

SENATE BILL No. 1347

September 8, 2004, Introduced by Senator SCHAUER and referred to the Committee on Families and Human Services.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 115f, 115g, and 115h (MCL 400.115f, 400.115g, and 400.115h), sections 115f and 115g as amended by 2002 PA 648 and section 115h as added by 1994 PA 238.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 115f. As used in this section and sections 115g to
2 115s:

3 (a) "Adoptee" means the child who is to be adopted or who is
4 adopted.

5 (b) "Adoption assistance" means a support subsidy or medical
6 assistance, or both.

7 (c) "Adoption assistance agreement" means an agreement
8 between the department and an adoptive parent regarding adoption
9 assistance.

1 (d) "Adoption code" means the Michigan adoption code, chapter
2 X of the probate code of 1939, 1939 PA 288, MCL 710.21 to
3 710.70.

4 (e) "Adoptive parent" means the parent or parents who adopt a
5 child under the adoption code.

6 (f) "Certification" means a determination of eligibility by
7 the department that an adoptee is eligible for a support subsidy
8 or a medical subsidy or both.

9 (g) "Child placing agency" means that term as defined in
10 section 1 of 1973 PA 116, MCL 722.111.

11 (h) "Child with special needs" means an individual under the
12 age of 18 years for whom the state has determined all of the
13 following:

14 (i) The child cannot or should not be returned to the home of
15 the child's parents.

16 (ii) A specific factor or condition, or a combination of
17 factors and conditions, exists with respect to the child so that
18 it is reasonable to conclude that the child cannot be placed with
19 an adoptive parent without providing adoption assistance under
20 this act. The factors or conditions to be considered may include
21 ethnic or family background, age, membership in a minority or
22 sibling group, medical condition, physical, mental, or emotional
23 disability, or length of time the child has been waiting for an
24 adoptive home.

25 (iii) A reasonable but unsuccessful effort was made to place
26 the adoptee with an appropriate adoptive parent without providing
27 adoption assistance under this act or a prospective placement is

1 the only placement in the best interest of the child.

2 (i) "Compact" means the interstate compact on adoption and
3 medical assistance as enacted in sections 115r and 115s.

4 (j) "Court" means the family division of circuit court.

5 (k) "Department" means the family independence agency.

6 ~~(l) "Foster care" means placement of a child outside the
7 child's parental home by and under the supervision of a child
8 placing agency, the court, the department, or the department of
9 community health.~~

10 (l) ~~-(m)-~~ "Medical assistance" means the federally aided
11 medical assistance program under title XIX. ~~-of the social
12 security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f,
13 1396g 1 to 1396r 6 and 1396r 8 to 1396v.~~

14 (m) ~~-(n)-~~ "Medical subsidy" means payment for medical,
15 surgical, hospital, and related expenses necessitated by a
16 specified physical, mental, or emotional condition of a child who
17 has been placed for adoption.

18 (n) ~~-(o)-~~ "Medical subsidy agreement" means an agreement
19 between the department and an adoptive parent regarding a medical
20 subsidy.

21 (o) ~~-(p)-~~ "Nonrecurring adoption expenses" means reasonable
22 and necessary adoption fees, court costs, attorney fees, and
23 other expenses that are directly related to the legal adoption of
24 a child with special needs. Nonrecurring adoption expenses do
25 not include costs or expenses incurred in violation of state or
26 federal law or that have been reimbursed from other sources or
27 funds.

1 **(p)** ~~-(q)-~~ "Other expenses that are directly related to the
2 legal adoption of a child with special needs" means adoption
3 costs incurred by or on behalf of the adoptive parent and for
4 which the adoptive parent carries the ultimate liability for
5 payment, including the adoption study, health and psychological
6 examinations, supervision of the placement before adoption, and
7 transportation and reasonable costs of lodging and food for the
8 child or adoptive parent if necessary to complete the adoption or
9 placement process.

10 **(q)** ~~-(r)-~~ "Party state" means a state that becomes a party to
11 the interstate compact on adoption and medical assistance.

12 **(r)** ~~-(s)-~~ "Residence state" means the state in which the
13 child is a resident by virtue of the adoptive parent's
14 residency.

15 **(s)** ~~-(t)-~~ "State" means a state of the United States, the
16 District of Columbia, the Commonwealth of Puerto Rico, the Virgin
17 Islands, Guam, the Commonwealth of the Northern Mariana Islands,
18 or a territory or possession of the United States.

