

FOSTER CARE BENEFITS

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Senate Bill 872 (H-1) as reported from House committee

Sponsor: Sen. Jeff Irwin

House Committee: Families, Children and Seniors

Senate Committee: Housing and Human Services

Complete to 12-19-24

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 872 would amend the Foster Care and Services Act. The bill would require the Department of Health and Human Services (DHHS) to do all of the following:

- At its discretion of the department, screen a child in foster care for potential eligibility for state or federal benefits¹ within 90 days after the child enters foster care, and annually if the child remains in foster care.
- As appropriate, consult with the parents or guardian ad litem of a child in foster care to make decisions regarding state and federal benefits in the best interests of the child in foster care.
- Using information collected above, apply for state and federal benefits the child in foster care may be eligible for and is not already receiving, as appropriate to the child's best interests.

The state would be prohibited from using payments from state or federal benefits of a child in foster care, or any other assets or income that the child in foster care has earned, owned, or received, as reimbursement for the cost of care for the child in foster care. DHHS could, after appropriate consultation with the child's parents or guardian ad litem, as applicable, do one or more of the following if it determines that doing so is in the best interests of the child:

- Use the child's state or federal benefits for special needs services for the child that are not otherwise provided by DHHS.
- Conserve the state or federal benefits for reasonably foreseeable future special needs services for the child.

If DHHS applies for state or federal benefits for a child in foster care, it would have to, in cooperation with the child's guardian ad litem, if one has been appointed, do either of the following:

- Provide information to assist payors of state or federal benefits in identifying an appropriate representative payee or fiduciary in accordance with applicable federal requirements.²
- Serve as the representative payee, if designated by a payor of state or federal benefits, or fiduciary for the child in foster care if payments cannot be made in accordance with the above.

¹ As used in the bill, *federal benefits* would mean Social Security benefits or U.S. Department of Veterans Affairs benefits, and *state benefits* would mean state supplemental payments for recipients of federal Supplemental Security Income.

² Specifically, 20 CFR 404.2021 (<https://www.ecfr.gov/current/title-20/section-404.2021>) or 20 CFR 416.621 (<https://www.ecfr.gov/current/title-20/section-416.621>).

Consistent with federal law, if DHHS serves as the representative payee or in any other fiduciary capacity for a child in foster care that receives state or federal benefits, it would have to do all of the following until it no longer serves as the representative payee or fiduciary:

- Conserve the state or federal benefits in the child's best interests or use the state or federal benefits as authorized above (regarding special needs services).
- Appropriately monitor any asset or resource limits for the state or federal benefits and ensure that the child's best interests are served by using or conserving the state or federal benefits in a way that avoids violating any asset or resource limits that would affect the child's continued eligibility to receive the benefits.
- Provide an annual accounting to the child and their guardian ad litem, if one has been appointed, of how the child's state or federal benefits have been used or conserved in accordance with the bill.

If a child in foster care is 14 years of age or older and able to receive financial literacy training, DHHS would have to provide the child with financial literacy training that is consistent with the child's needs.

DHHS would have to immediately notify a child in foster care, through their guardian ad litem, if applicable, of any of the following:

- An application for state or federal benefits made on behalf of the child or any application to become representative payee for state or federal benefits on behalf of the child.
- A decision or communication from the state or the federal government regarding an application for state or federal benefits described above.
- An appeal or other action requested by DHHS with regard to an application for state or federal benefits described above.

If DHHS serves as the representative payee or otherwise receives state or federal benefits on behalf of a child in foster care, it would have to provide notice to the child, through their guardian ad litem, if applicable, of all of the following before each permanency planning hearing regarding the child:

- The amount of state or federal benefits received on behalf of the child since any previous notification to their guardian ad litem, if applicable, and the date of each receipt.
- Information regarding the disposition of funds described above, including an accounting of any funds disbursed or expended and the balance of any deposit or trust accounts.

DHHS would have to facilitate the transfer of any assets or income that a child in foster care has earned, owned, or received to the child when the child is discharged from foster care or reaches the age of 18, whichever is sooner. DHHS would have to assist the child in nominating a representative payee, for consideration by a payor of state or federal benefits, if applicable. If the child dies while in foster care, DHHS would have to facilitate the transfer of any of the child's assets or income to their heirs. If the child is discharged into the care of a parent, guardian, or conservator, DHHS would have to facilitate the transfer of any assets or income to the parent, guardian, or conservator to be managed for the child's benefit. DHHS's responsibilities described in this paragraph apply only to funds for which it is the payee or fiduciary.

As appropriate, DHHS or the child's guardian ad litem would have to file timely appeals to a denial, overpayment, or cessation of state or federal benefits on behalf of the child.

A transfer of assets described above would have to be in accordance with the rules promulgated by United States Social Security Administration.

The bill states that it would not affect any additional notice required by a state court.

The bill would take effect October 1, 2026.

Proposed MCL 722.958f

FISCAL IMPACT:

Senate Bill 872 would increase costs for the Department of Health and Human Services and local units of government by up to \$3.7 million GF/GP. Under the provisions of the bill, DHHS will no longer be able to utilize a child's state or federal benefits to cover the cost of the child's care while the child is in foster care. In FY 2023-24, \$3.7 million restricted funding was expended by the department to cover the cost of foster youth care. In FY 2024-25, \$3.6 million in restricted funding is authorized to be spent. The loss of restricted revenue would need to be replaced by GF/GP.

POSITIONS:

Representatives of the following entities testified in support of the bill (12-3-24):

- Department of Health and Human Services
- Michigan Poverty Law Program

The following entities indicated support for the bill (12-3-24):

- Michigan Catholic Conference
- Michigan League of Public Policy
- National Association of Social Workers

Legislative Analyst: E. Best
Fiscal Analyst: Sydney Brown

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.