect the health, safety, welfare, and rights of a resident of a long-term care facility.

(b) Provide information about long-term care facilities, the rights of residents, sources of payment for care, and guidelines in selecting a long-term facility or other service to residents and the public.

(c) Make referrals to appropriate government and private agencies.

(d) Recruit, train, and supervise volunteers to assist ombudsmen in providing services.

(e) Educate residents and the public about abuse of long-term care residents and coordinate with licensing and enforcement agencies to assure appropriate investigation of abuse complaints and corrective actions.

(f) Assist in the development and work of resident councils when invited by residents or the long-term care facility. As used in this subdivision, “resident council” means a forum in which residents of long-term care facilities exercise their rights and communicate their views on the operations of a long-term care facility, the quality of care and life provided, and any other issue of interest to the council.

(g) Assist the state long-term care ombudsman in identifying needed regulatory changes in long-term care.

History: Add. 1987, Act 35, Imd. Eff. May 27, 1987.

Popular name: Act 180

400.586i State, local, or regional long-term care ombudsman and trained volunteers; access to long-term care facility; purpose; time; “access” defined.

Sec. 6i. The state long-term care ombudsman, the local or regional long-term care ombudsmen, and their trained volunteers shall be granted access to any long-term care facility for the purpose of carrying out section 6h of this act. For the state long-term care ombudsman and the local or regional long-term care ombudsmen, access shall be allowed each day from 8 a.m. to 8 p.m. For ombudsman trained volunteers, access shall be allowed to nursing homes during regular visiting hours each day as required by section 20201(3)(b) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20201 of the Michigan Compiled Laws. For ombudsman trained volunteers, access shall be allowed to homes for the aged, hospital

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long-term care units, and adult foster care homes each day from 11 a.m. to 7 p.m. As used in this section, "access" means the right to do all of the following:

(a) Enter any facility and identify himself or herself.

(b) Seek consent from a resident to communicate privately and without restriction with that resident.

(c) Communicate privately and without restrictions with any resident who consents to communication.

(d) Observe all resident areas of the facility except the living area of any resident who protests the observation.

History: Add. 1987, Act 35, Imd. Eff. May 27, 1987.

Popular name: Act 180

400.586j Retaliation or discrimination as misdemeanor; unlawful conduct; fine.

Sec. 6j. (1) A person who retaliates or discriminates against any of the following individuals due to that individual's registration of a complaint or assistance in the investigation of a complaint is guilty of a misdemeanor:

(a) An officer, employee, resident, or visitor to a long-term care facility.

(b) A family member or guardian of a resident in a long-term care facility.

(c) An ombudsman described by this act.

(d) A volunteer at a long-term care facility.

(2) A person who willfully does any of the following in connection with an ombudsman described by this act is subject to a fine of not more than $1,500.00:

(a) Hinders the work of an ombudsman or an ombudsman program.

(b) Refuses to comply with a lawful request of an ombudsman.

(c) Offers compensation or other promises to improperly influence the outcome of a matter being investigated by an ombudsman.

History: Add. 1987, Act 35, Imd. Eff. May 27, 1987.

Popular name: Act 180

400.586k Older persons' abuse prevention fund; establishment; administration; contributions; creation of older persons' abuse prevention project; duties of office; pilot programs; report; definition.

Sec. 6k. (1) There is established in the state treasury an older persons' abuse prevention fund, to be administered by the office. The fund shall consist of contributions of money from individuals, corporations, or other associations, and any money appropriated to the fund. No state general purpose or general fund money shall be appropriated to the fund.

(2) With the fund, the office shall create an older persons' abuse prevention project, for which the office shall do all of the following:

(a) Administer the older persons' abuse prevention fund for the purpose of implementing the older persons' abuse prevention project.

(b) Develop an older persons' abuse prevention program in cooperation with the department of social services, department of public health, department of mental health, department of state police, the office of substance abuse services, and representatives of local police agencies.

(c) Disseminate information about the aging process.

(d) Evaluate and approve proposals from community organizations for grants from the older persons' abuse prevention fund. Proposals may be submitted directly to the office or may be submitted to any area agency on aging, which shall forward the proposal to the office. A grant from the older persons' abuse prevention fund shall be for a purpose consistent with the older persons' abuse prevention program and shall be expended as determined by an interagency review panel, of which the director or the director's designee shall be the chairperson.

(3) If sufficient contributions have been made to the fund, the office shall develop and implement 2 pilot programs for purposes of this section. The pilot programs shall be established in cooperation with community organizations that provide services to older persons and that have adequate facilities, staff, and expertise to provide services for the prevention of the abuse of older persons. The pilot programs shall be implemented not later than 18 months after the effective date of this section. Not later than 2 years after the pilot programs are implemented, the office shall report to the legislature on the results of the pilot programs.

(4) As used in this section, "abuse of older persons" includes the following types of abuse involving an older person: physical abuse, emotional or social abuse, financial abuse, or environmental abuse.

History: Add. 1988, Act 235, Eff. Oct. 7, 1988.

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Popular name: Act 180

400.587 Office of services to the aging; interagency agreements.

Sec. 7. The office shall develop interagency agreements with departments or agencies providing services to older persons. The agreements shall specify methods of interagency planning and coordination of services. The agreements shall be renewed annually.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Popular name: Act 180

400.587a State advisory council on mental health and aging; establishment; administration and operation; membership, duties, and operation.

Sec. 7a. The state advisory council on mental health and aging is jointly established in, and shall be administered and operated jointly by, the office of services to the aging and the department of mental health. The membership, duties, and operation of the state advisory council on mental health and aging shall be as provided in section 941 of the mental health code, Act No. 258 of the Public Acts of 1974, being section 330.1941 of the Michigan Compiled Laws.

History: Add. 1988, Act 437, Imd. Eff. Dec. 27, 1988.

Popular name: Act 180

400.588 Conduct of commission business at public meeting; notice.

Sec. 8. (1) The business which the commission created pursuant to this act may perform shall be conducted at a public meeting of the commission held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission, the office, or by an area agency created pursuant to this act in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 180

400.589 Agency designated as area agency on aging; powers and duties; source and use of funds; advisory council.

Sec. 9. (1) An agency designated by the commission as an area agency on aging may be any of the following:

(a) An established office on aging located within the region to be served by an area agency on aging.

(b) An office or agency of a unit of local government that is designated for the purpose of serving as an area agency on aging by the chief elected official of that unit of government.

(c) An office or agency designated by the appropriate chief elected officials of a combination of units of local government.

(d) A public or nonprofit private agency, except a regional or local agency of the state, that is under the supervision or direction of the state agency.

(2) An area agency on aging designated by the commission is authorized to carry out the following duties and powers:

(a) Serve as an advocate for aging and older persons by representing their interests to public officials and public and private organizations within the planning and service area.

(b) Develop and administer an area plan for a comprehensive and coordinated service delivery system in the planning and service area, providing opportunities for older persons and service providers to express their views to the area agency on policy development and program implementation under the plan.

(c) Assess the kinds and levels of service needed by older persons in the planning and service area, and the effectiveness of other public and private programs serving those needs.

(d) Enter into subcontracts with local organizations for the direct provision of services to meet the priority needs of older persons identified in the plan.

(e) Coordinate and assist regional or local public and nonprofit agencies in the planning and development of programs to establish an areawide network of comprehensive, coordinated service and opportunities for

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older persons.

(f) Serve as an advocate for aging and older persons by assisting them in obtaining the benefits currently available under federal and state law and by representing their interests to public officials and public and private organizations within the planning and serving area.

(g) Receive information from the office and commission regarding legislation, regulation, and program and policy direction, and serve as the clearinghouse for dissemination of information from and to older persons and service providers within the planning and service area.

(h) Give priority in planning and administering services and programs to those older persons with the greatest economic and social need.

(i) Undertake other activities necessary to develop and administer the area plan in compliance with the policies, guidelines, or rules as set forth by federal or state statute and regulation, the commission, and the office.

(j) Provide adequate and effective opportunities for older persons to express their views on policy development and program implementation.

(3) An area agency on aging designated by the commission shall use funds distributed from the senior care respite fund created in section 9a to provide day care for older persons or other types of respite services for persons providing care to older persons. The area agency on aging may develop new programs or fund existing programs. Except where a waiver allowing direct service delivery is granted by the office, the area agency on aging shall award the distributed funds by grant or contract to community agencies and organizations for the provision of respite services. The area agency on aging may design respite programs to meet the needs of its constituents.

(4) Each area agency on aging shall have an advisory council, 1/2 of the membership of which shall be 60 years of age or older.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981;—Am. 1990, Act 171, Imd. Eff. July 2, 1990.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 180

400.589a Senior care respite fund; creation; administration; expenditures; money credited to fund; balances carried over.

Sec. 9a. (1) The senior care respite fund is created in the department of treasury. The fund shall be administered by the office and shall be expended only as provided in section 9b.

(2) The state treasurer shall credit to the fund all of the following:

(a) Money that descends to the state as an escheat pursuant to section 403a of the nonprofit health care corporation reform act, Act No. 350 of the Public Acts of 1980, being section 550.1403a of the Michigan Compiled Laws.

(b) Money received as a gift or donation to the fund.

(c) Money from any other source as provided by law.

(3) Any balances in the fund at the end of any fiscal year shall be carried over as a part of the fund and shall not revert to the general fund of the state.

History: Add. 1990, Act 171, Imd. Eff. July 2, 1990.

Popular name: Act 180

400.589b Senior care respite fund; distribution of money; administrative costs.

Sec. 9b. (1) The office shall annually distribute the money in the senior care respite fund to the area agencies on aging. Each area agency on aging shall receive a minimum of $25,000.00, or a proportionate part of that amount if sufficient money is not available, with all remaining money, if any, distributed according to a formula developed by the office pursuant to rules promulgated under the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, or according to the terms and conditions of the donor.

(2) Up to 1% of the fund may be used for administrative costs of the office for administering the senior care respite fund.

History: Add. 1990, Act 171, Imd. Eff. July 2, 1990.

Popular name: Act 180

400.590 Proposed state program concerned with providing services to older persons; review and approval of office; obtaining budget request relating to programs for older persons.

Sec. 10. A proposed state program concerned with providing services to older persons shall be submitted

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to, and coordinated with, the office, and an allotment of funds for that purpose shall not be recommended to the state administrative board without the review and approval of the office. The office shall obtain from the department of management and budget a copy of any budget request relating to programs for older persons.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Popular name: Act 180

400.591 Rules.

Sec. 11. The office, in consultation with, and with the approval of, the commission, shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, for the implementation and administration of this act. A draft of the proposed rules to implement this act shall be submitted to public hearing no later than 30 days following the effective date of this act.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 180

Administrative rules: R 400.20101 et seq. of the Michigan Administrative Code.

400.592 Review of functions, responsibilities, and performance of office and commission.

Sec. 12. A thorough review of the functions, responsibilities, and performance of the office and commission shall be completed every 5 years after the effective date of this act.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Compiler's note: For transfer of powers and duties of the office of services to the aging from the executive office of the governor to the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Popular name: Act 180

400.593 Transfer of equipment, records, and supplies to commission and office.

Sec. 13. The equipment, records, and supplies of the commission and office which are repealed pursuant to section 14 are transferred to the commission and office created by sections 3 and 5, respectively.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Popular name: Act 180

400.594 Repeal of MCL 400.541 to 400.553.

Sec. 14. Act No. 146 of the Public Acts of 1975, as amended, being sections 400.541 to 400.553 of the Compiled Laws of 1970, is repealed.

History: 1981, Act 180, Imd. Eff. Dec. 15, 1981.

Popular name: Act 180

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THE MEDICAID FALSE CLAIM ACT
Act 72 of 1977

AN ACT to prohibit fraud in the obtaining of benefits or payments in connection with the medical assistance program; to prohibit kickbacks or bribes in connection with the program; to prohibit conspiracies in obtaining benefits or payments; to authorize the attorney general to investigate alleged violations of this act; to provide for the appointment of investigators by the attorney general; to ratify prior appointments of attorney general investigators; to provide for civil actions to recover money received by reason of fraudulent conduct; to provide for receiverships of residential health care facilities; to prohibit retaliation; to provide for certain civil fines; and to prescribe remedies and penalties.

History: 1977, Act 72, Imd. Eff. July 27, 1977;—Am. 1982, Act 518, Imd. Eff. Dec. 31, 1982;—Am. 2005, Act 337, Imd. Eff. Jan. 3, 2006.

The People of the State of Michigan enact:

400.601 Short title.

Sec. 1. This act shall be known and may be cited as “the medicaid false claim act”.

History: 1977, Act 72, Imd. Eff. July 27, 1977.

400.602 Definitions.

Sec. 2. As used in this act:

(a) “Benefit” means the receipt of money, goods, or anything of pecuniary value.

(b) “Claim” means any attempt to cause the department of social services to pay out sums of money under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

(c) “Deceptive” means making a claim or causing a claim to be made under the social welfare act, Act No. 280 of the Public Acts of 1939, which contains a statement of fact or which fails to reveal a material fact, which statement or failure leads the department to believe the represented or suggested state of affair to be other than it actually is.

(d) “False” means wholly or partially untrue or deceptive.

(e) “Health facility or agency” means a health facility or agency, as defined in section 20106 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20106 of the Michigan Compiled Laws.

(f) “Knowing” and “knowingly” means that a person is in possession of facts under which he or she is aware or should be aware of the nature of his or her conduct and that his or her conduct is substantially certain to cause the payment of a medicaid benefit. Knowing or knowingly does not include conduct which is an error or mistake unless the person's course of conduct indicates a systematic or persistent tendency to cause inaccuracies to be present.

(g) “Medicaid benefit” means a benefit paid or payable under a program for medical assistance for the medically indigent in accordance with the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

(h) “Person” means an individual, corporation, association, partnership, or other legal entity.

History: 1977, Act 72, Imd. Eff. July 27, 1977;—Am. 1984, Act 333, Imd. Eff. Dec. 26, 1984.

400.603 Application for, or determining rights to, medicaid benefits; false statement or false representation of material facts; concealing or failing to disclose certain events; felony; penalty.

Sec. 3. (1) A person shall not knowingly make or cause to be made a false statement or false representation of a material fact in an application for medicaid benefits.

(2) A person shall not knowingly make or cause to be made a false statement or false representation of a material fact for use in determining rights to a medicaid benefit.

(3) A person, who having knowledge of the occurrence of an event affecting his initial or continued right to receive a medicaid benefit or the initial or continued right of any other person on whose behalf he has applied for or is receiving a benefit, shall not conceal or fail to disclose that event with intent to obtain a benefit to which the person or any other person is not entitled or in an amount greater than that to which the person or any other person is entitled.

(4) A person who violates this section is guilty of a felony, punishable by imprisonment of not more than 4 years, or a fine of not more than $50,000.00, or both.

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History: 1977, Act 72, Imd. Eff. July 27, 1977.

400.604 Furnishing of goods or services; kickbacks or bribes; payments or rebates for referrals; felony; penalty.

Sec. 4. A person who solicits, offers, or receives a kickback or bribe in connection with the furnishing of goods or services for which payment is or may be made in whole or in part pursuant to a program established under Act No. 280 of the Public Acts of 1939, as amended, who makes or receives the payment, or who receives a rebate of a fee or charge for referring an individual to another person for the furnishing of the goods and services is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than $30,000.00, or both.

History: 1977, Act 72, Imd. Eff. July 27, 1977.

400.605 Conditions or operation of institution or facility; false statement or false representation of material fact to qualify for certification or recertification; felony; penalty.

Sec. 5. (1) A person shall not knowingly and wilfully make, or induce or seek to induce the making of, a false statement or false representation of a material fact with respect to the conditions or operation of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled nursing facility, intermediate care facility, or home health agency.

(2) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than $30,000.00, or both.

History: 1977, Act 72, Imd. Eff. July 27, 1977.

400.606 Obtaining payment or allowance of false claim; felony; penalty.

Sec. 6. (1) A person shall not enter into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another to obtain the payment or allowance of a false claim under the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

(2) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 10 years, or by a fine of not more than $50,000.00, or both.

History: 1977, Act 72, Imd. Eff. July 27, 1977;—Am. 1984, Act 333, Imd. Eff. Dec. 26, 1984.

400.607 Making or presenting false claims; violations as separate offenses; liability of health facility or agency; violation as felony; penalty.

Sec. 7. (1) A person shall not make or present or cause to be made or presented to an employee or officer of this state a claim under the social welfare act, Act No. 280 of the Public Acts of 1939, as amended, being sections 400.1 to 400.121 of the Michigan Compiled Laws, upon or against the state, knowing the claim to be false.

(2) A person shall not make or present or cause to be made or presented a claim under the social welfare act, Act No. 280 of the Public Acts of 1939, which he or she knows falsely represents that the goods or services for which the claim is made were medically necessary in accordance with professionally accepted standards. Each claim violating this subsection shall constitute a separate offense. A health facility or agency shall not be liable under this subsection unless the health facility or agency, pursuant to a conspiracy, combination, or collusion with a physician or other provider, falsely represents the medical necessity of the particular goods or services for which the claim was made.

(3) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than $50,000.00, or both.

History: 1977, Act 72, Imd. Eff. July 27, 1977;—Am. 1984, Act 333, Imd. Eff. Dec. 26, 1984.

400.608 Prosecution; evidence; rebuttable presumptions.

Sec. 8. (1) In a prosecution under this act, it shall not be necessary to show that the person had knowledge of similar acts having been performed in the past by a person acting on his or her behalf, nor to show that the person had actual notice that the acts by the persons acting on his or her behalf occurred to establish the fact that a false statement or representation was knowingly made.

(2) It shall be a rebuttable presumption that a person knowingly made a claim for a medicaid benefit if the person's actual, facsimile, stamped, typewritten, or similar signature is used on the form required for the making of a claim for a medicaid benefit.

(3) If a claim for a medicaid benefit is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the person knowingly made the claim if the person has notified the

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department of social services in writing that claims for medicaid benefits will be submitted by use of computer billing tapes or other electronic means.

(4) In any civil or criminal action under this act, the official certificate of the director of social services or the director's delegate setting forth that documentary material or any compilation of documentary material is an authentic record or a compilation of the records of the medical assistance program under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws, shall create a rebuttable presumption that the record or compilation is authentic.

History: 1977, Act 72, Imd. Eff. July 27, 1977;—Am. 1984, Act 333, Imd. Eff. Dec. 26, 1984.

400.609 Persons convicted 3 or more times for offense and subsequently convicted of another offense; penalty.

Sec. 9. (1) A person who is convicted 3 or more times for an offense under this act and who is subsequently convicted of another offense under this act may be sentenced to imprisonment for a term of not more than 10 years. To be subject to punishment under this section, it is not necessary to establish that the person was indicted and convicted as a previous offender, but the increased punishment provided in this section shall be imposed in accordance with the procedure prescribed in section 13 of chapter 9 of Act No. 175 of the Public Acts of 1927, as amended, being section 769.13 of the Michigan Compiled Laws.

(2) Sentences imposed for a conviction of separate offenses under this act may run consecutively.

History: 1977, Act 72, Imd. Eff. July 27, 1977.

400.610 Investigation by attorney general or assistant attorney general; appointment and powers of investigators; ratification of appointments; written demand; noncompliance; action to enforce demand; service; order; confidentiality.

Sec. 10. (1) The attorney general or an assistant attorney general on behalf of the attorney general may conduct an investigation of an alleged violation of this act.

(2) For purposes of enforcing this act, the attorney general may appoint investigators who shall be peace officers and whose powers shall include, but not be limited to, the following:

(a) The power to execute and serve search warrants, arrest warrants, subpoenas, administrative warrants, and summonses issued under the authority of the state.

(b) The power to seize property pursuant to the laws of this state.

(c) Investigators appointed by the attorney general may exercise the powers provided in this subsection when working in conjunction with local law enforcement agencies or the department of state police.

(3) All appointments of attorney general investigators by the attorney general on and after January 1, 1979 as peace officers are hereby ratified.

(4) If the attorney general has reasonable cause to believe that a person has information or is in possession, custody, or control of any document or other tangible object relevant to an investigation for violation of this act, the attorney general may serve upon the person, before bringing any action, a written demand to appear and be examined under oath, and to produce the document or object for inspection and copying. The demand shall include all of the following:

(a) Be served upon the person in the manner required for service of process in this state.

(b) Describe the nature of the conduct constituting the violation under investigation.

(c) Describe the document or object with sufficient definiteness to permit it to be fairly identified.

(d) Contain a copy of any written interrogatories.

(e) Prescribe a reasonable time at which the person must appear to testify, within which to answer the written interrogatories, and within which the document or object must be produced, and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general, on or before that time.

(f) Specify a place for the taking of testimony or for production and designate the person who shall be custodian of the document or object.

(g) Contain a copy of subsection (5).

(5) If a person objects to or otherwise fails to comply with the written demand served upon him or her under subsection (4), the attorney general may file in the circuit court of the county in which the person resides or in which the person maintains a principal place of business within this state an action to enforce the demand. Notice of hearing the action and a copy of all pleadings shall be served upon the person, who may appear in opposition. If the court finds that the demand is proper, that there is reasonable cause to believe that there may have been or is presently occurring a violation of this act, and that the information sought or document or object demanded is relevant to the investigation, the court shall order the person to comply with the demand, subject to modification the court may prescribe. Upon motion by the person and for good cause

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shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense.

(6) Except as required by federal law, any procedure, testimony taken, or material produced shall be kept confidential by the attorney general before bringing an action against a person under this act for the violation under investigation, unless confidentiality is waived by the person being investigated and the person who has testified, answered interrogatories, or produced material, or disclosure is authorized by the court.

History: 1977, Act 72, Imd. Eff. July 27, 1977;—Am. 1982, Act 518, Imd. Eff. Dec. 31, 1982;—Am. 1984, Act 333, Imd. Eff. Dec. 26, 1984.

400.610a Civil action in name of state; initiation; complaint; intervention; pleadings; discovery; stay; alternative remedy; award; share of proceeds; court finding of frivolous claim; civil fine.