19 **(t)** ~~-(u)-~~ "Support subsidy" means payment for support of a
20 child who has been placed for adoption.

21 Sec. 115g. (1) The department may pay a support subsidy to
22 an adoptive parent of an adoptee who is placed in the home of the
23 adoptive parent under the adoption code or under the adoption
24 laws of another state or a tribal government, if all of the
25 following requirements are met:

26 (a) The department has certified that the adoptee is eligible
27 for a support subsidy, based on all of the following:

1 (i) The adoptee is a child with special needs.

2 (ii) An adoptive parent requests a support subsidy.

3 (iii) The adoptee is ~~in foster care~~ **under court**
4 **jurisdiction according to section 2(b) of chapter XIIIA of the**
5 **probate code of 1939, 1939 PA 288, MCL 712A.2, at the time the**
6 **department certifies the support subsidy or the adoptee is**
7 **eligible for supplemental security income under title XVI at the**
8 time the department certifies the support subsidy.

9 (b) Certification is made before the adoptee's eighteenth
10 birthday.

11 (c) Certification is made before the petition for adoption is
12 filed.

13 (d) The adoptive parent requests the support subsidy not
14 later than the date of confirmation of the adoption.

15 (2) The department shall determine eligibility for the
16 support subsidy without regard to the income of the adoptive
17 parent or parents. The amount shall be equal to the family
18 foster care rate, including the difficulty of care rate, that was
19 paid for the adoptee while the adoptee was in family foster care,
20 except that the amount shall be increased to reflect increases
21 made in the standard age appropriate foster care rate paid by the
22 department.

23 (3) The department shall complete the certification process
24 within 30 days after it receives a request for a support
25 subsidy.

26 Sec. 115h. (1) The department may pay a medical subsidy to
27 the adoptive parent or parents of an adoptee who is placed for

1 adoption in the home of the adoptive parent or parents ~~pursuant~~
2 ~~to~~ **under** the adoption code or the laws of any other state or a
3 tribal government, if all of the following requirements are met:

4 (a) The expenses to be covered by the medical subsidy are
5 necessitated by a physical, mental, or emotional condition of the
6 adoptee that existed or the cause of which existed before the
7 adoption petition was filed or certification was established,
8 whichever occurred first.

9 (b) The adoptee was ~~in foster care~~ **under court jurisdiction**
10 **according to section 2(b) of chapter XIIA of the probate code of**
11 **1939, 1939 PA 288, MCL 712A.2,** at the time the petition for
12 adoption was filed. This subdivision does not apply to adoptions
13 confirmed ~~pursuant to~~ **under** the adoption code before June 28,
14 1992.

15 (c) Certification was made before the adoptee's eighteenth
16 birthday.

17 (2) The department shall determine the amount of the medical
18 subsidy without respect to the income of the adoptive parent or
19 parents. The department shall not pay a medical subsidy until
20 all other available public money and third party payment is
21 used. For purposes of this subsection, third party payment is
22 available if an adoptive parent has an option, at or after the
23 time of certification, to obtain from the parent's employer
24 health coverage for the child, with or without cost to the
25 adoptive parent. The department may waive this subsection in
26 cases of undue hardship.

27 (3) The adoptive parent or parents may request a medical

1 subsidy before or after the confirmation of the adoption. A
2 medical subsidy requested after the adoptee is placed in adoption
3 is effective the date the request is received by the department
4 if the necessary documentation for certification is received
5 within 90 days after the request is made. In allocating
6 available funding for medical subsidies, the department shall not
7 give preferential treatment to requests that are made before the
8 confirmation of an adoption, but shall allocate funds based on a
9 child's need for the subsidy.

10 (4) Payment of a medical subsidy for treatment of a mental or
11 emotional condition is limited to outpatient treatment unless 1
12 or more of the following apply:

13 (a) Certification for the medical subsidy was made before the
14 adoption confirmation date.

15 (b) The adoptee was placed in foster care by the court
16 ~~pursuant to~~ **under** section 18(1)(d) or (e) of chapter XIIIA of
17 ~~Act No. 288 of the Public Acts of 1939, being section 712A.18 of~~
18 ~~the Michigan Compiled Laws~~ **the probate code of 1939, 1939 PA**
19 **288, MCL 712A.18**, before the petition for adoption was filed.

20 (c) The adoptee was certified for a support subsidy.