

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

OLD AGE ASSISTANCE, AID TO DEPENDENT CHILDREN, AND AID TO THE BLIND

400.22 Program of all-inclusive care for the elderly (PACE); requirements; "PACE" defined.

Sec. 22.

(1) As used in this section, "Program of All-Inclusive Care for the Elderly" or "PACE" means an innovative model of community-based care that enables elderly individuals, who are certified as needing nursing facility care, to live as independently as possible.

(2) A prospective PACE organization can be a not-for-profit, for-profit, or public entity that is primarily engaged in providing PACE services and participates in both Medicare and Medicaid. Michigan licensure as a health care entity is not required. An unlicensed PACE entity may serve any eligible enrollee. A prospective PACE entity must meet the federal requirements for a PACE organization, enroll as a Michigan Medicaid provider, and complete a feasibility study.

(3) A prospective PACE organization must submit both of the following to the department:

(a) Not later than 90 calendar days after submitting a letter of intent, a feasibility study.

(b) Not later than 1 year after the department approves the feasibility study, a provider application.

(4) When submitting a letter of intent, a prospective PACE entity must state in the application the service area proposed for the PACE program. If the state determines that there is unmet need in a designated geographic area already covered by an existing PACE organization, the department must notify that PACE organization in a reasonable amount of time, and that PACE organization must be given the opportunity to submit a plan to expand capacity sufficient to accommodate need. The department must give the existing PACE program 6 months from notice of the determination of unmet need to submit an expansion plan. If the existing PACE organization fails to submit a reasonable plan for expansion within 6 months, the state may allow proposals from other PACE organizations. The department shall work with the PACE Association of Michigan and other appropriate provider representatives to develop an acceptable methodology to determine unmet need.

History: Add. 2018, Act 447, Eff. Mar. 21, 2019

Compiler's Notes: Former MCL 400.22, which pertained to the creation of the bureau of social security, was repealed by Act 95 of 1957, Eff. Sept. 27, 1957.

Popular Name: Act 280

400.23, 400.23a Repealed. 1968, Act 117, Imd.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

Compiler's Notes: 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

Admin Rule: 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 Notes: 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, 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 Notes: 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 Notes: 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

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

Compiler's Notes: 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 Notes: 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

Admin Rule: 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 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 Notes: 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 Notes: 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 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

Compiler's Notes: For transfer of powers and duties of office of inspector general from department of human services to department of health and human services office of inspector general, and abolishment of the position of inspector general, see E.R.O. No. 2015-1, compiled at MCL 400.227.

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 Notes: 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