Sec. 10a. (1) Any person may bring a civil action in the name of this state under this section to recover losses that this state suffers from a violation of this act. A suit filed under this section shall not be dismissed unless the attorney general has been notified and had an opportunity to appear and oppose the dismissal. The attorney general waives the opportunity to oppose the dismissal if it is not exercised within 28 days of receiving notice.

(2) If a person other than the attorney general initiates an action under this section, the complaint shall remain under seal and the clerk shall not issue the summons for service on the defendant until after the time for the attorney general's election under subsection (3) expires. At the time of filing the complaint, the person shall serve a copy of the complaint on the attorney general and shall disclose, in writing, substantially all material evidence and information in the person's possession supporting the complaint to the attorney general.

(3) The attorney general may elect to intervene in an action under this section. Before the expiration of the later of 90 days after service of the complaint and related materials or any extension of the 90 days that is requested by the attorney general and granted by the court, the attorney general shall notify the court and the person initiating the action of 1 of the following:

(a) That the attorney general will proceed with the action for this state and have primary responsibility for proceeding with the action.

(b) That the attorney general declines to take over the action and the person initiating the action has the right to proceed with the action.

(4) If an action is filed under this section, a person other than the attorney general shall not intervene in the action or bring another action on behalf of this state based on the facts underlying the action.

(5) If the attorney general elects to proceed with the action under subsection (3) or (6), the attorney general has primary responsibility for prosecuting the action and may do all of the following:

(a) Agree to dismiss the action, notwithstanding the objection of the person initiating the action, but only if that person has been notified of and offered the opportunity to participate in a hearing on the motion to dismiss.

(b) Settle the action, notwithstanding the objection of the person initiating the action, but only if that person has been notified of and offered the opportunity to participate in a hearing on the settlement and if the court determines that the settlement is fair, adequate, and reasonable under the circumstances. Upon a showing of good cause, the settlement hearing may be held in camera.

(c) Request the court to limit the participation of the person initiating the action. If the attorney general demonstrates that unrestricted participation by the person initiating the action during the litigation would interfere with or unduly delay the attorney general's prosecution of the case or would be repetitious, irrelevant, or unduly harassing, the court may do any of the following:

(*i*) Limit the number of the person's witnesses.

(*ii*) Limit the length of the testimony of the person's witnesses.

(*iii*) Limit the person's cross-examination of witnesses.

(*iv*) Otherwise limit the person's participation in the litigation.

(6) If the attorney general notifies the court that he or she declines to take over the action under subsection (3), the person who initiated the action may proceed with the action. At the attorney general's request and expense, the attorney general shall be provided with copies of all pleadings filed in the action and copies of all deposition transcripts. Notwithstanding the attorney general's election not to take over the action, the court may permit the attorney general to intervene in the action at any time upon a showing of good cause and, subject to subsection (7), without affecting the rights or status of the person initiating the action.

(7) Upon a showing, conducted in camera, that actions of the person initiating the action during discovery would interfere with the attorney general's investigation or prosecution of a criminal or civil matter, the court may stay the discovery for not more than 90 days. The court may extend the stay upon a further showing that

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the attorney general is pursuing the investigation or proceeding with reasonable diligence and the discovery would interfere with the ongoing investigation or proceeding.

(8) As an alternative to an action permitted under this section, the attorney general may pursue a violation of this act through any alternate remedy available to this state, including an administrative proceeding. If the attorney general pursues an alternate remedy, a person who initiated an action under this section shall have equivalent rights in that proceeding to the rights that the person would have had if the action had continued under this section to the extent consistent with the law governing that proceeding. Findings of fact and conclusions of law that become final in an alternative proceeding shall be conclusive on the parties to an action under this section. For purposes of this subsection, a finding or conclusion is final if it has been finally determined on appeal to the appropriate court, if the time for filing an appeal with respect to the finding or conclusion has expired, or if the finding or conclusion is not subject to judicial review.

(9) Subject to subsections (10) and (11), if a person other than the attorney general prevails in an action that the person initiates under this section, the court shall award the person necessary expenses, costs, reasonable attorney fees, and, based on the amount of effort involved, the following percentage of the monetary proceeds resulting from the action or any settlement of the claim:

(a) If the attorney general intervenes, 15% to 25%.

(b) If the attorney general does not intervene, 25% to 30%.

(10) If the court finds an action under this section to be based primarily on disclosure of specific information that was not provided by the person bringing the action, such as information from a criminal, civil, or administrative hearing in a state or federal department or agency, a legislative report, hearing, audit, or investigation, or the news media, and the attorney general proceeds with the action, the court shall award the person bringing the action no more than 10% of the monetary recovery in addition to reasonable attorney fees, necessary expenses, and costs.

(11) If the court finds that the person bringing an action under this section planned, initiated, or participated in the conduct upon which the action is brought, then the court may reduce or eliminate, as it considers appropriate, the share of the proceeds of the action that the person would otherwise be entitled to receive. A person who is convicted of criminal conduct arising from a violation of this act shall not initiate or remain a party to an action under this section and is not entitled to share in the monetary proceeds resulting from the action or any settlement under this section.

(12) A person other than the attorney general shall not bring an action under this section that is based on allegations or transactions that are already the subject of a civil suit, a criminal investigation or prosecution, or an administrative investigation or proceeding to which this state or the federal government is already a party. The court shall dismiss an action brought in violation of this section.

(13) Unless the person is the original source of the information, a person, other than the attorney general, shall not initiate an action under this section based upon the public disclosure of allegations or transactions in a criminal, civil, or administrative hearing, in a state or federal legislative, investigative, or administrative report, hearing, audit, or investigation, or from the news media. The person is the original source if he or she had direct and independent knowledge of the information on which the allegations are based and voluntarily provided the information to the attorney general before filing an action based on that information under this section.

(14) This state and the attorney general are not liable for any expenses, costs, or attorney fees that a person incurs in bringing an action under this section. Any amount awarded to a person initiating an action to enforce this act is payable solely from the proceeds of the action or settlement.

(15) If a person proceeds with an action under this section after being notified that the attorney general has declined to intervene and the court finds that the claim was frivolous, as defined in section 2591 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2591, the court shall award the prevailing defendant actual and reasonable attorney fees and expenses and, in addition, shall impose a civil fine of not more than $10,000.00. The civil fine shall be deposited into the Michigan medicaid benefits trust fund established in section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

History: Add. 2005, Act 337, Imd. Eff. Jan. 3, 2006.

400.610b Recovery of costs by attorney general.

Sec. 10b. (1) The attorney general may recover all costs this state incurs in the litigation and recovery of medicaid restitution under this act, including the cost of investigation and attorney fees. The attorney general shall retain the amount received for activities under this act, excluding amounts for restitution, court costs, and fines, not to exceed the amount of this state's funding match for the medicaid fraud control unit.

(2) The attorney general shall not retain amounts under this section until all the restitution awarded in the proceeding has been paid.

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(3) Costs that the attorney general recovers in excess of the state's funding match for the medicaid fraud control unit shall be deposited in the Michigan medicaid benefits trust fund established in section 5 of the Michigan trust fund act, 2000 PA 489, MCL 12.255.

History: Add. 2005, Act 337, Imd. Eff. Jan. 3, 2006.

400.610c Employment action against employee initiating, assisting in, or participating in court action; prohibition; violation; liability of employer.

Sec. 10c. (1) An employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because the employee initiates, assists in, or participates in a proceeding or court action under this act or because the employee cooperates with or assists in an investigation under this act. This prohibition does not apply to an employment action against an employee who the court finds brought a frivolous claim, as defined in section 2591 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2591; the court finds to have planned, initiated, or participated in the conduct upon which the action is brought; or is convicted of criminal conduct arising from a violation of this act.

(2) An employer who violates this section is liable to the employee for all of the following:

(a) Reinstatement to the employee's position without loss of seniority.

(b) Two times the amount of lost back pay.

(c) Interest on the back pay.

(d) Compensation for any special damages.

(e) Any other relief necessary to make the employee whole.

History: Add. 2005, Act 337, Imd. Eff. Jan. 3, 2006.

400.611 Filing and prosecution of action; jurisdiction; service of process.

Sec. 11. (1) Except as provided in subsection (2), an action brought in connection with a medicaid matter under this act shall be filed in Ingham county and may be prosecuted to final judgment in satisfaction there.

(2) A person may bring a civil action under section 10a in any county in which venue is proper. If the attorney general elects to intervene under section 10a(3) or (6) and the court grants the request, upon motion by the attorney general, the court shall transfer the action to the circuit court in Ingham county.

(3) Process issued by a court in which an action is filed may be served anywhere in the state.

History: 1977, Act 72, Imd. Eff. July 27, 1977;—Am. 2005, Act 337, Imd. Eff. Jan. 3, 2006.

400.612 Civil penalty for receiving benefit by reason of fraud, making fraudulent statement, or knowingly concealing material fact; criminal action not required.

Sec. 12. (1) A person who receives a benefit which the person is not entitled to receive by reason of fraud or making a fraudulent statement or knowingly concealing a material fact shall forfeit and pay to the state a civil penalty equal to the full amount received plus triple the amount of damages suffered by the state as a result of the conduct by the person.

(2) A criminal action need not be brought against the person for that person to be civilly liable under this section.

History: 1977, Act 72, Imd. Eff. July 27, 1977.

400.613 Revocation of license of residential health care facility; petition for appointment of receiver; order; appointment, compensation, and powers and duties of receiver.

Sec. 13. (1) As a means of protecting the health, safety, and welfare of patients in a residential health care facility, including hospitals, nursing homes, and other institutions reimbursed for resident or patient care by the medical assistance program established by Act No. 280 of the Public Acts of 1939, as amended, if the license of a residential health care facility is revoked for violation of this act, the attorney general may file a petition with the circuit court for the county of Ingham or the circuit court in the county in which the residential health care facility is located for the appointment of a receiver.

(2) The circuit court shall issue an order to show cause why a receiver should not be appointed returnable within 5 days after the filing of the petition.

(3) If the court finds that the facts warrant the granting of the petition, the court shall appoint a receiver to take charge of the residential health care facility. The court may determine fair compensation for the receiver.

(4) A receiver appointed pursuant to this section shall have the powers and duties prescribed by the court not inconsistent with section 2926 of Act No. 236 of the Public Acts of 1961, being section 600.2926 of the Michigan Compiled Laws. The receiver may correct an act prohibited by this act or required under Act No. 280 of the Public Acts of 1939, as amended.

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History: 1977, Act 72, Imd. Eff. July 27, 1977.

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ADULT FOSTER CARE FACILITY LICENSING ACT
Act 218 of 1979

An act to provide for the licensing and regulation of adult foster care facilities; to provide for the establishment of standards of care for adult foster care facilities; to prescribe powers and duties of the department of social services and other departments; to prescribe certain fees; to prescribe penalties; and to repeal certain acts and parts of acts.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1992, Act 176, Imd. Eff. July 23, 1992.

The People of the State of Michigan enact:

400.701 Short title.

Sec. 1. This act shall be known and may be cited as the "adult foster care facility licensing act".

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of adult foster care licensing and child welfare licensing from the department of social services to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.702 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 to 7 have the meanings ascribed to them in those sections.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.703 Definitions; A.

Sec. 3. (1) "Adult" means:

(a) A person 18 years of age or older.

(b) A person who is placed in an adult foster care family home or an adult foster care small group home pursuant to section 5(6) or (8) of 1973 PA 116, MCL 722.115.

(2) "Adult foster care camp" or "adult camp" means an adult foster care facility with the approved capacity to receive more than 4 adults to be provided foster care. An adult foster care camp is a facility located in a natural or rural environment.

(3) "Adult foster care congregate facility" means an adult foster care facility with the approved capacity to receive more than 20 adults to be provided with foster care.

(4) "Adult foster care facility" means a governmental or nongovernmental establishment that provides foster care to adults. Subject to section 26a(1), adult foster care facility includes facilities and foster care family homes for adults who are aged, mentally ill, developmentally disabled, or physically disabled who require supervision on an ongoing basis but who do not require continuous nursing care. Adult foster care facility does not include any of the following:

(a) A nursing home licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(b) A home for the aged licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(c) A hospital licensed under article 17 of the public health code, 1978 PA 368, MCL 333.20101 to 333.22260.

(d) A hospital for the mentally ill or a facility for the developmentally disabled operated by the department of community health under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(e) A county infirmary operated by a county department of social services or family independence agency under section 55 of the social welfare act, 1939 PA 280, MCL 400.55.

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(f) A child caring institution, children's camp, foster family home, or foster family group home licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, if the number of residents who become 18 years of age while residing in the institution, camp, or home does not exceed the following:

(*i*) Two, if the total number of residents is 10 or fewer.

(*ii*) Three, if the total number of residents is not less than 11 and not more than 14.

(*iii*) Four, if the total number of residents is not less than 15 and not more than 20.

(*iv*) Five, if the total number of residents is 21 or more.

(g) A foster family home licensed or approved under 1973 PA 116, MCL 722.111 to 722.128, that has a person who is 18 years of age or older placed in the foster family home under section 5(7) of 1973 PA 116, MCL 722.115.

(h) An establishment commonly described as an alcohol or a substance abuse rehabilitation center, a residential facility for persons released from or assigned to adult correctional institutions, a maternity home, or a hotel or rooming house that does not provide or offer to provide foster care.

(i) A facility created by 1885 PA 152, MCL 36.1 to 36.12.

(5) “Adult foster care family home” means a private residence with the approved capacity to receive 6 or fewer adults to be provided with foster care for 5 or more days a week and for 2 or more consecutive weeks. The adult foster care family home licensee shall be a member of the household, and an occupant of the residence.

(6) “Adult foster care large group home” means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

(7) “Adult foster care small group home” means an adult foster care facility with the approved capacity to receive 12 or fewer adults to be provided with foster care.

(8) “Aged” means an adult whose chronological age is 60 years of age or older or whose biological age, as determined by a physician, is 60 years of age or older.

(9) “Assessment plan” means a written statement prepared in cooperation with a responsible agency or person that identifies the specific care and maintenance, services, and resident activities appropriate for each individual resident's physical and behavioral needs and well-being and the methods of providing the care and services taking into account the preferences and competency of the individual.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1981, Act 124, Imd. Eff. July 23, 1981;—Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984;—Am. 1984, Act 140, Imd. Eff. June 1, 1984;—Am. 1990, Act 262, Eff. Mar. 28, 1991;—Am. 1991, Act 161, Imd. Eff. Dec. 9, 1991;—Am. 1995, Act 82, Imd. Eff. June 15, 1995;—Am. 1996, Act 194, Eff. Aug. 1, 1996;—Am. 1998, Act 442, Imd. Eff. Dec. 30, 1998.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.704 Definitions; C to F.

Sec. 4. (1) “Council” means the adult foster care licensing advisory council created in section 8.

(2) “Department” means the family independence agency.

(3) “Developmental disability” means a disability as defined in section 500(h) of Act No. 258 of the Public Acts of 1974, being section 330.1500 of the Michigan Compiled Laws.

(4) “Director” means the director of the department.

(5) “Do-not-resuscitate order” means a document executed pursuant to section 3 of the Michigan do-not-resuscitate procedure act directing that, in the event a resident suffers cessation of both spontaneous respiration and circulation, no resuscitation will be initiated.

(6) “Foster care” means the provision of supervision, personal care, and protection in addition to room and board, for 24 hours a day, 5 or more days a week, and for 2 or more consecutive weeks for compensation.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1996, Act 194, Eff. Aug. 1, 1996.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.705 Definitions; G to N.

Sec. 5. (1) “Good moral character” means good moral character as defined in Act No. 381 of the Public

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Acts of 1974, being sections 338.41 to 338.47 of the Michigan Compiled Laws.

(2) “Licensed hospice program” means a health care program that provides a coordinated set of services rendered at home or in an outpatient or institutional setting for individuals suffering from a disease or condition with a terminal prognosis and that is licensed under article 17 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.20101 to 333.22260 of the Michigan Compiled Laws.

(3) “Licensee” means the agency, association, corporation, organization, person, or department or agency of the state, county, city, or other political subdivision, that has been issued a license to operate an adult foster care facility.

(4) “Mental illness” means a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(5) “New construction” means a newly constructed facility or a facility that has been completely renovated for use as an adult foster care facility.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984;—Am. 1996, Act 194, Eff. Aug. 1, 1996.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.706 Definitions; P to Q.

Sec. 6. (1) “Personal care” means personal assistance provided by a licensee or an agent or employee of a licensee to a resident who requires assistance with dressing, personal hygiene, grooming, maintenance of a medication schedule as directed and supervised by the resident's physician, or the development of those personal and social skills required to live in the least restrictive environment.

(2) “Physical disability” means a determinable physical characteristic of an individual that may result from disease, injury, congenital condition of birth, or functional disorder.

(3) “Physical plant” means the structure in which a facility is located and all physical appurtenances to the facility.

(4) “Protection”, subject to section 26a(2), means the continual responsibility of the licensee to take reasonable action to insure the health, safety, and well-being of a resident, including protection from physical harm, humiliation, intimidation, and social, moral, financial, and personal exploitation while on the premises, while under the supervision of the licensee or an agent or employee of the licensee, or when the resident's assessment plan states that the resident needs continuous supervision.

(5) “Provisional license” means a license issued to a facility that has previously been licensed under this act or an act repealed by this act but is temporarily unable to conform to the requirements of a regular license prescribed in this act or rules promulgated under this act.

(6) “Quality of care” means the foster care of residents of a facility and other similar items not related to the physical plant that address themselves to the general physical and mental health, welfare, and well-being of residents.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1996, Act 194, Eff. Aug. 1, 1996;—Am. 1998, Act 442, Imd. Eff. Dec. 30, 1998.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.707 Definitions; R to T.

Sec. 7. (1) “Regular license” means a license issued to an adult foster care facility which is in compliance with this act and the rules promulgated under this act.

(2) “Related” means any of the following relationships by marriage, blood, or adoption: spouse, child, parent, brother, sister, grandparent, aunt, uncle, stepparent, stepbrother, stepsister, or cousin.

(3) “Short-term operation” means an adult foster care facility which operates for a period of time less than 6 months within a calendar year.

(4) “Special license” means a license issued for the duration of the operation of an adult foster care facility if the licensee is a short-term operation.

(5) “Specialized program” means a program of services or treatment provided in an adult foster care facility licensed under this act that is designed to meet the unique programmatic needs of the residents of that home as set forth in the assessment plan for each resident and for which the facility receives special

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compensation.

(6) “Special compensation” means payment to an adult foster care facility to ensure the provision of a specialized program in addition to the basic payment for adult foster care. Special compensation does not include payment received by the adult foster care facility directly from the medicaid program for personal care services for a resident, or payment received under the supplemental security income program under title XVI of the social security act, 42 U.S.C. 1381 to 1383c.

(7) “Supervision” means guidance of a resident in the activities of daily living, including all of the following:

(a) Reminding a resident to maintain his or her medication schedule, as directed by the resident's physician.

(b) Reminding a resident of important activities to be carried out.

(c) Assisting a resident in keeping appointments.

(d) Being aware of a resident's general whereabouts even though the resident may travel independently about the community.

(8) “Temporary license” means a license issued to a facility which has not previously been licensed pursuant to this act or to former Act No. 287 of the Public Acts of 1972.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1986, Act 257, Eff. Mar. 31, 1987.

Compiler's note: Act 287 of 1972, referred to in this section, was repealed by Act 218 of 1979.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 400.2101 et seq. of the Michigan Administrative Code.

400.708 Adult foster care licensing advisory council; creation; appointment, qualifications, and terms of members; vacancy; compensation; schedule for reimbursement; content and enforcement of rules; conducting business at public meeting; availability of writings to public.

Sec. 8. (1) The adult foster care licensing advisory council is created within the department. The council shall consist of 11 members, appointed by the director. The director shall appoint at least 1 member of the council from appropriate state and local agencies, private or public organizations, adult foster care providers, and residents of adult foster care facilities or their representatives. In appointing the first members of the council, the director shall appoint 3 members for a term of 1 year, 4 for 2 years, and 4 for 3 years. After the initial appointment, members shall serve 3-year terms. A vacancy shall be filled for the remainder of the unexpired term in the same manner as original appointments are made.

(2) The per diem compensation of the council members and the schedule for reimbursement of travel and other expenses shall be pursuant to the compensation and schedules established by the legislature. The council shall meet not more than once each month. The council shall advise the department on the content of rules and their enforcement.

(3) The business which the council may perform shall be conducted at a public meeting of the council held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(4) Except as provided in section 12, a writing prepared, owned, used, in the possession of, or retained by the council in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of the adult foster care licensing advisory council from the department of social services to the director of the department of commerce, see E.R.O. No. 1996-1, compiled at MCL 330.3101 of the Michigan Compiled Laws.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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400.709 Administration of act; reports, procedures, inspections, and investigations; advice and technical assistance; consultations; cooperation with other agencies; education of public.

Sec. 9. (1) The department shall administer this act and shall require reports, establish procedures, make inspections, and conduct investigations pursuant to law to enforce the requirements of this act and the rules promulgated under this act.

(2) The department shall provide advice and technical assistance to facilities covered by this act to assist facilities in meeting the requirements of this act and the rules promulgated under this act. The department shall offer consultation, upon request, in developing methods for the improvement of service. The department shall cooperate with other state departments and agencies and local units of government in administering this act.

(3) The department shall provide education to the public regarding the requirements of this act through the ongoing use of mass media and other methods.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 400.11101 et seq. of the Michigan Administrative Code.

400.710 Rules; variance, modification, or change; purposes; restriction; review.

Sec. 10. (1) The department shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, in the areas provided under subsection (4).

(2) The bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, shall promulgate rules providing for adequate fire prevention and safety in an adult foster care facility licensed or proposed to be licensed for more than 6 adults. The rules shall be promulgated in cooperation with the department and the state fire safety board and shall provide for the protection of the health, safety, and welfare of the adults residing in a facility. The bureau of fire services shall promulgate the rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. A person may request a variance from the application of a rule promulgated pursuant to this subsection by application to the state fire marshal. The state fire marshal may make a variance upon a finding that the variance does not result in a hazard to life or property. The finding shall be transmitted to the person requesting the variance and shall be entered into the records of the bureau of fire services. If the variance requested concerns a building, the finding shall also be transmitted to the governing body of the city, village, or township in which the building is located. The entire state fire safety board shall act as a hearing body in accordance with the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to review and render decisions on a ruling of the state fire marshal interpreting or applying these rules. After a hearing, the state fire safety board may modify the ruling or interpretation of the state fire marshal if the enforcement of the ruling or interpretation would do manifest injustice and would be contrary to the spirit and purpose of the rules or the public interest. A decision of the state fire safety board to modify or change a ruling of the state fire marshal, shall specify in what manner the modification or change is made, the conditions upon which it is made, and the reasons for the modification or change.

(3) The department of human services shall promulgate rules for the certification of specialized programs offered in an adult foster care facility to a mentally ill or developmentally disabled resident. The rules shall include provision for an appeal of a denial or limitation of the terms of certification to the department pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

(4) The rules promulgated by the department under this act shall be restricted to the following:

(a) The operation and conduct of adult foster care facilities.

(b) The character, suitability, training, and qualifications of applicants and other persons directly responsible for the care and welfare of adults served.

(c) The general financial ability and competence of applicants to provide necessary care for adults and to maintain prescribed standards.

(d) The number of individuals or staff required to ensure adequate supervision and care of the adults served.

(e) The appropriateness, safety, cleanliness, and general adequacy of the premises, including maintenance of adequate health standards to provide for the physical comfort, care, protection, and well-being of the adults

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received and maintenance of adequate fire protection for adult foster care facilities licensed to receive 6 or fewer adults. Rules promulgated in the areas provided by this subdivision shall be promulgated in cooperation with the state fire safety board.

(f) Provisions for food, clothing, educational opportunities, equipment, and individual supplies to assure the healthy physical, emotional, and mental development of adults served.

(g) The type of programs and services necessary to provide appropriate care to each resident admitted.

(h) Provisions to safeguard the rights of adults served, including cooperation with rights protection systems established by law.

(i) Provisions to prescribe the rights of licensees.

(j) Maintenance of records pertaining to admission, progress, health, and discharge of adults. The rules promulgated under this subdivision shall include a method by which a licensee promptly shall notify the appropriate placement agency or responsible agent of any indication that a resident's assessment plan is not appropriate for that resident.

(k) Filing of reports with the department.

(*l*) Transportation safety.

(5) The rules shall be reviewed by the council not less than once every 5 years.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1986, Act 257, Eff. Mar. 31, 1987;—Am. 2006, Act 201, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 400.1401 et seq.; R 400.1601 et seq.; R 400.2101 et seq.; R 400.11101 et seq.; and R 400.16001 of the Michigan Administrative Code.

400.711 Inspections; visitations; administration and enforcement of rules; reports; final determination as to license; public inspection of reports.

Sec. 11. (1) The director, the director's agent, or personnel of another department or agency, acting at the request of the director, may enter upon the premises of an applicant or licensee at a reasonable time to make inspections, as permitted by applicable law, to determine whether the applicant or licensee is complying with this act and the rules promulgated under this act. On-site inspections may be conducted without prior notice to the adult foster care facility. A health and sanitation inspection of an adult foster care facility shall be conducted upon the request of the department by 1 of the following:

(a) Department staff.

(b) The department of community health.

(c) A local health department.

(2) The department of community health, the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or local authorities, in carrying out this act, may visit an adult foster care facility more often than annually to advise in matters affecting health or fire protection. Inspections shall be made as permitted by law.

(3) An adult foster care facility shall be inspected for fire safety by 1 of the following:

(a) Department staff, if the facility is licensed or proposed to be licensed for 6 or fewer adults. The department may request that a fire safety inspection be performed by or at the direction of the bureau of fire services, for a facility licensed or proposed to be licensed for 6 or fewer adults, if such an inspection would result in the efficient administration of this act.

(b) The bureau of fire services or the designated representative of the bureau of fire services, if the facility is licensed or proposed to be licensed for more than 6 adults. The bureau of fire services shall inspect or have inspected for fire safety an adult foster care facility licensed or proposed to be licensed for 6 or fewer adults upon request by the department. The bureau of fire services may contract with the fire marshal of a city having a population of not less than 1,000,000 to inspect adult foster care facilities licensed or proposed to be licensed for more than 6 adults if the facility is located within that city. The fire marshal of a city shall conduct an inspection in compliance with procedures established and on forms provided by the bureau of fire services.

(4) Except as provided in subsection (3)(b) and section 10(2), the inspector shall administer and enforce the rules promulgated by the department.

(5) Upon receipt of a request from an adult foster care facility for certification of a specialized program for developmentally disabled or mentally ill adults, the department of human services shall inspect the facility to determine whether the proposed specialized program conforms with the requirements of applicable law and

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rules. The department of human services shall provide the department with an inspection report and a certification, denial of certification, or certification with limited terms for the proposed specialized program. The department of human services shall reinspect a certified specialized program not less than once biennially. In carrying out this subsection, the department of human services may contract with a county community mental health board or any other agency for services.

(6) Inspection reports required by this section shall be furnished to the department and shall be used in the evaluation for licensing of an adult foster care facility. The department shall consider the reports carefully and may make special consultations if necessary. The department shall be responsible for the final determination of the issuance, denial, or revocation and the temporary or provisional nature of a license issued to an adult foster care facility. A report of the department's findings shall be furnished to the licensee or applicant.

(7) The inspection reports required by this section shall be available for public inspection during reasonable business hours.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1986, Act 257, Eff. Mar. 31, 1987;—Am. 1992, Act 176, Imd. Eff. July 23, 1992;—Am. 2006, Act 201, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of the fire marshal division programs relating to plan review and construction inspections of schools, colleges, universities, school dormitories, as well as adult foster care, correctional, and health care facilities, from the department of state police to the department of consumer and industry services, see E.R.O. No. 1997-2, compiled at MCL 29.451 of the Michigan Compiled Laws.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 400.1401 et seq.; R 400.1601 et seq.; R 400.2101 et seq.; and R 400.11101 et seq. of the Michigan Administrative Code.

400.712 Keeping and maintaining records and reports; examination and copying of books, records, and reports; confidentiality; inspection of records by resident.

Sec. 12. (1) The department may prescribe appropriate records to be kept and maintained regarding each adult received by a licensee and may require reports, upon forms furnished or approved by the department, setting forth facts or circumstances related to the care of adults received by the licensee.

(2) The department may examine the books, records, and reports of a facility. Members of the department shall be provided reasonable facilities for the thorough examination and copying of the books, records, and reports of the facility.

(3) The records of the residents of a facility which are required to be kept by the facility under this act or rules promulgated under this act shall be confidential and properly safeguarded. These materials shall be open only to the inspection of the director, an agent of the director, another executive department of the state pursuant to a contract between that department and the facility, a party to a contested case involving the facility, or on the order of a court or tribunal of competent jurisdiction. The records of a resident of a facility which are required to be kept by the facility under this act or rules promulgated under this act shall be open to inspection by the resident, unless medically contraindicated, or the guardian of a resident.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1986, Act 257, Eff. Mar. 31, 1987.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

Administrative rules: R 400.1401 et seq.; R 400.2101 et seq.; and R 400.11101 et seq. of the Michigan Administrative Code.

400.713 License required; application; form; investigation; on-site evaluation; issuance or renewal of license; disclosures; maximum number of persons; stating type of specialized program; issuance of license to specific person at specific location; transferability of license; sale of facility; notice; items of noncompliance; refusal by department to issue or renew license; conditions; unlicensed facility; violation as misdemeanor; penalty; receipt of completed application; issuance of license within certain time period; inspections; report; “completed application” defined.

Sec. 13. (1) A person, partnership, corporation, association, or a department or agency of the state, county, city, or other political subdivision shall not establish or maintain an adult foster care facility unless licensed

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by the department.

(2) Application for a license shall be made on forms provided and in the manner prescribed by the department. The application shall be accompanied by the fee prescribed in section 13a.

(3) Before issuing or renewing a license, the department shall investigate the activities and standards of care of the applicant and shall make an on-site evaluation of the facility. On-site inspections conducted in response to the application may be conducted without prior notice to the applicant. Subject to subsections (9), (10), and (11), the department shall issue or renew a license if satisfied as to all of the following:

(a) The financial stability of the facility.

(b) The applicant's compliance with this act and rules promulgated under this act.

(c) The good moral character of the applicant, or owners, partners, or directors of the facility, if other than an individual. Each of these persons shall be not less than 18 years of age.

(d) The physical and emotional ability of the applicant, and the person responsible for the daily operation of the facility to operate an adult foster care facility.

(e) The good moral character of the person responsible for the daily operations of the facility and all employees of the facility. The applicant shall be responsible for assessing the good moral character of the employees of the facility. The person responsible for the daily operation of the facility shall be not less than 18 years of age.

(4) The department shall require an applicant or a licensee to disclose the names, addresses, and official positions of all persons who have an ownership interest in the adult foster care facility. If the adult foster care facility is located on or in real estate that is leased, the applicant or licensee shall disclose the name of the lessor of the real estate and any direct or indirect interest that the applicant or licensee has in the lease other than as lessee.

(5) Each license shall state the maximum number of persons to be received for foster care at 1 time.

(6) If applicable, a license shall state the type of specialized program for which certification has been received from the department.

(7) A license shall be issued to a specific person for a facility at a specific location, is nontransferable, and remains the property of the department. The prohibition against transfer of a license to another location does not apply if a licensee's adult foster care facility or home is closed as a result of eminent domain proceedings, if the facility or home, as relocated, otherwise meets the requirements of this act and the rules promulgated under this act.

(8) An applicant or licensee proposing a sale of an adult foster care facility or home to another owner shall provide the department with advance notice of the proposed sale in writing. The applicant or licensee and other parties to the sale shall arrange to meet with specified department representatives and shall obtain before the sale a determination of the items of noncompliance with applicable law and rules that shall be corrected. The department shall notify the respective parties of the items of noncompliance before the change of ownership, shall indicate that the items of noncompliance shall be corrected as a condition of issuance of a license to the new owner, and shall notify the prospective purchaser of all licensure requirements.

(9) The department shall not issue a license to or renew the license of a person who has been convicted of a felony under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r. The department shall not issue a license to or renew the license of a person who has been convicted of a misdemeanor under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, for a period of 10 years after the conviction.

(10) If the department has revoked, suspended, or refused to renew a person's license for an adult foster care facility according to section 22, the department may refuse to issue a license to or renew a license of that person for a period of 5 years after the suspension, revocation, or nonrenewal of the license.

(11) The department may refuse to issue a license to or renew the license of an applicant if the department determines that the applicant has a relationship with a former licensee whose license under this act has been suspended, revoked, or nonrenewed under subsection (9) or section 22 or a convicted person to whom a license has been denied under subsection (9). This subsection applies for 5 years after the suspension, revocation, or nonrenewal of the former licensee's license or the denial of the convicted person's license. For purposes of this subsection, an applicant has a relationship with a former licensee or convicted person if the former licensee or convicted person is involved with the facility in 1 or more of the following ways:

(a) Participates in the administration or operation of the facility.

(b) Has a financial interest in the operation of the facility.

(c) Provides care to residents of the facility.

(d) Has contact with residents or staff on the premises of the facility.

(e) Is employed by the facility.

(f) Resides in the facility.

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(12) If the department determines that an unlicensed facility is an adult foster care facility, the department shall notify the owner or operator of the facility that it is required to be licensed under this act. A person receiving the notification required under this section who does not apply for a license within 30 days is subject to the penalties described in subsection (13).

(13) Subject to subsection (12), a person who violates subsection (1) is guilty of a misdemeanor, punishable by imprisonment for not more than 2 years or a fine of not more than $50,000.00, or both. A person who has been convicted of a violation of subsection (1) who commits a second or subsequent violation is guilty of a felony, punishable by imprisonment for not more than 5 years or a fine of not more than $75,000.00, or both.

(14) Beginning the effective date of the amendatory act that added this subsection, the department shall issue an initial or renewal license not later than 6 months after the applicant files a completed application. Receipt of the application is considered the date the application is received by any agency or department of this state. If the application is considered incomplete by the department, the department shall notify the applicant in writing or make notice electronically available within 30 days after receipt of the incomplete application, describing the deficiency and requesting additional information. If the department identifies a deficiency or requires the fulfillment of a corrective action plan, the 6-month period is tolled until either of the following occurs:

(a) Upon notification by the department of a deficiency, until the date the requested information is received by the department.

(b) Upon notification by the department that a corrective action plan is required, until the date the department determines the requirements of the corrective action plan have been met.

(15) The determination of the completeness of an application does not operate as an approval of the application for the license and does not confer eligibility of an applicant determined otherwise ineligible for issuance of a license.

(16) If the department fails to issue or deny a license within the time required by this section, the department shall return the license fee and shall reduce the license fee for the applicant's next renewal application, if any, by 15%. Failure to issue or deny a license within the time period required under this section does not allow the department to otherwise delay processing an application. The completed application shall be placed in sequence with other completed applications received at that same time. The department shall not discriminate against an applicant in the processing of an application based on the fact that the application fee was refunded or discounted under this subsection.

(17) If, on a continual basis, inspections performed by a local health department delay the department in issuing or denying licenses under this act within the 6-month period, the department may use department staff to complete the inspections instead of the local health department causing the delays.

(18) Beginning October 1, 2005, the director of the department shall submit a report by December 1 of each year to the standing committees and appropriations subcommittees of the senate and house of representatives concerned with human services issues. The director shall include all of the following information in the report concerning the preceding fiscal year:

(a) The number of initial and renewal applications the department received and completed within the 6-month time period described in subsection (14).

(b) The number of applications requiring a request for additional information.

(c) The number of applications rejected.

(d) The number of licenses not issued within the 6-month period.

(e) The average processing time for initial and renewal licenses granted after the 6-month period.

(19) As used in this section, “completed application” means an application complete on its face and submitted with any applicable licensing fees as well as any other information, records, approval, security, or similar item required by law or rule from a local unit of government, a federal agency, or a private entity but not from another department or agency of this state. Beginning October 1, 2005, a completed application does not include a health inspection performed by a local health department.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984;—Am. 1986, Act 257, Eff. Mar. 31, 1987;—Am. 1992, Act 176, Imd. Eff. July 23, 1992;—Am. 1994, Act 150, Imd. Eff. June 7, 1994;—Am. 2004, Act 59, Eff. Aug. 1, 2004;—Am. 2004, Act 281, Imd. Eff. July 23, 2004.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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Administrative rules: R 400.1401 et seq.; R 400.2101 et seq.; and R 400.11101 et seq. of the Michigan Administrative Code.

400.713a Fees.

Sec. 13a. (1) Application fees for an individual, partnership, firm, corporation, association, governmental organization, or nongovernmental organization licensed or seeking licensure under this act are as follows:

(a) Application fee for a temporary license:

(*i*)	Family home	$ 65.00
(*ii*)	Small group home (1-6)	105.00
(*iii*)	Small group home (7-12)	135.00
(*iv*)	Large group home	170.00
(*v*)	Congregate facility	220.00
(*vi*)	Camp	40.00

(b) Application fee for subsequent licenses:

(*i*)	Family home	$ 25.00
(*ii*)	Small group home (1-6)	25.00
(*iii*)	Small group home (7-12)	60.00
(*iv*)	Large group home	100.00
(*v*)	Congregate facility	150.00
(*vi*)	Camp	25.00

(2) Fees collected under this act shall be credited to the general fund of the state to be appropriated by the legislature to the department for the enforcement of this act.

(3) The department shall use a portion of the fees collected to inspect new adult foster care facilities for fiscal year 1991-1992.

History: Add. 1992, Act 176, Imd. Eff. July 23, 1992;—Am. 2004, Act 285, Imd. Eff. July 23, 2004.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.714 Temporary license; issuance of regular license or provisional license; refusal to issue license; temporary license nonrenewable; plan of correction.

Sec. 14. (1) A temporary license shall be issued to an adult foster care facility for the first 6 months of operation if the adult foster care facility has not previously been licensed as an adult foster care facility. At the end of the first 6 months of operation, the department shall issue a regular license, issue a provisional license, or refuse to issue a license in the manner provided for in section 22. A temporary license shall not be renewed.

(2) Before issuing a temporary license, the department may require an adult foster care facility to submit to the department an acceptable plan of correction for the adult foster care facility. The adult foster care facility shall implement the plan of correction within the time limitations of the temporary license period.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.715 Temporary license; adult foster care congregate facility.

Sec. 15. (1) The department shall not issue a temporary license to an adult foster care congregate facility, except a facility which is to replace an adult foster care congregate facility licensed on March 27, 1984 and is a new construction; satisfies all applicable state construction code requirements and the fire safety requirements prescribed by section 20; and the bed capacity does not exceed that of the licensed facility which it replaces.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II

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transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.716 Temporary license; prohibitions.

Sec. 16. (1) Unless the city, village, or township approves a temporary license, a temporary license shall not be granted under this act if the issuance of the license would substantially contribute to an excessive concentration of community residential facilities within a city, village, or township of this state.

(2) A temporary license shall not be granted under this act if the proposed adult foster care facility for more than 6 adults has not obtained zoning approval or obtained a special or conditional use permit if required by an ordinance of the city, village, or township in which the proposed facility is located.

(3) The department shall not issue a temporary license to an adult foster care facility which does not comply with section 16a of Act No. 183 of the Public Acts of 1943, as amended, being section 125.216a of the Michigan Compiled Laws, section 16a of Act No. 184 of the Public Acts of 1943, as amended, being section 125.286a of the Michigan Compiled Laws, and section 3b of Act No. 207 of the Public Acts of 1921, as amended, being section 125.583b of the Michigan Compiled Laws.

(4) This section shall not apply to an applicant who has purchased a facility and the facility, at the time of the purchase, or for 1 year preceding the application, was licensed under this act or an act repealed by this act.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.717 Provisional license.

Sec. 17. (1) A provisional license may be issued to an adult foster care facility that has previously held a temporary or regular license under this act or an act repealed by this act. A provisional license may be issued for 6 months if an adult foster care facility is temporarily unable to conform to the requirements of this act for a regular license and may be renewed not more than 2 consecutive times as provided in subsections (2) and (4). The issuance of a provisional license shall be contingent upon the submission to the department of an acceptable plan of correction for the adult foster care facility within the time limitations of the provisional period.

(2) If the provisional license is issued for deficiencies in the physical plant of the adult foster care facility, the provisional license may be renewed for not more than 2 consecutive 6-month terms for the same physical plant deficiencies.

(3) If the provisional license is issued for deficiencies in the quality of care provided in the adult foster care facility, the provisional license is not renewable. If the quality of care deficiencies are corrected and intervening deficiencies of any kind are not incurred, a regular license shall be issued.

(4) If a provisional license has been issued because of deficiencies in both the quality of care and the physical plant of the adult foster care facility, the provisional license may be renewed under subsection (2) if the quality of care deficiencies have been corrected.

(5) The department shall notify the applicant of the reasons for issuing a provisional license and shall designate whether the deficiencies are physical plant deficiencies or quality of care deficiencies.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1992, Act 176, Imd. Eff. July 23, 1992.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.718 Special license; rules.

Sec. 18. (1) A special license may be issued for the duration of the operation of an adult foster care facility if the applicant is a short-term operation.

(2) The department may promulgate rules regulating the issuance and duration of special licenses.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.719 Regular license; issuance; validity; application for temporary license; subsection (4) applicable to previously licensed facilities.

Sec. 19. (1) A regular license shall be issued to an adult foster care facility which is in compliance with the requirements of this act and rules promulgated under this act for issuance of a regular license.

(2) A regular license for all adult foster care facilities except adult foster care camps is valid for 2 years after the date of issuance unless revoked as authorized by section 22 or modified to a provisional status based on evidence of noncompliance with this act or the rules promulgated under this act. The license shall be renewed biennially on application and approval.

(3) A regular license for an adult foster care camp is effective for the specific dates of operation not to exceed a 12-month period unless revoked as authorized by section 22 or modified to a provisional status based on evidence of noncompliance with this act or the rules promulgated under this act. The license shall be renewed annually on application and approval.

(4) Any increase beyond 6 in the number of persons to be received for foster care at 1 time in a small group home requires application for a temporary license pursuant to sections 14 and 16. This subsection applies to facilities that have been previously licensed.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1986, Act 257, Eff. Mar. 31, 1987;—Am. 1992, Act 176, Imd. Eff. July 23, 1992.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.720 Certificate of approval from bureau of fire services and department of human services; compliance; denial or certification with limitations; hearing.

Sec. 20. (1) The department shall not issue a temporary, provisional, or regular license to an adult foster care facility with a capacity of more than 6 adults until the facility receives a certificate of approval from the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, after compliance with fire safety standards prescribed in rules promulgated by the bureau of fire services pursuant to section 10(2).

(2) The department shall not issue a license to an adult foster care facility indicating approval to operate a specialized program for developmentally disabled adults or mentally ill adults until the facility receives a certificate of approval as required under section 11(5).

(3) A licensee or applicant who is denied a certificate of approval by the bureau of fire services or who is denied or certified with limitations for a specialized program by the department of human services may request a hearing. The hearing shall be conducted by the state fire safety board or the department of human services, as applicable, pursuant to chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1986, Act 257, Eff. Mar. 31, 1987;—Am. 2006, Act 201, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.721 Facility licensed on March 27, 1980; compliance with fire safety standards; section inapplicable to installation of smoke and heat detection equipment.

Sec. 21. (1) Except as provided in subsection (2), an adult foster care facility licensed on March 27, 1980 shall be considered to be in compliance with the fire safety standards prescribed in rules promulgated under this act if the facility meets the fire safety standards prescribed in rules promulgated under former Act No. 287 of the Public Acts of 1972 which were in effect on March 27, 1980.

(2) This section does not apply to the installation of smoke and heat detection equipment as required by rules promulgated pursuant to this act.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1986, Act 257, Eff. Mar. 31, 1987.

Compiler's note: Act 287 of 1972, referred to in this section, was repealed by Act 218 of 1979.

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.722 Denying, suspending, revoking, refusing to renew, or modifying license; grounds; notice; hearing; decision; protest; receiving or maintaining adults requiring foster care as felony; penalty; relocation services; emergency license.

Sec. 22. (1) The department may deny, suspend, revoke, or refuse to renew a license, or modify a regular license to a provisional license, if the licensee falsifies information on the application for license or willfully and substantially violates this act, the rules promulgated under this act, or the terms of the license.

(2) The department may suspend, revoke, or modify a license of an applicant if the department determines that the applicant has a relationship with a former licensee whose license under this act has been suspended, revoked, or nonrenewed under this section or section 13(9) or a convicted person to whom a license has been denied under section 13(9). This subsection applies for 10 years after the suspension, revocation, or nonrenewal of the former licensee's license or the denial of the convicted person's license. As used in this subsection, an applicant has a relationship with a former licensee or convicted person if the former licensee or convicted person is involved with the facility in 1 or more of the following ways:

(a) Participates in the administration or operation of the facility.

(b) Has a financial interest in the operation of the facility.

(c) Provides care to residents of the facility.

(d) Has contact with residents or staff on the premises of the facility.

(e) Is employed by the facility.

(f) Resides in the facility.

(3) A license shall not be denied, suspended, or revoked, a renewal shall not be refused, and a regular license shall not be modified to a provisional license unless the department gives the licensee or applicant written notice of the grounds of the proposed denial, revocation, refusal to renew, or modification. If the licensee or applicant appeals the denial, revocation, refusal to renew, or modification by filing a written appeal with the director within 30 days after receipt of the written notice, the director or the director's designated representative shall conduct a hearing at which the licensee or applicant may present testimony and confront witnesses. Notice of the hearing shall be given to the licensee or applicant by personal service or delivery to the proper address by registered mail not less than 2 weeks before the date of the hearing. The decision of the director shall be made and forwarded to the protesting party by registered mail not more than 30 days after the hearing. If the proposed denial, revocation, refusal to renew, or modification is not protested within 30 days, the license shall be denied, revoked, refused, or modified.

(4) If the department has revoked, suspended, or refused to renew a license, the former licensee shall not receive or maintain in that facility an adult who requires foster care. A person who violates this subsection is guilty of a felony, punishable by imprisonment for not more than 5 years or a fine of not more than $75,000.00, or both.

(5) If the department has revoked, suspended, or refused to renew a license, relocation services shall be provided to adults who were being served by the formerly licensed facility, upon the department's determination that the adult or his or her designated representative is unable to relocate the adult in another facility without assistance. The relocation services shall be provided by the responsible agency, as defined in administrative rules, or, if the adult has no agency designated as responsible, by the department.

(6) In the case of facilities that are operated under lease with a state department or a community mental health services board, the department may issue an emergency license for a 90-day period to avoid relocation of residents following the revocation, suspension, or nonrenewal of a license, if all of the following requirements are met:

(a) The leased physical plant is in substantial compliance with all licensing requirements.

(b) The applicant for the emergency license is a licensee who is in compliance with all applicable regulations under this act and under contract with a state department or a community mental health services board to operate the leased physical plant temporarily.

(c) The former licensee's access to the facility according to a lease, sublease, or contract has been lawfully terminated by the owner or lessee of the facility.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1990, Act 262, Eff. Mar. 28, 1991;—Am. 1994, Act 150, Imd. Eff. June 7, 1994;—Am. 2004, Act 59, Eff. Aug. 1, 2004.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the

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family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.723 Complaint; specifications; resolution of issues; notice; failure to resolve issues; hearing; decision; finality; issuance of license.

Sec. 23. (1) The legislative body of a city, village, or township in which an adult foster care facility is located may file a complaint with the department to have the facility's license denied or revoked pursuant to the procedures prescribed in this act and the rules promulgated under this act. The complaint shall specify those provisions of this act or the rules promulgated under this act with which the facility is not in compliance.

(2) The department shall resolve the issues of a complaint filed pursuant to subsection (1) within 45 days after receipt of the complaint. Notice of the resolution of the issues shall be mailed by registered mail to the complainant and the licensee. Failure of the department to resolve the issues of the complaint within 45 days after receipt of the complaint shall serve as a decision by the department to deny or revoke the facility's license, and the licensee shall be notified pursuant to section 22.

(3) If the decision to deny or revoke the license or the resolution of the issues is protested by written objection of the complainant or licensee to the department within 30 days after the denial or revocation of the license or the receipt of the notice pertaining to the denial or revocation, the director or the director's designated representative shall conduct a hearing pursuant to chapter 4 of Act No. 306 of the Public Acts of 1969, as amended. The decision of the director shall be mailed by registered mail to the complainant and the licensee. If the resolution of the issues by the director is not protested within 30 days after receipt of the notice of the resolution, the resolution by the director is final. The department may issue a license pending the resolution of the matter.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.724 Request for investigation; providing substance of complaint; disclosures; determining violation; initiation of investigation; findings; written determination or status report; final report; additional copies of documents; reimbursement; informing licensee of findings; public inspection of written determination; hearing; appeal.

Sec. 24. (1) A person who believes that this act or a rule promulgated under this act may have been violated may request an investigation of an adult foster care facility. The request shall be submitted to the department in writing or the department shall assist the person in reducing an oral complaint to writing within 7 days after the oral request is made.

(2) The substance of the complaint shall be provided to the licensee not earlier than at the commencement of the on-site inspection of the adult foster care facility which takes place pursuant to the complaint.

(3) The complaint, a copy of the complaint, or a record published, released, or otherwise disclosed to the adult foster care facility shall not disclose the name of the complainant or an adult resident named in the complaint unless the complainant or an adult resident consents in writing to the disclosure or the investigation results in an administrative hearing or a judicial proceeding, or unless disclosure is considered essential to the investigation by the department. If disclosure is considered essential to the investigation, the complainant shall be given the opportunity to withdraw the complaint before disclosure.

(4) Upon receipt of a complaint, the department shall determine, based on the allegations presented, whether this act or a rule promulgated under this act has been, is, or is in danger of being violated. The department shall investigate the complaint according to the urgency determined by the department. The initiation of a complaint investigation shall commence within 15 days after receipt of the written complaint by the department.

(5) The department shall inform the complainant of its findings. Within 30 days after the receipt of complaint, the department shall provide the complainant a copy, if any, of the written determination or a status report indicating when these documents may be expected. The final report shall include a copy of the original complaint. The complainant may request additional copies of the documents listed in this subsection and shall reimburse the department for the copies pursuant to established policies and procedures.

(6) The department shall inform the licensee of the department's findings at the same time that the

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department informs the complainant pursuant to subsection (5).

(7) A written determination concerning a complaint shall be available for public inspection, but the name of the complainant or adult resident shall not be disclosed without the complainant's or adult resident's consent.

(8) A complainant who is dissatisfied with the determination or investigation by the department may request a hearing. A request for a hearing shall be submitted in writing to the director within 30 days after the mailing of the department's findings as described in subsection (5). Notice of the time and place of the hearing shall be sent to the complainant and the adult foster care facility. A complainant who is dissatisfied with the decision of the director may appeal by filing with the clerk of the court an affidavit setting forth the substance of the proceedings before the department and the errors of law upon which the person relies, and serving the director with a copy of the affidavit. The circuit court of the county in which the complainant resides shall have jurisdiction to hear and determine the questions of fact or law involved in the appeal.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.725 Appeal to circuit court.

Sec. 25. A person aggrieved by the decision of the director following a hearing under section 22 or 23, within 10 days after receipt of decision, may appeal to the circuit court for the county in which the person resides by filing with the clerk of the court an affidavit setting forth the substance of the proceedings before the department and the errors of law upon which the person relies, and serving the director with a copy of the affidavit. The circuit court shall have jurisdiction to hear and determine the questions of fact or law involved in the appeal. If the department prevails, the circuit court shall affirm the decision of the department; if the licensee, or applicant prevails, the circuit court shall set aside the revocation or order the issuance or renewal of the license.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.726 Name or designation of facility.

Sec. 26. (1) An adult foster care facility shall not utilize a name or designation which implies, infers, or leads the public to believe that the facility provides nursing care.

(2) An adult foster care facility shall not include in its name the name of a religious, fraternal, or charitable corporation, organization, or association unless the corporation, organization, or association is an owner of the facility.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.726a Resident enrolled in licensed hospice program; exception to continuous nursing care requirement for purposes of MCL 400.703(4); do-not-resuscitate order included in assessment plan; protection to resident.

Sec. 26a. (1) A resident of an adult foster care facility who is enrolled in a licensed hospice program is not considered to require continuous nursing care for purposes of section 3(4).

(2) A licensee providing foster care to a resident who is enrolled in a licensed hospice program and whose assessment plan includes a do-not-resuscitate order is considered to be providing protection to the resident for purposes of section 6(4) and the rules promulgated under this act if, in the event the resident suffers cessation of both spontaneous respiration and circulation, the licensee contacts the licensed hospice program.

History: Add. 1996, Act 194, Eff. Aug. 1, 1996.

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Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.726b Adult foster care; description of services to patients or residents with alzheimer's disease; contents; "represents to the public" defined.

Sec. 26b. (1) Beginning not more than 90 days after the effective date of the amendatory act that added this section, an adult foster care large group home, an adult foster care small group home, or an adult foster care congregate facility that represents to the public that it provides inpatient or residential care or services, or both, to persons with Alzheimer's disease or related conditions shall provide to each prospective patient, resident, or surrogate decision maker a written description of the services provided by the home or facility to patients or residents with Alzheimer's disease or related conditions. A written description shall include, but not be limited to, all of the following:

(a) The overall philosophy and mission reflecting the needs of residents with Alzheimer's disease or related conditions.

(b) The process and criteria for placement in or transfer or discharge from a program for residents with alzheimer's disease or related conditions.

(c) The process used for assessment and establishment of a plan of care and its implementation.

(d) Staff training and continuing education practices.

(e) The physical environment and design features appropriate to support the function of residents with Alzheimer's disease or related conditions.

(f) The frequency and types of activities for residents with Alzheimer's disease or related conditions.

(g) Identification of supplemental fees for services provided to patients or residents with Alzheimer's disease or related conditions.

(2) As used in this section, "represents to the public" means advertises or markets the facility as providing specialized Alzheimer's or dementia care services.

History: Add. 2000, Act 476, Imd. Eff. Jan. 11, 2001.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.727 Posting license, inspection report, and other documents; retention of materials for public inspection.

Sec. 27. (1) A licensee operating an adult foster care congregate facility shall conspicuously post all of the following in an area of the facility accessible to residents, employees, and visitors:

(a) A current license.

(b) A complete copy of the most recent inspection report of the facility received from the department.

(c) A description, provided by the department, of complaint procedures established under this act and the name, address, and telephone number of a person authorized by the department to receive complaints.

(d) A complete list of materials available for public inspection which the facility is required to retain under subsection (2).

(2) A licensee operating an adult foster care congregate facility shall retain all of the following for public inspection:

(a) A complete copy of each inspection report of the facility received from the department during the past 5 years.

(b) A description of the services provided by the facility and the rates charged for those services and items for which a resident may be separately charged.

(c) A list of the name, address, and official position of each person having an ownership interest in the facility as required by section 13(4).

(d) A list of personnel employed or retained by the facility.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the

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family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.728 Repealed. 1984, Act 40, Imd. Eff. Mar. 26, 1984.

Compiler's note: The repealed section pertained to persons not within area of specialization.

400.729 Providing foster care to person related to licensee or licensee's spouse.

Sec. 29. This act shall not prohibit an adult foster care facility from providing foster care to a person related to the licensee or the licensee's spouse for compensation or otherwise. The related person shall be considered in determining the number of residents being cared for in the facility if the person is provided adult foster care services for compensation.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.730 Injunction.

Sec. 30. The attorney general, on behalf of the department, may seek an injunction against an adult foster care facility in either of the following cases:

(a) The facility is being operated without a license in violation of section 13.

(b) A licensee violates this act or a rule promulgated under this act and the violation may result in serious harm to the residents under care.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1992, Act 176, Imd. Eff. July 23, 1992.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.731 Violation as misdemeanor; prohibited conduct.

Sec. 31. (1) Except as otherwise provided in section 13 or section 22, a person, adult foster care facility, agency, or representative or officer of a corporation, association, or organization who violates this act is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(2) A person convicted of a misdemeanor under this act or under chapter XXA of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.145m to 750.145r of the Michigan Compiled Laws, shall not be involved with an adult foster care facility for a period of 5 years after the conviction in any of the following ways:

(a) Participate in the administration or operation of the facility.

(b) Have a financial interest in the operation of the facility.

(c) Provide care to residents of the facility.

(d) Have contact with residents or staff on the premises of the facility.

(e) Be employed by the facility.

(f) Reside in the facility.

(3) A person convicted of a felony under this act or under chapter XXA of Act No. 328 of the Public Acts of 1931 shall not be involved with an adult foster care facility in any of the following ways:

(a) Participate in the administration or operation of the facility.

(b) Have a financial interest in the operation of the facility.

(c) Provide care to residents of the facility.

(d) Have contact with residents or staff on the premises of the facility.

(e) Be employed by the facility.

(f) Reside in the facility.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1990, Act 262, Eff. Mar. 28, 1991;—Am. 1994, Act 150, Imd. Eff. June 7, 1994.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the

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family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.731a Person sentenced to perform community service.

Sec. 31a. (1) In addition to or as an alternative to imposing a term of imprisonment under this act, the court may sentence the person to perform community service as follows:

(a) If the person is convicted of a felony, community service for not more than 160 days.

(b) If the person is convicted of a misdemeanor, community service for not more than 80 days.

(2) For purposes of this section, community service shall not include activities involving interaction with or care of vulnerable adults.

(3) A person sentenced to perform community service under this section shall not receive compensation, and shall reimburse the state or appropriate local unit of government for the cost of supervision incurred by the state or local unit of government as a result of the person's activities in that service.

History: Add. 1994, Act 150, Imd. Eff. June 7, 1994.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.732 Notices required.

Sec. 32. (1) The department shall notify the clerk of the city, village, or township where a proposed adult foster care facility is to be located at least 45 days before the issuance of a license.

(2) The department shall notify the clerk of the city, village, or township of all newly licensed adult foster care facilities within 30 days after the issuance of a license.

(3) The department shall notify the clerk of the city, village, or township of the location of all licensed adult foster care facilities within the boundaries of that city, village, or township within 30 days after receipt of the request.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.733 Local ordinances, regulations, or construction codes.

Sec. 33. This act supersedes all local regulations applicable specifically to adult foster care facilities. Local ordinances, regulations, or construction codes regulating institutions shall not be applied to adult foster care large group homes, adult foster care small group homes, or adult foster care family homes. This section shall not be construed to exempt adult foster care facilities from local construction codes which are applicable to private residences.

History: 1979, Act 218, Eff. Mar. 27, 1980.

Constitutionality: Section 3b of the City and Village Zoning Act and § 33 of the Adult Foster Care Facility Licensing Act do not violate the Title-Object Clause of the Michigan Constitution. City of Livonia v Department of Social Services, 423 Mich 466; 335 NW2d 473 (1985).

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.734 Repealed. 1984, Act 40, Imd. Eff. Mar. 26, 1984.

Compiler's note: The repealed section pertained to legislative review.

400.734a Repealed. 2006, Act 29, Eff. Apr. 1, 2006.

Compiler's note: The repealed section pertained to criminal history check of employee providing direct services.

400.734b Employing or contracting with certain employees providing direct services to

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residents; prohibitions; criminal history check; exemptions; written consent and identification; conditional employment; use of criminal history record information; disclosure; failure to conduct criminal history check; automated fingerprint identification system database; report to legislature; costs; definitions.

Sec. 34b. (1) In addition to the restrictions prescribed in sections 13, 22, and 31, and except as otherwise provided in subsection (2), an adult foster care facility shall not employ or independently contract with an individual who regularly has direct access to or provides direct services to residents of the adult foster care facility after April 1, 2006 if the individual satisfies 1 or more of the following:

(a) Has been convicted of a relevant crime described under 42 USC 1320a-7.

(b) Has been convicted of any of the following felonies, an attempt or conspiracy to commit any of those felonies, or any other state or federal crime that is similar to the felonies described in this subdivision, other than a felony for a relevant crime described under 42 USC 1320a-7, unless 15 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or the date of the execution of the independent contract:

(*i*) A felony that involves the intent to cause death or serious impairment of a body function, that results in death or serious impairment of a body function, that involves the use of force or violence, or that involves the threat of the use of force or violence.

(*ii*) A felony involving cruelty or torture.

(*iii*) A felony under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(*iv*) A felony involving criminal sexual conduct.

(*v*) A felony involving abuse or neglect.

(*vi*) A felony involving the use of a firearm or dangerous weapon.

(*vii*) A felony involving the diversion or adulteration of a prescription drug or other medications.

(c) Has been convicted of a felony or an attempt or conspiracy to commit a felony, other than a felony for a relevant crime described under 42 USC 1320a-7 or a felony described under subdivision (b), unless 10 years have lapsed since the individual completed all of the terms and conditions of his or her sentencing, parole, and probation for that conviction prior to the date of application for employment or the date of the execution of the independent contract.

(d) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 10 years immediately preceding the date of application for employment or the date of the execution of the independent contract:

(*i*) A misdemeanor involving the use of a firearm or dangerous weapon with the intent to injure, the use of a firearm or dangerous weapon that results in a personal injury, or a misdemeanor involving the use of force or violence or the threat of the use of force or violence.

(*ii*) A misdemeanor under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(*iii*) A misdemeanor involving criminal sexual conduct.

(*iv*) A misdemeanor involving cruelty or torture unless otherwise provided under subdivision (e).

(*v*) A misdemeanor involving abuse or neglect.

(e) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 5 years immediately preceding the date of application for employment or the date of the execution of the independent contract:

(*i*) A misdemeanor involving cruelty if committed by an individual who is less than 16 years of age.

(*ii*) A misdemeanor involving home invasion.

(*iii*) A misdemeanor involving embezzlement.

(*iv*) A misdemeanor involving negligent homicide.

(*v*) A misdemeanor involving larceny unless otherwise provided under subdivision (g).

(*vi*) A misdemeanor of retail fraud in the second degree unless otherwise provided under subdivision (g).

(*vii*) Any other misdemeanor involving assault, fraud, theft, or the possession or delivery of a controlled substance unless otherwise provided under subdivision (d), (f), or (g).

(f) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the 3 years immediately preceding the date of application for employment or the date of the execution of the independent contract:

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(*i*) A misdemeanor for assault if there was no use of a firearm or dangerous weapon and no intent to commit murder or inflict great bodily injury.

(*ii*) A misdemeanor of retail fraud in the third degree unless otherwise provided under subdivision (g).

(*iii*) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, unless otherwise provided under subdivision (g).

(g) Has been convicted of any of the following misdemeanors, other than a misdemeanor for a relevant crime described under 42 USC 1320a-7, or a state or federal crime that is substantially similar to the misdemeanors described in this subdivision, within the year immediately preceding the date of application for employment or the date of the execution of the independent contract:

(*i*) A misdemeanor under part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, if the individual, at the time of conviction, is under the age of 18.

(*ii*) A misdemeanor for larceny or retail fraud in the second or third degree if the individual, at the time of conviction, is under the age of 16.

(h) Is the subject of an order or disposition under section 16b of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.16b.

(i) Has been the subject of a substantiated finding of neglect, abuse, or misappropriation of property by a state or federal agency according to an investigation conducted in accordance with 42 USC 1395i-3 or 1396r.

(2) Except as otherwise provided in subsection (6), an adult foster care facility shall not employ or independently contract with an individual who has direct access to residents after April 1, 2006 until the adult foster care facility conducts a criminal history check in compliance with subsections (4) and (5). This subsection and subsection (1) do not apply to an individual who is employed by or under contract to an adult foster care facility before April 1, 2006. Beginning April 1, 2009, an individual who is exempt under this subsection shall provide the department of state police a set of fingerprints and the department of state police shall input those fingerprints into the automated fingerprint identification system database established under subsection (12). An individual who is exempt under this subsection is not limited to working within the adult foster care facility with which he or she is employed by or under independent contract with on April 1, 2006. That individual may transfer to another adult foster care facility that is under the same ownership with which he or she was employed or under contract. If that individual wishes to transfer to an adult foster care facility that is not under the same ownership, he or she may do so provided that a criminal history check is conducted by the new facility in accordance with subsection (4). If an individual who is exempt under this subsection is subsequently convicted of a crime or offense described under subsection (1)(a) to (g) or found to be the subject of a substantiated finding described under subsection (1)(i) or an order or disposition described under subsection (1)(h), or is found to have been convicted of a relevant crime described under subsection (1)(a), he or she is no longer exempt and shall be terminated from employment or denied employment.

(3) An individual who applies for employment either as an employee or as an independent contractor with an adult foster care facility and has received a good faith offer of employment or independent contract from the adult foster care facility shall give written consent at the time of application for the department of state police to conduct an initial criminal history check under this section. The individual, at the time of initial application, shall provide identification acceptable to the department of state police.

(4) Upon receipt of the written consent and identification required under subsection (3), the adult foster care facility that has made a good faith offer of employment or independent contract shall make a request to the department of state police to conduct a criminal history check on the individual and input the individual's fingerprints into the automated fingerprint identification system database, and shall make a request to the relevant licensing or regulatory department to perform a check of all relevant registries established according to federal and state law and regulations for any substantiated findings of abuse, neglect, or misappropriation of property. The request shall be made in a manner prescribed by the department of state police and the relevant licensing or regulatory department or agency. The adult foster care facility shall make the written consent and identification available to the department of state police and the relevant licensing or regulatory department or agency. If the department of state police or the federal bureau of investigation charges a fee for conducting the initial criminal history check, the charge shall be paid by or reimbursed by the department with federal funds as provided to implement a pilot program for national and state background checks on direct patient access employees of long-term care facilities or providers in accordance with section 307 of the medicare prescription drug, improvement, and modernization act of 2003, Public Law 108-173. The adult foster care facility shall not seek reimbursement for a charge imposed by the department of state police or the federal bureau of investigation from the individual who is the subject of the initial criminal history check. The department of state police shall conduct an initial criminal history check on the individual named in the request. The department of state police shall provide the department with a written report of the criminal history check conducted under this subsection that contains a criminal record. The report shall contain any

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criminal history record information on the individual maintained by the department of state police.

(5) Upon receipt of the written consent and identification required under subsection (3), if the individual has applied for employment either as an employee or as an independent contractor with an adult foster care facility, the adult foster care facility that has made a good faith offer of employment or independent contract shall comply with subsection (4) and shall make a request to the department of state police to forward the individual's fingerprints to the federal bureau of investigation. The department of state police shall request the federal bureau of investigation to make a determination of the existence of any national criminal history pertaining to the individual. An individual described in this subsection shall provide the department of state police with a set of fingerprints. The department of state police shall complete the criminal history check under subsection (4) and, except as otherwise provided in this subsection, provide the results of its determination under subsection (4) and the results of the federal bureau of investigation determination to the department within 30 days after the request is made. If the requesting adult foster care facility is not a state department or agency and if a criminal conviction is disclosed on the written report of the criminal history check obtained under subsection (4) or the federal bureau of investigation determination, the department shall notify the adult foster care facility and the individual in writing of the type of crime disclosed on the written report of the criminal history check obtained under subsection (4) or the federal bureau of investigation determination without disclosing the details of the crime. The notification shall inform the facility or agency and the applicant regarding the appeal process in section 34c. Any charges imposed by the department of state police or the federal bureau of investigation for conducting an initial criminal history check or making a determination under this subsection shall be paid in the manner required under subsection (4).

(6) If an adult foster care facility determines it necessary to employ or independently contract with an individual before receiving the results of the individual's criminal history check required under this section, the adult foster care facility may conditionally employ the individual if both of the following apply:

(a) The adult foster care facility requests the criminal history check required under this section, upon conditionally employing the individual.

(b) The individual signs a written statement indicating all of the following:

(*i*) That he or she has not been convicted of 1 or more of the crimes that are described in subsection (1)(a) to (g) within the applicable time period prescribed by subsection (1)(a) to (g).

(*ii*) That he or she is not the subject of an order or disposition described in subsection (1)(h).

(*iii*) That he or she has not been the subject of a substantiated finding as described in subsection (1)(i).

(*iv*) The individual agrees that, if the information in the criminal history check conducted under this section does not confirm the individual's statement under subparagraphs (*i*) to (*iii*), his or her employment will be terminated by the adult foster care facility as required under subsection (1) unless and until the individual can prove that the information is incorrect.

(*v*) That he or she understands the conditions described in subparagraphs (*i*) to (*iv*) that result in the termination of his or her employment and that those conditions are good cause for termination.

(7) The department shall develop and distribute the model form for the statement required under subsection (6)(b). The department shall make the model form available to adult foster care facilities upon request at no charge.

(8) If an individual is conditionally employed under subsection (6), and the report described in subsection (4) or (5), if applicable, does not confirm the individual's statement under subsection (6)(b)(*i*) to (*iii*), the adult foster care facility shall terminate the individual's employment as required by subsection (1).

(9) An individual who knowingly provides false information regarding his or her identity, criminal convictions, or substantiated findings on a statement described in subsection (6)(b)(*i*) to (*iii*) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(10) An adult foster care facility shall use criminal history record information obtained under subsection (4) or (5) only for the purpose of evaluating an individual's qualifications for employment in the position for which he or she has applied and for the purposes of subsections (6) and (8). An adult foster care facility or an employee of the adult foster care facility shall not disclose criminal history record information obtained under this section to a person who is not directly involved in evaluating the individual's qualifications for employment or independent contract. An individual who knowingly uses or disseminates the criminal history record information obtained under subsection (4) or (5) in violation of this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both. Upon written request from another adult foster care facility, psychiatric facility or intermediate care facility for people with mental retardation, or health facility or agency that is considering employing or independently contracting with an individual, an adult foster care facility that has obtained criminal history record information under this section on that individual shall, with the consent of the applicant, share the

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information with the requesting adult foster care facility, psychiatric facility or intermediate care facility for people with mental retardation, or health facility or agency. Except for a knowing or intentional release of false information, an adult foster care facility has no liability in connection with a background check conducted under this section or the release of criminal history record information under this subsection.

(11) As a condition of continued employment, each employee or independent contractor shall do both of the following:

(a) Agree in writing to report to the adult foster care facility immediately upon being arraigned on 1 or more of the criminal offenses listed in subsection (1)(a) to (g), upon being convicted of 1 or more of the criminal offenses listed in subsection (1)(a) to (g), upon becoming the subject of an order or disposition described under subsection (1)(h), and upon becoming the subject of a substantiated finding described under subsection (1)(i). Reporting of an arraignment under this subdivision is not cause for termination or denial of employment.

(b) If a set of fingerprints is not already on file with the department of state police, provide the department of state police with a set of fingerprints.

(12) In addition to sanctions set forth in this act, a licensee, owner, administrator, or operator of an adult foster care facility who knowingly and willfully fails to conduct the criminal history checks as required under this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $5,000.00, or both.

(13) In collaboration with the department of state police, the department of information technology shall establish an automated fingerprint identification system database that would allow the department of state police to store and maintain all fingerprints submitted under this section and would provide for an automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted in accordance with this section. Upon such notification, the department of state police shall immediately notify the department and the department shall immediately contact the respective adult foster care facility with which that individual is associated. Information in the database established under this subsection is confidential, is not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and shall not be disclosed to any person except for purposes of this act or for law enforcement purposes.

(14) If an individual independently contracts with an adult foster care facility, subsections (1) and (2) do not apply if the contractual work performed by the individual is not directly related to the clinical, health care, or personal services delivered by the adult foster care facility or if the individual's duties are not performed on an ongoing basis with direct access to residents. This exception includes, but is not limited to, an individual who independently contracts with the adult foster care facility to provide utility, maintenance, construction, or communication services.

(15) The department and the department of state police shall maintain an electronic web-based system to assist the adult foster care facilities required to check relevant registries and conduct criminal history checks of its employees and independent contractors and to provide for an automated notice to the adult foster care facilities for the individuals entered in the system who, since the initial check, have been convicted of a disqualifying offense or have been the subject of a substantiated finding of abuse, neglect, or misappropriation of property.

(16) The department shall submit to the legislature not later than April 1, 2009 a written report regarding the department's plan to continue performing criminal history checks if adequate federal funding is not available to continue performing future criminal history checks.

(17) An adult foster care facility or a prospective employee covered under this section may not be charged for the cost of an initial criminal history check required under this act.

(18) As used in this section:

(a) "Direct access" means access to a resident or resident's property, financial information, medical records, treatment information, or any other identifying information.

(b) "Health facility or agency" means a health facility or agency as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(c) "Independent contract" means a contract entered into by an adult foster care facility with an individual who provides the contracted services independently or a contract entered into by an adult foster care facility with an organization or agency that employs or contracts with an individual after complying with the requirements of this section to provide the contracted services to the adult foster care facility on behalf of the organization or agency.

(d) "Title XIX" means title XIX of the social security act, 42 USC 1396 to 1396r-6 and 1396r-8 to 1396v.

History: Add. 2006, Act 29, Eff. Apr. 1, 2006;—Am. 2008, Act 135, Imd. Eff. May 21, 2008.

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Compiler's note: Enacting section 2 of Act 29 of 2006 provides:

"Enacting section 2. Sections 34b and 34c of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b, as added by this amendatory act, take effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state. The department shall issue a medicaid policy bulletin regarding the payment and reimbursement for the criminal history checks by April 1, 2006."

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.734c Disqualification from or denial of employment based on criminal history check; appeal; decision; report to legislature; "business day" defined.

Sec. 34c. (1) An individual who has been disqualified from or denied employment by an adult foster care facility based on a criminal history check conducted pursuant to section 34a or 34b may appeal to the department if he or she believes that the criminal history report is inaccurate, and the appeal shall be conducted as a contested case hearing conducted pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The individual shall file the appeal with the director of the department within 15 business days after receiving the written report of the criminal history check unless the conviction contained in the criminal history report is one that may be expunged or set aside. If an individual has been disqualified or denied employment based on a conviction that may be expunged or set aside, then he or she shall file the appeal within 15 business days after a court order granting or denying his or her application to expunge or set aside that conviction is granted. If the order is granted and the conviction is expunged or set aside, then the individual shall not be disqualified or denied employment based solely on that conviction. The director shall review the appeal and issue a written decision within 30 business days after receiving the appeal. The decision of the director is final.

(2) One year after the effective date of this section and each year thereafter for the next 3 years, the department shall provide the legislature with a written report regarding the appeals process implemented under this section for employees subject to criminal history checks. The report shall include, but is not limited to, for the immediately preceding year the number of applications for appeal received, the number of inaccuracies found and appeals granted with regard to the criminal history checks conducted under section 34b, the average number of days necessary to complete the appeals process for each appeal, and the number of appeals rejected without a hearing and a brief explanation of the denial.

(3) As used in this section, "business day" means a day other than a Saturday, Sunday, or any legal holiday.

History: Add. 2006, Act 29, Eff. Apr. 1, 2006.

Compiler's note: Enacting section 2 of Act 29 of 2006 provides:

"Enacting section 2. Sections 34b and 34c of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b, as added by this amendatory act, take effect April 1, 2006, since the department has secured the necessary federal approval to utilize federal funds to reimburse those facilities for the costs incurred for requesting a national criminal history check to be conducted by the federal bureau of investigation and the department has filed written notice of that approval with the secretary of state. The department shall issue a medicaid policy bulletin regarding the payment and reimbursement for the criminal history checks by April 1, 2006."

For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.735 Repeal of MCL 331.681 to 331.694.

Sec. 35. Act No. 287 of the Public Acts of 1972, as amended, being sections 331.681 to 331.694 of the Michigan Compiled Laws, is repealed.

History: 1979, Act 218, Eff. Mar. 27, 1980;—Am. 1984, Act 40, Imd. Eff. Mar. 26, 1984.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.736 Concurrent license as foster family home or foster family group home; receiving

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additional minor children; definitions.

Sec. 36. (1) An adult foster care family home may be concurrently licensed as a foster family home or a foster family group home. Except as provided in subsection (2), additional minor children who are not related to a resident of the adult foster care family home shall not be received in the adult foster care family home after the filing of an application for a license under this act.

(2) A licensee may receive a minor child placed in foster care under the laws of this state after filing an application for a license under this act. A placement under this subsection shall be approved at the discretion of the director or his or her designee and shall be based upon a recommendation by a licensed child placing agency or an approved governmental unit and shall be subject to appropriate terms and conditions determined by the department.

(3) As used in this section:

(a) "Foster family home" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

(b) "Foster family group home" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.

History: Add. 1984, Act 140, Imd. Eff. June 1, 1984;—Am. 2004, Act 59, Eff. Aug. 1, 2004.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

400.737 Concurrently licensing adult foster care small group home as child caring institution; receiving additional children under 18 years of age; limitation on combined licensed capacity; definition.

Sec. 37. (1) An adult foster care small group home may be concurrently licensed as a child caring institution. Additional children under 18 years of age who are not related to a resident of the adult foster care small group home shall not be received in the adult foster care small group home after the filing of an application for a license pursuant to this act. The combined licensed capacity shall not exceed more than a combination of 6 children and adults.

(2) As used in this section, "child caring institution" means that term as defined in section 1 of Act No. 116 of the Public Acts of 1973, being section 722.111 of the Michigan Compiled Laws.

History: Add. 1984, Act 140, Imd. Eff. June 1, 1984.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of the bureau of family services from the department of consumer and industry services to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

For transfer of powers and duties of adult foster care licensing advisory council to the family independence agency by Type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

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STATE FOOD STAMP DISTRIBUTION ACT
Act 387 of 1984

AN ACT to establish a system for distributing food stamps; and to prescribe certain powers and duties of certain state agencies.

History: 1984, Act 387, Eff. Mar. 29, 1985.

The People of the State of Michigan enact:

400.751 Short title; applicability of act.

Sec. 1. (1) This act shall be known and may be cited as the "state food stamp distribution act".

(2) This act applies to the distribution of food stamps through the issuance of paper coupons. It does not apply to distribution by means of an electronic benefit transfer system, except as provided by federal law.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1999, Act 193, Imd. Eff. Dec. 1, 1999.

400.752 Meanings of words and phrases.

Sec. 2. For purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

History: 1984, Act 387, Eff. Mar. 29, 1985.

400.753 Definitions; A to D.

Sec. 3. (1) "Applicant" means an individual, partnership, corporation, association, or political subdivision of this state that submits a bid for a contract.

(2) "Contract" means a written agreement between a distributor and the department of management and budget, under which the distributor issues coupons under certain conditions in exchange for compensation.

(3) "Coupon" means a coupon, stamp, or other type of certificate created under the food stamp program and redeemable for certain food.

(4) "Distribution area" means an area designated by the family independence agency within which a distributor is responsible for issuing coupons to recipients.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.754 Definitions; D to R.

Sec. 4. (1) "Distribution site" means the establishment or portion of an establishment at which a distributor issues coupons to recipients.

(2) "Distributor" means an individual, partnership, corporation, or association that is awarded a contract; or a nonprofit organization, local office of the family independence agency, or political subdivision of this state which after the effective date of this act is designated as an agency that will distribute food coupons, and which is not distributing coupons on the effective date of this act. Distributor does not include a nonprofit organization, local office of the family independence agency, or political subdivision of this state which is designated to distribute coupons pursuant to section 8(2) and which on the effective date of this act is distributing food coupons.

(3) "Food stamp program" means the program created under the food stamp act of 1977, Public Law 88-525, 20 U.S.C. 2011 to 2012 and 2013 to 2036, and the regulations promulgated under that act.

(4) "Recipient" means an individual determined to be eligible to receive coupons.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.755 Issuance of coupons without contract; duration of contract with distributor; coupons distributed before effective date of act.

Sec. 5. (1) Except as provided in subsection (3) or section 8(2), an individual, partnership, corporation, association, or political subdivision of this state shall not issue coupons to recipients without being awarded a contract under this act.

(2) As determined by the department of management and budget, a contract with a distributor shall be for a period of at least 1 year except as provided in this subsection. No contract shall exceed a period of 5 years. A contract with a distributor may be for a period of less than 1 year if it is awarded during a state fiscal year for a period which ends on the last day of the state fiscal year.

(3) The family independence agency may allow an individual, partnership, corporation, or association that issued coupons in a distribution area before the effective date of this act to continue to issue coupons until a distributor is selected for the distribution area and begins issuing coupons.

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History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.756 Standards and criteria for awarding contracts.

Sec. 6. The department of management and budget shall develop standards and criteria for awarding contracts. The standards and criteria shall be consistent with this act and the food stamp program.

History: 1984, Act 387, Eff. Mar. 29, 1985.

400.757 Issuance of requests for quotations, bid forms, and other printed information; contents of forms and printed information; sealed bid; prohibited conduct.

Sec. 7. (1) For each distribution area in this state, the department of management and budget shall issue requests for quotations, bid forms, and other printed information necessary for gathering bids and supporting information. The forms and printed information shall explain clearly the standards and criteria and procedures used for selecting distributors, the duties of a distributor, and the penalties and liabilities imposed on a distributor by this act.

(2) A bid form and supporting information required of an applicant shall be submitted by the applicant to the department of management and budget by sealed bid.

(3) An official or employee of the department of management and budget shall not solicit or accept a bid for any distribution area after the sealed bids for that distribution area have been opened. An officer or employee of the department of management and budget or the family independence agency shall not advise any applicant in a way that gives the applicant an advantage over another applicant.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.758 Evaluating qualifications of applicants; determination; technical input; designation of distributor without submission of bid; identities of distributors; contracting agency.

Sec. 8. (1) After evaluating the qualifications of all applicants for a distributorship, the department of management and budget shall determine, for each distribution area, which applicant meets the standards and criteria established by the department, demonstrates the ability to satisfy the requirements of section 9(a) to (g), and has submitted the lowest bid for a distribution area. The department of management and budget may seek the technical input of the family independence agency in evaluating the qualifications of applicants.

(2) A nonprofit organization, a local office of the family independence agency, or a political subdivision of this state may be designated as the agency that will distribute coupons in an area without submitting a bid if the nonprofit organization, local office of the family independence agency, or political subdivision meets the requirements of section 9(a) and (b) and is distributing coupons on the effective date of this act.

(3) The department of management and budget shall supply the identities of the distributors selected to the family independence agency. The department of management and budget shall be the contracting agency for the state.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.759 Contract requirements.

Sec. 9. A contract shall require a distributor to do or comply with not less than all of the following:

(a) Require fidelity bonds of those employees of the distributor who, according to standards established by the department of management and budget, are involved with the distribution of coupons.

(b) Maintain and supply proof of insurance against destruction, theft, and robbery in amounts adequate to cover loss of the maximum value of coupons that would be at the distribution site or under the control of the distributor at any time.

(c) Provide security measures at the distribution site that adequately protect recipients while on the distribution site.

(d) Demonstrate financial solvency sufficient to ensure continued operation during the contract period.

(e) With respect to all bids submitted after the effective date of this act, not maintain a financial or business relationship with, or share retail space or maintain adjoining retail space with, a retail food establishment.

(f) Be registered to do business in this state, if otherwise required by law.

(g) Make the distribution site accessible to persons with disabilities.

(h) Operate the distribution site in compliance with state and local health, building, or zoning ordinances.

(i) Make available to inspection by the family independence agency the distributor's coupon inventories and coupon inventory records.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.760 Cancellation of contract; notice; grounds; appeal.

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Sec. 10. (1) The contract shall provide that the department of management and budget, on giving not less than 30 days' notice, may cancel a contract if the distributor fails to meet any requirement prescribed in section 9, except that any failure to comply with section 9(a) and (b) shall not require 30 days' notice before cancellation. The family independence agency shall inform the department of management and budget of any distributor that fails to meet any requirement prescribed in section 9.

(2) A distributor that receives notice of intent to cancel the distributor's contract may appeal the cancellation pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.761 Eligibility days.

Sec. 11. (1) Beginning April 1, 1985, in each county in which at least 1 private sector distributor distributes coupons, the first 2 Saturdays of each month shall be considered eligibility days for recipients, except that a Saturday that is a state or national holiday shall not be an eligibility day.

(2) As used in this section, "eligibility day" means a day on which recipients are entitled to receive coupons through on-line access to the central computer as determined by the family independence agency.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.762 Relocation of distribution site; cost.

Sec. 12. The family independence agency may require a distributor to relocate its distribution site to another location within a distribution area, but the family independence agency shall pay the cost of the relocation.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.763 Payment of compensation to distributor; suspension of payment.

Sec. 13. The family independence agency, within 15 days after the end of each month or receipt of the billing statement from the distributor, whichever is later, shall pay compensation to a distributor for coupons distributed during the month. The family independence agency may suspend payment of compensation to a distributor that cannot account for all coupons received for distribution during the preceding month.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

***** *400.764 THIS SECTION DOES NOT APPLY AFTER SEPTEMBER 30, 1989: See (3) of 400.764* *****

400.764 Community action agency as distributor; rate of compensation per transaction; applicability of section.

Sec. 14. (1) In a county in which a community action agency is designated to distribute coupons pursuant to section 8(2), the rate of compensation per transaction that is paid to the community action agency shall not be increased beyond the rate paid as of October 1, 1984, unless the rate of compensation per transaction paid to each distributor in the county is increased by the same amount.

(2) For purposes of this section, "community action agency" means an agency designated pursuant to section 8 of Act No. 230 of the Public Acts of 1981, being section 400.1105 of the Michigan Compiled Laws.

(3) This section shall not apply after September 30, 1989.

History: 1984, Act 387, Eff. Mar. 29, 1985.

400.765 Quarterly accounting; report.

Sec. 15. The family independence agency shall conduct a quarterly accounting of all coupons received from the United States department of agriculture, and shall report not later than December 31 of each year to the chairpersons of the senate and house appropriations committees on the number of coupons, if any, that cannot be accounted for and for which the state bears liability.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.766 Liability for lost coupons.

Sec. 16. A distributor is liable to the family independence agency for the value of all coupons lost while under the distributor's control.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.767 Distribution areas to which act applicable.

Sec. 17. This act applies to all distribution areas in which the state uses an on-line computer system for verifying and transmitting information about recipients. This act does not apply to any area in this state in

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which food coupons are mailed to recipients.

History: 1984, Act 387, Eff. Mar. 29, 1985.

400.768 Compliance with food stamp program.

Sec. 18. The family independence agency and the department of management and budget shall comply with the food stamp program in implementing this act.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.769 Mail issuance program for certain recipients; establishment of authorized representative system; monitoring on-line issuance program; recommendations to legislature.

Sec. 19. (1) The family independence agency shall explore the establishment of a mail issuance program for recipients who are disabled, elderly, would have to travel more than 1 hour each way to a food stamp distribution site, or are otherwise unable to travel to a distribution site.

(2) The family independence agency shall assist county family independence agencies in establishing an authorized representative system to assist recipients who are unable to travel to food stamp distribution sites. The family independence agency shall cooperate with local organizations in order to establish such a system.

(3) The family independence agency shall monitor the on-line issuance program to determine if recipients are not receiving food stamps because they are unable to travel to distribution sites. The family independence agency shall make recommendations to the legislature to improve the distribution program and make it more accessible to eligible recipients who are unable to travel to distribution sites.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

400.770 Monitoring committees; establishment; composition; duties.

Sec. 20. The family independence agency shall establish in each county participating in the on-line food stamp distribution program a monitoring committee consisting of representatives of the distributor, the county social service office, and food stamp recipients. Each committee shall:

(a) Continually review the administration of the program and its impact on recipients;

(b) Develop alternatives to reduce hardships and problems to recipients which may be created by the on-line issuance program;

(c) Make recommendations and help develop and utilize community resources to provide round trip transportation for food stamp recipients when the distribution site is inaccessible to them;

(d) Make recommendations regarding establishment of additional distribution sites;

(e) Evaluate the authorized representative system and make recommendations for its improvement.

History: 1984, Act 387, Eff. Mar. 29, 1985;—Am. 1998, Act 89, Imd. Eff. May 13, 1998.

ENERGY COST ASSISTANCE PROGRAM
Act 278 of 1977

400.1001-400.1016 Expired. 1978, Act 254, Eff. Dec. 31, 1978.

LOW INCOME HOUSEHOLD HOME WEATHERIZATION ACT
Act 615 of 1978

400.1051-400.1071 Expired. 1978, Act 615, Eff. Dec. 31, 1981.

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MICHIGAN ECONOMIC AND SOCIAL OPPORTUNITY ACT OF 1981
Act 230 of 1981

AN ACT to create a bureau of community services and a commission on economic and social opportunity within a state department to reduce the causes, conditions, and effects of poverty and promote social and economic opportunities that foster self-sufficiency for low income persons; to provide for the designation of community action agencies; and to prescribe the powers and duties of the department, the bureau, the commission, and the community action agencies.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

The People of the State of Michigan enact:

400.1101 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan economic and social opportunity act of 1981".

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities established under the Michigan economic and social opportunity act and transferred by Executive Order 1993-4 from the department of labor to the Michigan jobs commission and continued by Executive Order 1994-26 within the Michigan jobs commission to the department of social services, see E.R.O. No. 1995-1, compiled at MCL 408.49 of the Michigan Compiled Laws.

400.1102 Meanings of words and phrases.

Sec. 2. For purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

400.1103 Definitions; B to D.

Sec. 3. (1) "Bureau" means the bureau of community action and economic opportunity created in section 5.

(2) "Chief elected official" means a chairperson of a county board of commissioners, a county executive, a city mayor, a township supervisor, a village president, or his or her designee.

(3) "Commission" means the commission on community action and economic opportunity created in section 6.

(4) "Community action agency" means an agency designated pursuant to section 8.

(5) "Community social and economic programs" means those programs provided under section 675 of the community services block grant act, subtitle B or title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9904.

(6) "Department" means the family independence agency or another department or agency designated by the governor to receive and distribute community services block grant funds under the community services block grant act, subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9901 to 9924.

(7) "Director" means the director of the department.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

400.1104 Definitions; E to S.

Sec. 4. (1) "Executive director" means the chief administrator of the bureau.

(2) "Low income person" means a person who is a member of a household that has a gross annual income that is equal to or less than the poverty standard for the same size household.

(3) "Poverty standard" means the federal poverty guidelines published annually in the federal register by the United States department of health and human services under its authority to revise the poverty line under section 673(2) of subtitle B of title VI of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9902.

(4) "Service area" means the geographical area served by a community action agency.

(5) "State program budget" means state funds, federal block grants, and federal categorical grants that the legislature appropriates annually for community social and economic programs.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

400.1105 Bureau of community action; creation; appointment of executive director; powers and duties of bureau.

Sec. 5. The bureau of community action and economic opportunity is created within the department. The

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director shall appoint an executive director who is a member of the state classified service or the state career executive service, as established and approved by the civil service commission. Under the supervision of the department, the bureau shall serve as a statewide advocate for social and economic opportunities for low income persons and shall do all of the following:

(a) Coordinate state activities designed to reduce poverty and implement community social and economic programs.

(b) Cooperate with agencies of the state and federal government and other public agencies, nonprofit private agencies, and nonprofit organizations in reducing poverty and implementing community social and economic programs.

(c) Receive and expend funds for any purpose authorized by this act.

(d) Provide assistance to units of local government for the purpose of establishing and operating a community action agency.

(e) Designate community action agencies pursuant to section 8.

(f) Provide technical assistance to community action agencies to improve program planning, program development, administration, and the mobilization of public and private resources. In implementing this subdivision, the department shall contract, when warranted by geographical and other factors or when warranted to meet the requirements of section 15, with public agencies, nonprofit private agencies, or nonprofit organizations.

(g) Enter into necessary contracts with community action agencies for the purpose of coordinating community social and economic programs and other programs and services designated by the bureau and for which funding is appropriated by the legislature.

(h) Contract with public agencies, nonprofit private agencies, or nonprofit organizations for demonstration programs and other services necessary to implement this act.

(i) Conduct performance assessments of the activities and programs of community action agencies.

(j) Establish, in cooperation with community action agencies, an educational and public information program designed to increase public awareness regarding the nature and extent of poverty in this state and regarding existing community social and economic programs.

(k) Evaluate state statutes and programs relevant to the reduction of poverty and recommend appropriate changes to the governor and the legislature.

(*l*) Submit reports to the governor, the legislature, the state congressional delegation, and other appropriate federal officials regarding the needs, problems, opportunities, and contributions of low income persons; the effectiveness of existing state or federal policies and programs; and recommended actions to improve economic and social opportunities for low income persons.

(m) Administer the weatherization assistance program created pursuant to 10 C.F.R. part 440. The bureau shall administer the weatherization assistance program in a manner that provides that public agencies, nonprofit private agencies, and nonprofit organizations are eligible and shall have the opportunity for funding for each portion of a program that a community action agency may undertake.

(n) Serve as an advocate within the executive branch to remove administrative barriers to self-sufficiency services and to seek additional resources for antipoverty strategies.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

400.1106 Commission on community action and economic opportunity; creation; appointment, qualifications, and terms of members; chairperson; executive secretary; vacancies; per diem compensation; reimbursement of expenses; quorum; commission action; meetings.

Sec. 6. (1) A commission on community action and economic opportunity is created within the department. The commission shall provide an opportunity for low income persons to actively participate in the development of policies and programs to reduce poverty.

(2) The commission shall consist of 6 to 15 members appointed by the governor by and with the advice and consent of the senate. The commission shall be comprised of equal numbers of elected public officials, private sector members, and low income individuals or as nearly equal in number as possible. At least 1/3 of the commission members shall be community action agency representatives as either staff or board members. The governor shall designate the chairperson of the commission. The chairperson shall serve at the will of the governor. The executive director or designee of the commission shall serve as executive secretary to the commission.

(3) The term of office of each member shall be 3 years. Vacancies on the commission shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

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(4) A member of the commission may receive per diem compensation and reimbursement of actual and necessary expenses while acting as an official representative of the commission. The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature.

(5) A majority of the commission constitutes a quorum. Except as otherwise provided by rule, action may be taken by the commission by vote of a majority of the members present at a meeting. The commission shall meet not less than 4 times a year. A meeting of the commission may be held anywhere within this state.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

400.1107 Duties of commission.

Sec. 7. The commission shall serve as a statewide forum concerning state policies and programs to reduce poverty and to address the needs and concerns of low income people in this state. The commission shall do all of the following:

(a) Convene a state forum every 2 years that includes representatives from the public, private, nonprofit, and low income sectors to analyze poverty trends and make recommendations to reduce poverty.

(b) Convene public meetings to provide low income and other persons the opportunity to comment upon public policies and programs to reduce poverty.

(c) Advise the executive director concerning the designation or recision of a designation of a community action agency.

(d) Review and comment upon the annual program budget request before its submittal to the governor and the legislature pursuant to section 10.

(e) Advise the governor, the legislature, the state congressional delegation, and other appropriate federal officials of the nature and extent of poverty in the state and make recommendations concerning needed changes in state and federal policies and programs.

(f) Advise the director and the governor at least annually concerning the performance of the bureau in fulfilling its requirements as prescribed by this act.

(g) Participate with the bureau to implement a public education program designated to increase public awareness regarding the nature and extent of poverty in this state.

(h) Receive reports from the bureau on strategies to reduce poverty and make recommendations based on those reports to the governor.

(i) In coordination with community action agencies and the commission, establish an education and public information program designed to increase public awareness regarding the nature and extent of poverty in this state and regarding existing community social and economic programs.

(j) Evaluate state statutes and programs relevant to the reduction of poverty and recommend appropriate changes to the governor and the legislature.

(k) Submit reports to the governor, the legislature, the congressional delegation, and other appropriate federal officials regarding the needs, problems, opportunities, and contributions of low income persons and the effectiveness of existing state and federal policies and programs, and recommend actions to improve economic and social opportunities for low income persons.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

400.1108 Designating or rescinding designation of community action agency; procedures; continuation of community action agency designated by community services administration; rescission of designation.

Sec. 8. (1) Except as required to meet the requirements of section 15, the executive director shall designate community action agencies to fulfill the requirements of this act in the service areas governed by 1 or more units of local government. A community action agency designated by the executive director may be 1 of the following:

(a) A public office or agency of a unit of local government that is designated as a community action agency by the chief elected official of that unit of government.

(b) A public office or agency that is designated as a community action agency by the chief elected officials of a combination of 2 or more units of local government.

(c) A nonprofit private agency serving 1 or more units of local government approved by the chief elected official of the unit of local government that includes the service area, or if more than 1 unit of local government is included in the service area, by the chief elected officials of the county or counties in which the local governments are located and of at least 2/3 of the cities, villages, and townships in the service area that have a population of not less than 100,000.

(d) A public or private nonprofit agency designated by 1 or more native American tribal governments that

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have been established pursuant to state or federal law.

(2) Before designating or rescinding the designation of a community action agency, the executive director shall do all of the following:

(a) Consult with the director.

(b) Consult with the chief elected official of each county and of each city, village, or township with a population of not less than 100,000 within the existing or proposed service area.

(c) Hold at least 1 public meeting in the service area to provide low income and other citizens living within the service area the opportunity to review and comment upon the strengths and weaknesses of the existing or proposed community action agency.

(d) Consult with and obtain the advice of the commission on the proposed action.

(3) Notwithstanding subsections (1) and (2), each community action agency that has been designated by the community services administration pursuant to the economic opportunity act of 1964, Public Law 88-452, 78 Stat. 508, and that is in operation on the effective date of the 2003 amendatory act that amended this section shall continue as a community action agency.

(4) The executive director may rescind the designation of a community action agency for cause. In implementing this subsection, the executive director shall follow the procedures set forth in subsection (2) and the procedures set forth in the community services block grant act, subtitle B of the omnibus budget reconciliation act of 1981, Public Law 97-35, 42 U.S.C. 9901 to 9924.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

400.1109 Community action agency; duties; permissible activities.

Sec. 9. A community action agency shall serve as a primary advocate for the reduction of the causes, conditions, and effects of poverty and shall provide social and economic opportunities that foster self-sufficiency for low income persons. A community action agency may engage in activities necessary to fulfill the intent of this act, including, but not limited to, the following:

(a) Informing this state, units of local government, private agencies and organizations, and citizens of the nature and extent of poverty within the service area.

(b) Developing, administering, and operating community social and economic programs to reduce poverty within the service area.

(c) Providing a range of services and activities having a measurable and potentially major impact on causes of poverty in the community or in the service areas of the community.

(d) Providing activities designed to assist low income participants, including the elderly poor, to secure and retain meaningful employment; to attain an adequate education; to make better use of available income; to obtain and maintain adequate housing and a suitable living environment; to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance; to remove obstacles and solve problems which block the achievement of self-sufficiency; to achieve greater participation in the affairs of the community; and to make more effective use of other programs related to the purposes of this section.

(e) Providing on an emergency basis for the provision of supplies and services, nutritious food items, and related services necessary to counteract conditions of starvation and malnutrition among the poor.

(f) Providing and establishing linkages between governmental and other social services programs to assure the effective delivery of services to low income individuals.

(g) To encourage the use of entities in the private sector of the community in efforts to reduce poverty.

(h) Conducting pilot and demonstration projects with innovative approaches to reduce poverty, improve services, and utilize resources.

(i) Providing and advocating for training and technical assistance to public and private agencies, community groups, and units of local government to better define human problems, to improve services, and to facilitate citizen participation, including that of low income persons.

(j) Increasing interagency coordination and cooperation in serving low income persons. If possible, community action agencies shall enter into partnership and collaboration with other organizations to meet economic self-sufficiency goals.

(k) Entering into contracts with federal, state, and local public and private agencies and organizations as necessary to carry out the purposes of this act.

(*l*) Mobilizing federal, state, and local public and private financial resources and material and volunteer resources to reduce poverty and increase social and economic opportunities.

(m) Mobilizing community involvement from private and nonprofit sectors, including, but not limited to, businesses, economic and job development organizations, nonprofit faith-based communities, technical colleges and institutions of higher education, and the public sector, including, but not limited to, townships,

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cities, counties, and this state to address issues of poverty. Community action agencies shall coordinate with welfare-to-work strategies and implement strategies that increase household income and assets that lead to long-term economic self-sufficiency.

(n) Serving populations with barriers to self-sufficiency such as individuals and families with low incomes, senior citizens, young children, homeless persons, physically and developmentally disabled persons, low wage workers, and adults without literacy skills or basic education or adequate skills needed for the workplace.

(o) Engaging in any other activity necessary to fulfill the intent of this act.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

400.1110 Distribution of funds.

Sec. 10. Distribution of funds to community action agencies shall meet federal requirements.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 2003, Act 123, Imd. Eff. July 29, 2003.

400.1111 Community action agency; establishment of governing board of directors; membership; term limits.

Sec. 11. (1) A community action agency shall establish a governing board of directors that consists of the following:

(a) One-third are elected public officials. An elected public official may act through his or her representative.

(b) One-third of the members are low income, elderly, or consumers with disabilities.

(c) One-third of the members represent the private sector, including representatives of business and industry, agriculture, labor, and religious and civic organizations.

(2) A community action agency may establish term limits for members of its board of directors in the community action agency's bylaws. An administrative rule that purports to establish term limits for a member of a community action agency board of directors is void.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982;—Am. 1998, Act 76, Imd. Eff. May 4, 1998;—Am. 2003, Act 123, Imd. Eff. July 29, 2003;—Am. 2006, Act 80, Imd. Eff. Mar. 24, 2006.

400.1112 Repealed. 2003, Act 123, Imd. Eff. July 29, 2003.

Compiler's note: The repealed section pertained to establishment of board of directors for community action agency.

400.1113 Interagency agreements; purpose; renewal.

Sec. 13. The bureau shall develop interagency agreements with agencies of other departments providing services to low income persons. The agreements shall specify methods of interagency planning and coordination of services. The agreements shall be renewed annually.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

400.1114 Conducting business at public meeting; notice; availability of writings to public.

Sec. 14. (1) The business which the commission, a community action agency board of directors, or a community action agency advisory board may perform shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission, the bureau, the department, or a community action agency created pursuant to this act in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

400.1115 Existing agencies and organizations performing services described in act; eligibility to receive funds; continuation of services.

Sec. 15. A public agency, nonprofit private agency, or nonprofit organization in existence and performing 1 or more of the services described in this act for which federal or state funds were expended, if eligible to receive the funds, shall receive those funds to enable the public agency, nonprofit private agency, or nonprofit organization to continue to perform those services.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

400.1116 Rules.

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Sec. 16. The department shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The department shall consult with and receive the advice of the commission before promulgating a rule under this act.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

400.1117 Effectiveness report.

Sec. 17. Before January 1, 1986, the department shall submit to the senate and house committees that have the responsibility for labor matters a report covering the effectiveness of the bureau, the commission, and the community action agencies in reducing poverty and promoting social and economic opportunities for low income persons under this act.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

400.1118 Appropriation of funds from general fund not required; condition.

Sec. 18. The legislature shall not be required to appropriate funds from the general fund for the continued performance of the provisions of this act, if federal funding for coordinating community social and economic programs and other programs and services as designated by the bureau and funded by the community development block grant is eliminated.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

400.1119 Proposed use and distribution of funds provided under omnibus budget reconciliation act of 1981; public hearings; approval or disapproval of bureau plan.

Sec. 19. The legislature shall conduct public hearings on the proposed use and distribution of funds to be provided pursuant to section 675 of the omnibus budget reconciliation act of 1981, 42 U.S.C. 9902, and shall approve or disapprove by concurrent resolution adopted by a majority of the members elected and serving in each house the bureau's plan for distribution of funds.

History: 1981, Act 230, Imd. Eff. Jan. 12, 1982.

400.1120 Repealed. 2003, Act 123, Imd. Eff. July 29, 2003.

Compiler's note: The repealed section pertained to effective date of act.

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PUBLIC ASSISTANCE HOME REPAIR, WEATHERIZATION, AND SHUTOFF PROTECTION ACT
Act 35 of 1984

AN ACT to provide for an energy analysis, housing weatherization, and limited repair program; and to prescribe certain powers and duties of certain state departments and agencies.

History: 1984, Act 35, Eff. Apr. 12, 1984.

The People of the State of Michigan enact:

400.1151 Short title.

Sec. 1. This act shall be known and may be cited as the "public assistance home repair, weatherization, and shutoff protection act".

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1152 Meanings of words and phrases.

Sec. 2. For purposes of this act, the words and phrases defined in sections 3 and 4 have the meanings ascribed to them in those sections.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1153 Definitions.

Sec. 3. (1) "Assisted household" means the household of a person who is receiving a heating allowance as part of a grant of general assistance or aid to families with dependent children under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

(2) "Home repairs" means energy-related structural repairs identified by a home energy analysis as being necessary or desirable before weatherization measures are installed. Home repairs include, but are not limited to, repair or replacement of windows, window frames, exterior doors, roofs, heating systems, and appropriate thermostats.

(3) "Low-income persons" means self-supporting individuals whose incomes are below 125% of poverty, as defined annually by the United States office of management and budget.

(4) "Weatherization measures" means the modification of homes and home heating systems to improve heating efficiency, including, but not limited to, caulking and weather-stripping, insulation of ceilings, attics, walls, floors, or water heaters, and installation of furnace ignition systems, clock thermostats, storm windows, or storm doors.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1154 Additional definitions.

Sec. 4. (1) "Home energy analysis" means a survey, audit, report, and detailed evaluation performed by a program utility to assess which home repairs and weatherization measures can be applied to improve the energy efficiency of a residential structure, including estimates of materials needed, the cost of performing the work and the conservation results expected. A home energy analysis shall utilize procedures developed by the program utility for home energy analyses conducted pursuant to the Michigan residential conservation services plan administered by the Michigan public service commission, altered as necessary by this act.

(2) "Program utility" means an investor-owned electric or gas utility which provides energy analysis services to residents pursuant to the Michigan residential conservation services plan administered by the public service commission.

(3) "Shutoff protection" means the right accorded to an assisted household by which the household is protected against termination of heating utility service for nonpayment of bills.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1155 Payment for home repair work and weatherization measures performed; selection of assisted households.

Sec. 5. The department of social services shall pay for home repair work performed pursuant to this act. The department of labor shall pay for weatherization measures performed pursuant to this act. Assisted households which annually consume in excess of 200,000 cubic feet of natural gas or an equivalent dollar value of other heating fuels shall be selected by the department for installation of home repair and weatherization measures. Assisted households shall be selected in the order of greatest to least consumption of natural gas or other heating fuels, except that all assisted households whose annual consumption exceeds

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130% of the annual consumption caps specified in section 8 of the Michigan low income heating assistance and shut-off protection act, or the dollar equivalent in other heating fuels, shall be weatherized before September 30 of the state fiscal year in which the households were selected.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1156 Home energy analysis by program utility; report; utility surcharges not to increase; review and recovery of costs; limitation on allowable costs.

Sec. 6. (1) The department of social services shall request that a program utility perform a home energy analysis for each assisted household the department selects under section 5.

(2) The program utility shall conduct the home energy analysis and shall forward a report to the department of social services which includes a designation of which home repairs and weatherization measures, if any, are cost effective for the assisted household. Home repairs and weatherization measures may include the installation of thermostats where none exist or where existing thermostats do not operate properly.

(3) The utility surcharges for the Michigan residential conservation services programs which exist on the effective date of this act shall not be increased as a result of the program utility performing the home energy analysis described in this section. The home energy analysis shall be performed instead of residential conservation service audits so that there is no increase in utility rates because of the home energy analysis program. The costs incurred by a program utility in performing the home energy analyses requested by the department shall be reviewed by the Michigan public service commission in its annual reconciliation proceedings associated with the Michigan residential conservation program. The Michigan public service commission shall authorize the program utility to recover the reasonable costs of the home energy analyses as part of the residential conservation program. The allowable costs for the Michigan residential conservation services program, including costs incurred for performing home energy analyses, shall not exceed the level of costs currently authorized by the Michigan public service commission on the effective date of this act.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1157 Authorization of home repairs and weatherization measures; prohibition; limitation of amount authorized.

Sec. 7. (1) The department of social services shall have final authority to authorize the home repairs and weatherization measures, if any, which shall be performed on assisted households. The department of social services shall not authorize a home repair or weatherization measure which is not designated in the program utility's home energy analysis report conducted pursuant to section 6. The department of social services shall authorize for an assisted household an amount which is cost effective, and is within available resource constraints, but is not greater than $5,000.00 or 50% of the estimated market value of the assisted household's dwelling, as determined by the department of social services, whichever is less.

(2) After the completion of home repairs and weatherization services authorized for a dwelling under this act, the department of social services shall inspect home repair work and the department of labor shall inspect the weatherization measures performed pursuant to this act.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1158 Home repairs and weatherization measures for rental premises; written agreement; conditions; restrictions and duties binding on successor in ownership; relocation to another dwelling; discontinuing payments for rent.

Sec. 8. (1) The department may authorize home repairs and weatherization measures for rental premises occupied by an assisted household only if the owner of the premises agrees in writing, on a form prescribed by the department of social services, to all of the following conditions:

(a) That the rent paid by the assisted household will not be increased for a period of 12 consecutive calendar months after completion of all home repairs and weatherization measures for the rental premises. The restriction described in this subdivision shall apply so long as the premises are rented to an assisted household.

(b) That during the 24 consecutive calendar months which begin at the end of the period described in subdivision (a), any percentage of increase in the rent charged to the assisted household will be not greater than the percentage increase for the same period in the rate of inflation as measured by the all urban Detroit consumer price index for all items except for increased costs which can be documented, such as increases in taxes, special assessments or increases brought about due to variable rate mortgages. The restriction in this subdivision shall apply so long as the premises are rented to an assisted household.

(c) That if, during a 5-year period beginning when the home repairs and weatherization measures are completed, the rental premises are rented to a person or persons other than an assisted household, the owner

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shall immediately pay to the department of social services an amount equal to 1/60 of the total expenditures for weatherization measures and home repairs for the rental premises, multiplied by the number of months left in the 5-year period.

(2) The restrictions and duties described in this section shall bind any successor in ownership of the rental premises to the extent of the time periods described in this section.

(3) If an owner of rental premises fails to agree to the conditions in subsection (1), the department of social services shall assist the assisted household in relocating to another dwelling. The department of social services shall discontinue payments for rent for a dwelling 12 months from the date it determines that the owner has failed to agree to the conditions under subsection (1), until the owner agrees to those conditions.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1159 Expenditure of funds.

Sec. 9. Subject to federal law, the department of social services shall authorize the expenditure of money appropriated for home repairs by the legislature and the federal government. The department of labor shall expend on assisted households at least 40% of the funds appropriated by the legislature for weatherization. The remaining funds appropriated by the legislature for weatherization shall be expended to serve low-income persons in accordance with the weatherization plan administered by the department of labor.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1160 Competitive bids or contractual arrangements for home repairs performed pursuant to MCL 339.2403; time limitation; installation of weatherization by private for-profit companies; completion date; rules; supervision; applicability of subsection (3).

Sec. 10. (1) The department of social services may provide for home repairs to be performed either by seeking competitive bids on individual dwellings or by entering into contractual arrangements involving more than 1 dwelling. Home repairs shall be performed in accordance with section 2403 of the occupational code, Act No. 299 of the Public Acts of 1980, being section 339.2403 of the Michigan Compiled Laws. Home repairs shall be completed within 60 days of the date the repairs are authorized.

(2) When the department of social services authorizes the department of labor to perform the installation of weatherization measures as provided under this act, the department of labor shall ensure that private for-profit companies are offered the opportunity to perform the installation of weatherization measures. The percentage of work to be offered to private for-profit companies pursuant to this subsection shall be not less than 50% for the state fiscal year ending September 30, 1984; not less than 60% for the state fiscal year ending September 30, 1985; not less than 70% for the state fiscal year ending September 30, 1986; and not less than 75% for the state fiscal year ending September 30, 1987 and each state fiscal year thereafter. The department of labor shall ensure that weatherization measures are completed within 60 days after notification has been received from the department of social services that authorized home repairs have been completed. The department of labor shall promulgate rules pursuant to this act that provide penalties for operators or contractors failing to complete weatherization of dwellings within 60 days of authorization.

(3) An individual authorized to perform installation of home weatherization measures shall be supervised by a person licensed under article 24 of Act No. 299 of the Public Acts of 1980. This subsection shall not apply until 12 months after the effective date of this act.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1161 Shutoff protection; duration; report; review and investigation of excess energy consumption; reduction of excess consumption; vacating dwelling; emergency needs recipient as resident.

Sec. 11. (1) Program utilities shall provide shutoff protection to all dwellings occupied by assisted households which receive weatherization measures in accordance with this act. The shutoff protection shall begin with the department of social services' authorization, pursuant to section 7, of weatherization measures, and will continue in accordance with this section unless the department of social services notifies the program utility that it will not authorize the necessary work because the weatherization would not be cost effective. Shutoff protection for dwellings which receive weatherization measures in accordance with this act shall continue at least until the end of the first full fiscal year following the fiscal year during which the weatherization measures were completed. If an assisted household whose annual consumption exceeds 130% of the annual consumption caps specified in section 8 of the Michigan low income heating assistance and shut-off protection act, or the dollar equivalent in other heating fuels, has not been weatherized within the period required by section 5, the department of social services and the department of labor shall report to the legislative oversight committee created in section 13 on the reasons for such failure.

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(2) If the dwelling is weatherized in accordance with this act and the consumption of the dwelling remains at the level projected in the home energy analysis, the dwelling will continue to receive shutoff protection for as long as an assisted household resides in the dwelling provided an assisted household continues to pay to the program utility the amount available for heat through the appropriate public assistance program, and the department of social services guarantees payment to the program utility for the difference between the level projected in the home energy analysis and the amounts available in the appropriate public assistance program.

(3) The department of social services shall, after the first full fiscal year following the completion of the authorized services, or sooner, if, in the department's estimation, the consumption of a dwelling remains at unexpectedly high levels, review and investigate the case of any assisted household consumption which exceeds the calculated consumption level. The department of social services shall determine the cause of the excess energy consumption.

(4) If, after review and investigation conducted pursuant to subsection (3), the department of social services concludes that reasonable and prudent action by the assisted household will eliminate the excess energy consumption, the department of social services shall advise the assisted household of measures to be taken to reduce excess consumption. If the assisted household does not comply with the department of social services' suggested corrections, and the household's actual consumption exceeds the calculated consumption level, the household shall not be entitled to shutoff protection for the remainder of the state fiscal year and for any subsequent state fiscal year until the assisted household complies with the suggested corrections.

(5) If, after a review and investigation conducted pursuant to subsection (3), the department of social services concludes that the excess consumption cannot be remedied by the assisted household, the department of social services shall use available resources and means to reduce the excess consumption.

(6) If an assisted household which is receiving shutoff protection vacates the dwelling which was weatherized in accordance with this act, the shutoff protection shall cease for that dwelling unless the new occupants are general assistance or aid to families with dependent children recipients who qualify for payments in accordance with subsection (2).

(7) If an emergency needs program recipient, other than a recipient of general assistance or aid to families with dependent children administered under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws, takes up residence in a dwelling that has been weatherized under this program and the occupancy was within 2 years of the date of weatherization, and was immediately after an aid to dependent children or general assistance recipient moved out, the emergency needs recipient will, for purposes of this act, be treated in the same manner as an aid to dependent children or general assistance recipient in all respects by both the department of social services and the program utility.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1162 Sale of dwelling by owner of assisted household; payment to department of social services.

Sec. 12. If weatherization or home repairs are performed on a dwelling in which an assisted household resides and which is owned by the assisted household, a member of the assisted household, or a relative within the first degree of consanguinity of a member of the assisted household, and if, during a 3-year period beginning when the home repairs and weatherization measures are completed, the owner sells the dwelling, the owner shall immediately pay to the department of social services an amount equal to 1/36 of the total expenditures for weatherization measures and home repairs for the rental premises, multipled by the number of months left in the 3-year period.

History: 1984, Act 35, Eff. Apr. 12, 1984.

Compiler's note: In the last line of Sec. 12, the word “multipled” evidently should read “multiplied.”

400.1163 Legislative oversight committee; creation; composition; report.

Sec. 13. A legislative oversight committee is created. The committee shall consist of 3 members of the house of representatives appointed by the speaker of the house of representatives and 3 members of the senate appointed by the majority leader of the senate. The committee shall report to the legislature at intervals of 2 years each on the costs and benefits of the Michigan residential conservation services program, residential conservation programs provided for in section 6c of Act No. 3 of the Public Acts of 1939, the weatherization analysis provided for in this act, and residential conservation programs authorized by order of the Michigan public service commission and existing on the effective date of this act, which are funded by utility surcharges. The report shall make recommendations to the legislature as to whether the costs and benefits of programs warrant continuation or modification.

History: 1984, Act 35, Eff. Apr. 12, 1984.

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400.1164 Rules.

Sec. 14. The department shall promulgate rules to implement this act pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

History: 1984, Act 35, Eff. Apr. 12, 1984.

400.1165 Conditional effective date.

Sec. 15. This act shall not take effect unless all of the following bills of the 82nd Legislature are enacted into law:

(a) House Bill No. 4970.

(b) House Bill No. 4971.

(c) House Bill No. 4974.

(d) House Bill No. 4975.

(e) House Bill No. 4976.

History: 1984, Act 35, Eff. Apr. 12, 1984.

Compiler's note: The following House Bills, referred to in Sec. 15, were enacted into law as follows:
House Bill No. 4970 was approved by the Governor on March 22, 1984, and became P.A. 1984, No. 34.
House Bill No. 4971 was approved by the Governor on March 22, 1984, and became P.A. 1984, No. 36.
House Bill No. 4974 was approved by the Governor on March 22, 1984, and became P.A. 1984, No. 37.
House Bill No. 4975 was approved by the Governor on April 12, 1984, and became P.A. 1984, No. 49.
House Bill No. 4976 was approved by the Governor on March 12, 1984, and became P.A. 1984, No. 26.

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MICHIGAN LOW INCOME HEATING ASSISTANCE AND SHUT-OFF PROTECTION ACT
Act 34 of 1984

AN ACT to establish a low income heating assistance and shut-off protection program; to promote conservation of home heating energy; to coordinate weatherization programs; and to prescribe certain duties of certain state agencies.

History: 1984, Act 34, Eff. Apr. 12, 1984.

The People of the State of Michigan enact:

400.1201 Short title.

Sec. 1. This act shall be known and may be cited as the "Michigan low income heating assistance and shut-off protection act".

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1202 Meanings of words and phrases.

Sec. 2. For the purposes of this act, the words and phrases defined in sections 3 to 6 have the meanings ascribed to them in those sections.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1203 Definitions; A to C.

Sec. 3. (1) "AFDC" means aid to families with dependent children administered under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

(2) "Annual consumption cap" means the maximum level of natural gas use by an assisted household for which the department is responsible for payment.

(3) "Assisted household" means a person who receives a heating allowance.

(4) "Calculated consumption level" means the calculated level of energy consumption established for a dwelling by the provider utility and authorized by the department.

(5) "Cost settlement" means the reconciliation process undertaken pursuant to sections 12 and 13.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1204 Definitions; D to P.

Sec. 4. (1) "Department" means the department of social services.

(2) "GA" means general assistance administered under the social welfare act, Act No. 280 of the Public Acts of 1939, being sections 400.1 to 400.121 of the Michigan Compiled Laws.

(3) "Heating allowance" means the amount included in an assisted household's AFDC or GA grant which is intended for the payment of heating bills.

(4) "Preenrollment arrearage" means the amounts owed by an assisted household to a provider utility for billings incurred before the household enrolled in the program.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1205 Definitions; P to S.

Sec. 5. (1) "Program", except when used in the phrase "weatherization program", means the low income heating assistance and shut-off protection program created in section 7.

(2) "Program year" means a state fiscal year which ends before October 1, 1988. The portion of the state fiscal year ending on September 30, 1984, shall be considered the first program year.

(3) "Provider utility" means an investor-owned natural gas or electric utility company which provides residential heating utility service to an assisted household. During the first and second program years only, provider utilities shall include only consumers power company, the Detroit edison company, and Michigan consolidated gas company. For other energy providers, the maximum level of benefit provided to their customers will be the same regardless of the type of fuel used by the program participant.

(4) "Shut-off protection" means the right accorded to an assisted household whereby the household is protected against termination of heating utility service for nonpayment of bills.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1206 Definitions; S to W.

Sec. 6. (1) "Supplemental payment" means a payment made by the department to a GA or AFDC recipient, or to a provider utility on the recipient's behalf, whether designated as supplemental payment, special heating allowance, or otherwise, which is intended for the payment of heating energy or electrical bills, and which is

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made in addition to the recipient's regular heating allowance.

(2) “Weatherization” means the conservation repairs which the department designates be performed, and the conservation measures assigned by the department for installation in the dwelling of an assisted household pursuant to the weatherization program.

(3) “Weatherization program” means the program created by the public assistance home repair, weatherization, and shut-off protection act.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1207 Low income heating assistance and shut-off protection program; creation; administration; purpose; duties of department.

Sec. 7. (1) There is created a low income heating assistance and shut-off protection program. The program shall be administered by the department to prevent utility service shut-offs, promote awareness of and changes in energy use habits, promote conservation techniques, provide incentives for energy conservation, help reduce energy use by improving the housing stock, and provide relocation assistance.

(2) The department shall do all of the following:

(a) Coordinate weatherization efforts for assisted households.

(b) Authorize use of weatherization resources among the dwellings of all assisted households in the state. The department shall give first priority to households which exceed the annual consumption cap.

(c) Not later than the beginning of the third program year, promulgate rules to create an energy conservation incentive which shall provide direct financial benefits to assisted households which reduce their use of heating energy. The rules shall be promulgated pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(d) Subject to restrictions prescribed by federal regulations governing aid to families with dependent children, rules of the state department of social services, or otherwise, for preventing the disclosure of confidential information to any person not authorized by law to receive the confidential information, the state department of social services shall make available to a public utility regulated by the Michigan public service commission information concerning applicants and recipients of public assistance, the disclosure of which is necessary and the use of which is strictly limited to the purpose of a public utility's administering a program created by statute or an order of the Michigan public service commission and intended to assist applicants or recipients of public assistance in defraying their energy costs.

(e) Not later than the beginning of the third program year, in cooperation with provider utilities, implement a positive billing system by which the difference, if any, between an assisted household's monthly heating bills and the household's heating allotments and supplemental payments will be billed directly to the department and paid to the provider utility monthly, up to the annual consumption cap.

(f) Expand the department's energy crisis intervention services within available resources. The department shall review and make recommendations concerning cases of assisted households having natural gas use or electrical consumption which exceeds the annual consumption cap, and shall expand its effort to identify dwellings which cannot be made energy-efficient and help relocate those assisted households to more energy efficient dwellings if reasonable alternative housing is available. The department shall determine whether a dwelling cannot be made energy efficient.

(g) Not later than the beginning of the second program year, develop and implement a uniform record keeping and reporting system for the program.

(h) Establish monitoring criteria for program evaluation which shall include, but not be limited to, all of the following:

(*i*) The number of assisted households which exceed the annual consumption cap.

(*ii*) The average consumption both before and after weatherization for each assisted household.

(*iii*) The number of shut-offs of heating service to assisted households.

(*iv*) The number of dwellings of assisted households weatherized.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1208 Annual consumption cap; establishment; conditions requiring payments in excess of limits; lowering or raising consumption caps.

Sec. 8. (1) An annual consumption cap is established for all assisted households. The department shall be responsible for payment of heating bills of assisted households up to the annual consumption cap. Subject to subsections (2), (3), and (4) and the available appropriation for each fiscal year, the annual assistance cap for full program years is as follows:

1984-1985	300,000 cubic feet
1985-1986	300,000 cubic feet

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1986-1987	250,000 cubic feet
1987-1988	200,000 cubic feet

(2) As part of the energy program created by this act, the department, subject to available funding, shall make payments in excess of the limits established in section 10 or 53 of Act No. 171 of the Public Acts of 1983, as appropriate to recipients of public assistance, if all of the following conditions are satisfied:

(a) The recipient to which the payment is to be made is, at the time of requesting the additional payment, paying to a heating fuel provider, or permitting the department to directly pay to a heating fuel provider, or has agreed to permit the department to directly pay to a heating fuel provider, the monthly basic heating allowance included in the recipient's grant and appropriate special needs allowances.

(b) The recipient has agreed to participate in the weatherization-related service offered by the state and to accept weatherization when designated by the department to receive that service.

(c) If weatherization has been determined to be inappropriate for the residence of the recipient, the recipient has agreed to relocate to reasonable alternative housing, when the housing is available.

(3) If the department determines that the consumption caps in subsection (1) can be lowered while still meeting payment obligations and providing shut-off protection, the department may lower the caps.

(4) If the average winter temperature in a program year is colder than normal by 5% or more, the department shall seek legislative approval to raise the annual assistance cap as the department considers necessary.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1209 Enrollment in program; conditions; automatic reenrollment.

Sec. 9. (1) An assisted household may enroll in the program by meeting all of the following conditions:

(a) Agreeing to participate in the weatherization program and accept weatherization measures designated by the department.

(b) Paying to heating fuel providers, or agreeing to permit the department to pay directly to heating fuel providers on behalf of the household, the household's monthly heating allowance and supplemental payments, if any. As used in this subdivision, “heating fuel provider” means any individual or entity which provides an assisted household with energy primarily for heating purposes.

(c) Establishing terms and maintaining payments with the provider for preenrollment arrearage, if any, pursuant to section 12.

(2) An assisted household which is enrolled under subsection (1), which is eligible for shut-off protection, and which elects under subsection (1)(b) to have its monthly heating bills paid directly to a provider utility on its behalf shall be automatically reenrolled in each subsequent program year unless the household discontinues its participation in the program.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1210 Shut-off protection; application of payments in excess of actual billings; duration of protection; effect of vacating dwelling; treatment of emergency needs recipient; relocation of assisted household.

Sec. 10. (1) Subject to the provisions of this act, an assisted household which is enrolled under section 9 shall receive shut-off protection as applicable under subsection (3), (4), or (5).

(2) The amount paid pursuant to section 9(1)(b) to a provider utility or heating fuel provider participating in the program in excess of actual billings for the household shall be applied first to any preenrollment arrearage. The remainder, if any, shall be refunded by the provider utility or heating fuel provider participating in the program directly to the assisted household.

(3) If an assisted household's projected annual natural gas or other heating fuel consumption is less than the annual consumption cap or its dollar equivalent, shut-off protection shall be in effect during the entire program year in which the household is enrolled.

(4) If an assisted household's projected natural gas or other heating fuel consumption exceeds the annual consumption cap or its dollar equivalent and the household has not received weatherization, shut-off protection shall be in effect during the program year in which the household is enrolled for the longer of the following periods:

(a) October 1 to March 31.

(b) October 1 until natural gas consumption exceeds the annual consumption cap.

(c) Protection shall also be provided if the assisted household and the department agree to a payment plan for the excess consumption, which plan is the same as a payment plan for preenrollment arrearage as provided in section 12.

(5) If an assisted household's projected natural gas consumption exceeds the annual consumption cap and

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the household has received weatherization, shut-off protection shall be in effect to the end of the next full program year after the weatherization is completed.

(6) If an assisted household which is receiving shut-off protection vacates the dwelling in which the household resided while receiving the shut-off protection, the shut-off protection shall cease as to that dwelling unless the subsequent occupants qualify for shut-off protection under the program.

(7) If a recipient of assistance under the emergency needs program takes up residence in a dwelling which had been weatherized pursuant to this act and the occupancy was within 2 years after the date of the weatherization, and was immediately after an AFDC or GA recipient moved out of the dwelling, the emergency needs recipient shall, for purposes of this act, be treated in the same manner as an AFDC or GA recipient in all respects by both the department and the provider utility or the heating fuel provider participating in the program.

(8) If an assisted household is relocated from a dwelling pursuant to section 7 and subsequently another assisted household occupies the dwelling, provider utility service shall not be supplied to that dwelling unless 1 of the following occurs:

(a) A deposit is posted with the provider utility in an amount equal to the dwelling's average annual heating costs during the preceding 5 years.

(b) At the owner's expense, all home repairs and weatherization measures designated in a residential conservation services audit as being necessary to reduce consumption below the annual consumption cap are performed.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1211 Excess energy consumption; review and investigation; noncompliance with suggested corrections; reduction of excess consumption.

Sec. 11. (1) The department shall review and investigate the case of any assisted household whose dwelling has been weatherized but which exceeds the calculated consumption level. The department shall determine the cause of the excess energy consumption.

(2) If, after review and investigation conducted pursuant to subsection (1), the department concludes that reasonable and prudent action by the assisted household will eliminate the excess consumption, the department shall advise the assisted household of measures to be taken to reduce excess energy consumption. If the assisted household does not comply with the department's suggested corrections, the household shall not be entitled to shut-off protection for the subsequent program year, as long as the household remains in the same dwelling unit.

(3) If, after a review and investigation conducted pursuant to subsection (1), the department concludes that the excess consumption cannot be remedied by the assisted household, the department shall use available resources and means to reduce the excess consumption.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1212 Preenrollment arrearage; determination; payment.

Sec. 12. The preenrollment arrearage for an assisted household shall be determined before the household is enrolled in the program. The assisted household shall agree to pay, or to have paid by the department to the provider utility on the household's behalf, 5% of the household's monthly AFDC or GA grant, to be applied to the preenrollment arrearage.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1213 Quarterly projections or compilation of actual billings by provider utility; billing department; deduction of payments from total department obligation; sample of account status; monthly cost settlements.

Sec. 13. (1) During the first 2 program years, a provider utility shall provide quarterly projections or compile actual billings of the total amount which is owed or will be owed for a calendar quarter by assisted households receiving shut-off protection. The provider utility shall bill the department for not less than 85% of the projected or actual amount, payable during the first month following the end of the calendar quarter. The amounts paid by the department shall not be applied to individual assisted household accounts but shall be deducted by the provider utility from the total department obligation. If a projected amount is used, the provider utility shall also include with the projection a statistically valid sample of the account status for all assisted households.

(2) Individual monthly cost settlements between the provider utility and the department shall be performed for assisted households who terminate participation in the program.

History: 1984, Act 34, Eff. Apr. 12, 1984.

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400.1214 Annual reconciliation; payment to provider utility; section inapplicable to certain assisted households.

Sec. 14. At the end of each program year, the provider utility shall perform a reconciliation to match billings for actual natural gas consumption by assisted households with payments from assisted households and the department. An amount equal to any underpayment shall be paid to the provider utility up to the annual consumption cap within 60 days of receipt of an annual reconciliation computer tape. This section shall not apply to assisted households for which cost settlements have been individually made.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1215 Energy refunds or credits; application.

Sec. 15. Any pipeline or purchase gas adjustments or other energy refunds or credits to assisted households enrolled in the program shall be applied by the provider utility to the assisted household's preenrollment arrearage. Refunds or credits in excess of preenrollment arrearages shall be refunded by the provider utility to the state general fund.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1216 Assistance programs for temporarily and long-term unemployed workers; development; scope; implementation and duration of programs.

Sec. 16. (1) The Michigan public service commission shall develop assistance programs for temporarily and long-term unemployed workers in this state. The programs shall include all of the following:

(a) An outreach program designed to advise newly unemployed workers of assistance available through provider utilities. The outreach program shall provide informational material to newly unemployed workers through the Michigan employment security commission.

(b) Cyclical budget payment plan options for unemployed workers.

(c) Specialized home energy analysis programs designed to advise newly unemployed workers of low-cost and no-cost weatherization and energy conservation measures.

(d) Deferred payment options for long-term unemployed workers who are not recipients of general assistance or aid to families with dependent children, which shall not include an option in which the deferred amount becomes an obligation of the state if the individual becomes an assisted household.

(2) The programs developed under this section shall be implemented by provider utilities and shall not be in effect after September 30, 1988.

History: 1984, Act 34, Eff. Apr. 12, 1984.

400.1217 Conditional effective date.

Sec. 17. This act shall not take effect unless all of the following bills of the 82nd Legislature are enacted into law:

(a) House Bill No. 4971.

(b) House Bill No. 4973.

(c) House Bill No. 4974.

(d) House Bill No. 4975.

(e) House Bill No. 4976.

History: 1984, Act 34, Eff. Apr. 12, 1984.

Compiler's note: The following House Bills, referred to in Sec. 17, were enacted into law as follows:
House Bill No. 4971 was approved by the Governor on March 22, 1984, and became P.A. 1984, No. 36.
House Bill No. 4973 was approved by the Governor on March 22, 1984, and became P.A. 1984, No. 35.
House Bill No. 4974 was approved by the Governor on March 22, 1984, and became P.A. 1984, No. 37.
House Bill No. 4975 was approved by the Governor on April 12, 1984, and became P.A. 1984, No. 49.
House Bill No. 4976 was approved by the Governor on March 12, 1984, and became P.A. 1984, No. 26.

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JUVENILE BOOT CAMP ACT
Act 263 of 1996

AN ACT to establish juvenile boot camps and programs; and to prescribe the powers and duties of certain courts and departments.

History: 1996, Act 263, Eff. Aug. 1, 1996.

The People of the State of Michigan enact:

400.1301 Short title.

Sec. 1. This act shall be known and may be cited as the "juvenile boot camp act".

History: 1996, Act 263, Eff. Aug. 1, 1996.

400.1302 Definitions.

Sec. 2. As used in this act:

(a) "County juvenile agency" means that term as defined in section 2 of the county juvenile agency act.

(b) "Department" means the family independence agency.

(c) "Juvenile" means an individual within the court's jurisdiction under section 2(a)(1) of chapter XIIA of 1939 PA 288, MCL 712A.2.

History: 1996, Act 263, Eff. Aug. 1, 1996;—Am. 1998, Act 527, Imd. Eff. Jan. 12, 1999.

400.1303 Juvenile boot camps; establishment; implementation of section.

Sec. 3. The department shall establish 1 or more juvenile boot camps to house and train juveniles who are ordered to participate in a juvenile boot camp program under section 18 of chapter XIIA of 1939 PA 288, MCL 712A.18, or who are placed in a juvenile boot camp program after commitment under that section to a county juvenile agency for placement in a juvenile boot camp program. To implement this section, the department may use the authority granted under sections 115a(1)(f) and 117a(4) of the social welfare act, 1939 PA 280, MCL 400.115a and 400.117a, as appropriate.

History: 1996, Act 263, Eff. Aug. 1, 1996;—Am. 1998, Act 527, Imd. Eff. Jan. 12, 1999.

400.1304 Juvenile boot camp programs; development; restriction; implementation of section.

Sec. 4. The department shall develop 1 or more juvenile boot camp programs for juveniles ordered to participate in such a program or placed in such a program by a county juvenile agency. A juvenile boot camp program shall provide a program of physically strenuous work and exercise, patterned after military basic training, and other programming as the department determines, including at a minimum educational and substance abuse programs, and counseling. A juvenile boot camp program shall be restricted to juveniles of the same sex. To implement this section, the department may use the authority granted under sections 115a(1)(f) and 117a(4) of the social welfare act, 1939 PA 280, MCL 400.115a and 400.117a, as appropriate.

History: 1996, Act 263, Eff. Aug. 1, 1996;—Am. 1998, Act 527, Imd. Eff. Jan. 12, 1999.

400.1305 Juvenile boot camp programs; placement; verification; returning juvenile to probate court; placement period; community reintegration.

Sec. 5. (1) After a juvenile is placed in a juvenile boot camp program, the department shall verify that the juvenile meets the requirements of section 18(1)(m)(*ii*), (*iii*), and (*iv*) of chapter XIIA of 1939 PA 288, MCL 712A.18, and that there is an opening in a juvenile boot camp program. If the juvenile does not meet those requirements, there is no opening in a juvenile boot camp program, or the county juvenile agency is unable to place the juvenile in a juvenile boot camp program, the juvenile shall be returned to the court that entered the order of disposition for alternative disposition.

(2) A juvenile's placement in a juvenile boot camp shall not be less than 90 days or more than 180 days. However, if during that period the juvenile misses more than 5 days of program participation due to medical excuse for illness or injury occurring after he or she was placed in the program, the placement period shall be increased by the number of days missed, beginning with the sixth day of medical excuse up to a maximum of 20 days. A physician's statement shall verify a medical excuse and a copy shall be sent to the court entering the disposition. A juvenile who is medically unable to participate in a juvenile boot camp program for more than 25 days shall be returned to the court that entered the order of disposition for alternative disposition.

(3) Following his or her stay in a juvenile boot camp, the juvenile shall complete a period of not less than 120 days or more than 180 days of intensive supervised community reintegration in the local community.

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History: 1996, Act 263, Eff. Aug. 1, 1996;—Am. 1998, Act 527, Imd. Eff. Jan. 12, 1999.

400.1306 Mailing copy of disposition to department and county juvenile agency.

Sec. 6. When a juvenile is placed in a juvenile boot camp or committed to a county juvenile agency for placement in a juvenile boot camp, the clerk of the court entering the order of disposition shall mail the department and the county juvenile agency a certified copy of the disposition within 5 business days after placement or commitment.

History: 1996, Act 263, Eff. Aug. 1, 1996;—Am. 1998, Act 527, Imd. Eff. Jan. 12, 1999.

400.1307 Completion of course training; certification; failure to complete program.

Sec. 7. (1) At any time during a juvenile's stay in a juvenile boot camp, but not less than 5 days before the juvenile's expected date of release, the department shall certify to the court that entered the order of disposition and, if applicable, the county juvenile agency whether the juvenile has satisfactorily completed the course of training at the juvenile boot camp.

(2) A juvenile who fails to perform satisfactorily at the juvenile boot camp program shall be reported to the court that entered the order of disposition for alternative disposition.

History: 1996, Act 263, Eff. Aug. 1, 1996;—Am. 1998, Act 527, Imd. Eff. Jan. 12, 1999.

400.1308 Effective date.

Sec. 8. This act shall take effect August 1, 1996.

History: 1996, Act 263, Eff. Aug. 1, 1996.

400.1309 Conditional effective date.

Sec. 9. This act shall not take effect unless all of the following bills of the 88th Legislature are enacted into law:

(a) Senate Bill No. 681.

(b) Senate Bill No. 696.

History: 1996, Act 263, Eff. Aug. 1, 1996.

Compiler's note: Senate Bill No. 681, referred to in this section, was filed with the Secretary of State April 17, 1996, and became P.A. 1996, No. 164, Eff. Mar. 31, 1997.

Senate Bill No. 696, also referred to in this section, was filed with the Secretary of State June 12, 1996, and became P.A. 1996, No. 243, Eff. Aug. 1, 1996.

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DOMESTIC VIOLENCE
Act 389 of 1978

AN ACT to provide for the prevention and treatment of domestic violence; to develop and establish policies, procedures, and standards for providing domestic violence assistance programs and services; to create a domestic violence prevention and treatment board and prescribe its powers and duties; to establish a domestic violence prevention and treatment fund and provide for its use; to prescribe powers and duties of the family independence agency; to prescribe immunities and liabilities of certain persons and officials; and to prescribe penalties for violations of this act.

History: 1978, Act 389, Eff. Oct. 1, 1978;—Am. 2000, Act 84, Eff. July 1, 2000;—Am. 2001, Act 192, Eff. Oct. 1, 2002.

Popular name: Domestic Violence Prevention and Treatment Act

The People of the State of Michigan enact:

400.1501 Definitions.

Sec. 1. As used in this act:

(a) "Board" means the domestic violence prevention and treatment board created in section 2.

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(c) "Department" means the family independence agency.

(d) "Domestic violence" means the occurrence of any of the following acts by a person that is not an act of self-defense:

(*i*) Causing or attempting to cause physical or mental harm to a family or household member.

(*ii*) Placing a family or household member in fear of physical or mental harm.

(*iii*) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.

(*iv*) Engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(e) "Family or household member" includes any of the following:

(*i*) A spouse or former spouse.

(*ii*) An individual with whom the person resides or has resided.

(*iii*) An individual with whom the person has or has had a dating relationship.

(*iv*) An individual with whom the person is or has engaged in a sexual relationship.

(*v*) An individual to whom the person is related or was formerly related by marriage.

(*vi*) An individual with whom the person has a child in common.

(*vii*) The minor child of an individual described in subparagraphs (*i*) to (*vi*).

(f) "Fund" means the domestic violence prevention and treatment fund created in section 5.

(g) "Prime sponsor" means a county, city, village, or township of this state, or a combination thereof, or a private, nonprofit association or organization.

History: 1978, Act 389, Eff. Oct. 1, 1978;—Am. 2000, Act 84, Eff. July 1, 2000.

Popular name: Domestic Violence Prevention and Treatment Act

400.1502 Domestic violence prevention and treatment board; creation; appointment, qualifications, and terms of members; vacancy; chairperson; quorum; compensation and expenses.

Sec. 2. (1) The domestic violence prevention and treatment board is created in the department. The board shall consist of 7 members, all of whom shall have experience in an area related to the problems of domestic violence. The members shall be appointed by the governor with the advice and consent of the senate.

(2) The term of office of a member shall be 3 years, except that: of the members first appointed, 2 shall serve for a term of 1 year, 2 shall serve for a term of 2 years, and 1 shall serve for a term of 3 years; and of the 2 additional members appointed under this 1979 amendatory act, 1 shall serve for a term of 2 years and 1 shall serve for a term of 3 years. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the remainder of the unexpired term.

(3) The governor shall designate 1 member of the board to serve as chairperson. A majority of the members shall constitute a quorum.

(4) The per diem compensation of the board and the schedule for reimbursement of expenses shall be

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established annually by the legislature.

History: 1978, Act 389, Eff. Oct. 1, 1978;—Am. 1979, Act 127, Imd. Eff. Oct. 26, 1979.

Popular name: Domestic Violence Prevention and Treatment Act

400.1503 Conducting business at public meeting; notice; availability of certain writings to public.

Sec. 3. (1) The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

(2) A writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1978, Act 389, Eff. Oct. 1, 1978.

Popular name: Domestic Violence Prevention and Treatment Act

400.1504 Powers and duties of board; staff.

Sec. 4. The department shall provide staff to enable the board to carry out the following powers and duties:

(a) Coordinate and monitor programs and services funded under this act for the prevention of domestic violence and the treatment of victims of domestic violence.

(b) Develop standards for the implementation and administration of services and procedures to prevent domestic violence and to provide services and programs for victims of domestic violence.

(c) Provide planning and technical assistance to prime sponsors for the development, implementation, and administration of programs and services for the prevention of domestic violence and the treatment of victims of domestic violence.

(d) Conduct research to develop and implement effective means for preventing domestic violence and treating victims of domestic violence.

(e) Provide assistance to the department of state police in developing a system for monitoring and maintaining a uniform reporting system to provide accurate statistical data on domestic violence.

(f) Coordinate educational and public informational programs for the purpose of developing appropriate public awareness regarding the problems of domestic violence; encourage professional persons and groups to recognize and deal with problems of domestic violence; to make information about the problems of domestic violence available to the public and organizations and agencies which deal with problems of domestic violence; and encourage the development of community programs to prevent domestic violence and provide services to victims of domestic violence.

(g) Study and recommend changes in civil and criminal procedures which will enable victims of domestic violence to receive equitable and fair treatment under the law.

(h) Advise the legislature and governor on the nature, magnitude, and priorities of the problem of domestic violence and the needs of victims of domestic violence; and recommend changes in state programs, statutes, policies, budgets, and standards which will reduce the problem and improve the condition of victims.

History: 1978, Act 389, Eff. Oct. 1, 1978.

Popular name: Domestic Violence Prevention and Treatment Act

400.1505 Domestic violence prevention and treatment fund; establishment; administration; criteria and conditions for awarding grants or contracts.

Sec. 5. The domestic violence prevention and treatment fund is established within the department. Subject to the approval of the board, the department shall administer the fund for the purposes described in this act and shall establish qualifying criteria for awarding grants or contracts under section 6 and may specify conditions for each grant or contract.

History: 1978, Act 389, Eff. Oct. 1, 1978.

Popular name: Domestic Violence Prevention and Treatment Act

400.1506 Grants or contracts for support of local programs; application by prime sponsor; agreement as condition to award or contract; cost of programs and services; limitation on amount received.

Sec. 6. (1) Subject to the approval of the board, the department may award a grant or enter into a contract, using money in the fund, for the support of local programs designed to do any of the following:

(a) Establish or maintain a shelter program as provided in section 7.

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(b) Develop and establish a training program for persons engaged in areas related to the problems of domestic violence.

(c) Develop and implement effective means for the prevention and treatment of domestic violence.

(2) A prime sponsor that desires to receive a grant from, or to enter into a contract with, the department shall make application in the manner prescribed by the department.

(3) The department shall not award a grant to a prime sponsor or enter into a contract with a prime sponsor, unless the prime sponsor agrees that the state share, including federal money, payable for programs and services financed with state or federal money received under the authority of this act shall not exceed 75% of the total cost of the domestic violence prevention and treatment programs and services provided by that prime sponsor during the term of the award or contract. The total cost of programs and services may include the fair market value of in-kind contributions received by a prime sponsor. A prime sponsor shall not receive more than $75,000.00 in state general fund-general purpose appropriations under this act during a fiscal year.

History: 1978, Act 389, Eff. Oct. 1, 1978;—Am. 1986, Act 101, Eff. Oct. 1, 1986;—Am. 1990, Act 225, Imd. Eff. Oct. 8, 1990;—Am. 1993, Act 8, Imd. Eff. Mar. 24, 1993.

Popular name: Domestic Violence Prevention and Treatment Act

400.1507 Shelter program; funds for establishment; emergency shelter; services.

Sec. 7. (1) A prime sponsor may receive funds under this act to establish or maintain a shelter program for victims of domestic violence and their dependent children. Emergency shelter may be provided directly at a facility operated by the prime sponsor or indirectly at transient or residential facilities available in the community. A shelter program shall either provide not less than 3 of the following services or assist the victim in obtaining information and referral services to not less than 3 of the following services:

(a) Crisis and support counseling for victims of domestic violence and their dependent children.

(b) Emergency health care services.

(c) Legal assistance.

(d) Financial assistance.

(e) Housing assistance.

(f) Transportation assistance.

(g) Child care services.

(2) To the extent possible, a prime sponsor which establishes a shelter program under this section shall utilize services provided by county community mental health programs established under chapter 2 of Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1200 to 330.1246 of the Michigan Compiled Laws.

History: 1978, Act 389, Eff. Oct. 1, 1978.

Popular name: Domestic Violence Prevention and Treatment Act

400.1508 Awarding grant or contract; preference; consideration of needs; equitable funding.

Sec. 8. (1) In awarding a grant or contract under this act, the department and board shall give preference to a prime sponsor which establishes domestic violence emergency shelter services utilizing voluntary personnel or available community resources.

(2) In awarding a grant or contract under this act, the department and board shall consider the needs of the people residing throughout the state and shall provide for the equitable, statewide funding of programs for the prevention of domestic violence and the treatment of victims of domestic violence.

History: 1978, Act 389, Eff. Oct. 1, 1978.

Popular name: Domestic Violence Prevention and Treatment Act

400.1509 Evaluation of programs and services.

Sec. 9. The department annually shall evaluate the domestic violence prevention and treatment programs and services provided by a prime sponsor which is awarded a grant or contract under this act. The evaluation shall include a description of the programs and services provided, an analysis of the effectiveness of the programs and services, and an accounting of the use of state funds for the programs and services.

History: 1978, Act 389, Eff. Oct. 1, 1978.

Popular name: Domestic Violence Prevention and Treatment Act

400.1510 Agreements for receipt of funds.

Sec. 10. The department may enter into agreements with the federal government or private foundations, trusts, or other legal entities for the receipt of funds consistent with this act.

History: 1978, Act 389, Eff. Oct. 1, 1978.

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400.1511 Interagency domestic violence fatality review team.

Sec. 11. (1) The state or a county may establish an interagency domestic violence fatality review team. Two or more counties may establish a single domestic violence fatality review team for those counties. The purpose of a team is to learn how to prevent domestic violence homicides and suicides by improving the response of individuals and agencies to domestic violence. Subject to the requirements of this section, each team may determine its structure and specific activities.

(2) The fatality review teams may review fatal and near-fatal incidents of domestic violence, including suicides. The review of a domestic violence incident may include a review of events leading up to the domestic violence incident, available community resources, current laws and policies, actions taken by the agencies and individuals related to the incident and the parties, and any other information considered relevant by the team. The team may determine the number and type of incidents it wishes to review and shall make policy and other recommendations as to how incidents of domestic violence may be prevented.

(3) A fatality review team and its members are entitled to the protections granted under this section if the fatality review team is convened under this section and in compliance with the requirements of this section.

(4) A fatality review team established under this section shall include, but is not limited to, the following:

(a) A health care professional with training and experience in responding to domestic violence.

(b) A medical examiner.

(c) A prosecuting attorney or a designated assistant prosecuting attorney.

(d) A representative of a domestic violence shelter that receives funding from the Michigan domestic violence prevention and treatment board.

(e) A law enforcement officer.

(5) If a state fatality review team is convened, the state fatality review team shall be convened by the Michigan domestic violence prevention and treatment board.

(6) Subject to subsection (9), information obtained or created by or for a fatality review team is confidential and not subject to discovery or the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Documents created by or for the fatality review team are not subject to subpoena, except that documents and records otherwise available from other sources are not exempt from subpoena, discovery, or introduction into evidence from other sources solely because they were presented to or reviewed by a fatality review team. Information relevant to the investigation of a crime may be disclosed by a fatality review team only to the prosecuting attorney or to a law enforcement agency. Information required to be reported under the child protection law, 1975 PA 238, MCL 722.621 to 722.638, shall be disclosed by a fatality review team to the family independence agency. A prosecuting attorney, a law enforcement agency, and the family independence agency may use information received under this subsection in carrying out their lawful responsibilities. Individuals and the organizations represented by individuals who participate as members of a fatality review team shall sign a confidentiality agreement acknowledging the confidentiality provisions of this section.

(7) An individual who provides information to a fatality review team shall sign a confidentiality notice acknowledging that any information he or she provides to a fatality review team shall be kept confidential by the fatality review team, but is subject to possible disclosure to the prosecuting attorney, a law enforcement agency, or the family independence agency as provided in subsection (6).

(8) Fatality review team meetings are closed to the public and are not subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Information identifying a victim of domestic violence whose case is being reviewed, or that person's family members, or an alleged or suspected perpetrator of abuse upon the victim, or regarding the involvement of any agency with the victim or that person's family, shall not be disclosed in any report that is available to the public.

(9) Fatality review teams convened under this section shall prepare an annual report of findings, recommendations, and steps taken to implement recommendations. The report shall not contain information identifying any victim of domestic violence, or that person's family members, or an alleged or suspected perpetrator of abuse upon a victim, or regarding the involvement of any agency with a victim or that person's family. The report shall cover each calendar year or portion of a calendar year during which a fatality review team is convened and the report shall be provided to the Michigan domestic violence prevention and treatment board on or before March 1 of the following year. If the Michigan domestic violence prevention and treatment board develops a form for use by fatality review teams to report annual findings and recommendations, fatality review teams shall use that form.

(10) A person who violates the confidentiality provisions of this section is guilty of a misdemeanor.

(11) A fatality review team, any member of a fatality review team, any individual providing information to

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a fatality review team, or any other person or agency acting within the scope of this section is immune from all civil liability resulting from an act or omission arising out of and in the course of the team's, member's, individual's, person's, or agency's performance of that activity, unless the act or omission was the result of gross negligence or willful misconduct. This section shall not be construed to limit the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1419, or any other immunity provided by statute or common law.

(12) Subject to available funding, the Michigan domestic violence prevention and treatment board may do any of the following:

(a) Develop a protocol for use by state, county, and multicounty domestic violence fatality review teams.

(b) Develop a form for use by fatality review teams to report annual findings and recommendations as required in subsection (9).

(c) Develop and provide training concerning fatality review teams.

(d) Prepare a report to the governor, the senate, and the house of representatives summarizing the findings and recommendations of fatality review teams and making recommendations to reduce and eradicate the incidence of domestic violence.

(13) If the Michigan domestic violence prevention and treatment board develops a protocol for use by state, county, and multicounty fatality review teams, the teams shall follow that protocol.

History: Add. 2001, Act 192, Eff. Oct. 1, 2002;—Am. 2002, Act 732, Imd. Eff. Dec. 30, 2002.

Compiler's note: Former MCL 400.1511, which pertained to effective date and expiration provisions, was repealed by Act 383 of 1982, Eff. Mar. 30, 1983.

Popular name: Domestic Violence Prevention and Treatment Act

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EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1995-17

400.1601 Transfer of powers and duties of commission on agricultural labor to director of department of social services by type III transfer; abolishment of commission on agricultural labor.

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Commission on Agricultural Labor was created within the Michigan Department of Labor by Section 1 of Act No. 353 of the Public Acts of 1968, as amended, being Section 16.490 to Section 16.494 of the Michigan Compiled Laws; and

WHEREAS, there currently exists within the Department of Social Services an Interagency Migrant Services Committee, which, among other things, provides cooperation between public agencies and private groups to resolve issues related to migrant agricultural labor; and

WHEREAS, the functions, duties and responsibilities assigned to the Commission on Agricultural Labor can be more effectively organized and carried out under the supervision and direction of the Director of the Department of Social Services; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. All the statutory authority, powers, duties, functions and responsibilities of the Commission on Agricultural Labor, as set forth in Sections 16.490 to 16.494 of the Michigan Compiled Laws, are hereby transferred to the Director of the Department of Social Services by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

2. The Director of the Department of Social Services shall provide executive direction and supervision for the implementation of the transfer. The assigned functions shall be administered by the Director of the Department of Social Services, and all prescribed functions of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the Director of the Department of Social Services.

3. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Commission on Agricultural Labor for the activities transferred by this Order are hereby transferred to the Director of the Department of Social Services.

4. The Director of the Department of Social Services shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

5. The Director of the Department of Social Services and the Director of the Department of Labor shall immediately initiate coordination to facilitate the transfer and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Commission on Agricultural Labor.

6. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

7. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

8. The Commission on Agricultural Labor is hereby abolished.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective 60 days after filing.

History: 1995 E.R.O. No. 1995-17, Eff. Oct. 16, 1995.

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