



**House
Legislative
Analysis
Section**

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SSI ATTORNEY FEE PROVISION

House Bill 5947 as passed by the House
Second Analysis (10-26-90)

Sponsor Rep Thomas L Hickner
Committee. Social Services & Youth

THE APPARENT PROBLEM:

The federal Supplemental Security Income (SSI) program pays benefits to people who are indigent and aged, blind or disabled. People who apply for SSI benefits and are denied may appeal for redetermination of eligibility. While such an appeal is pending, these people are eligible to receive General Assistance (GA) or Aid to Families with Dependant Children (AFDC). If a person receiving interim assistance wins his or her appeal, the state is entitled to be reimbursed by the federal government for the interim assistance out of the person's retroactive benefits. Public Act 184 of 1987 requires the Department of Social Services to pay a reasonable attorney's fee on behalf of a recipient of AFDC or general assistance who won retroactive SSI benefits in a proceeding against the federal Social Security Administration (SSA), if the proceeding resulted in a reimbursement to the state for interim assistance paid to the recipient during the period covered by the award. Although the program has been quite successful, the act's provision regarding payment of attorneys' fees by the department will expire November 30, 1990.

In addition, although retroactive SSI benefits are normally sent directly to the state, on a rare occasion errors occur which result in benefits being sent directly to the client. In those instances, the client is required to reimburse the state for interim assistance. Reimbursement from the client to the state can be paid in a lump sum payment or by monthly installments. Administration of this provision can become quite burdensome for the department when a client pays in monthly installments. The department has to keep track of reimbursements sent in by the client and payments made to attorneys who represented the clients. In addition, administration of reimbursements made by clients to the department can become quite costly when the reimbursements are made in small amounts, such as \$10, because the department has to calculate its share of the reimbursement and the attorney share.

Further, many instances occur in which the fee for representation in a proceeding regarding SSI benefits that an attorney bills to the department is less than the fee that the department is required by the act to pay to the attorney. The bill would amend the act so that the department could pay the amount billed instead of the maximum amount required by the act.

THE CONTENT OF THE BILL:

The bill would amend the Social Welfare Act to require the department to pay a fee to an attorney only when the department received reimbursement of AFDC or GA benefits in a lump sum payment from the SSA or the client who received interim assistance from the department while waiting for a decision by the SSA concerning an appeal. The bill would also allow the department to pay the amount billed by an attorney for representation of a client in a proceeding regarding SSI benefits or the amount currently

required by law, whichever was less. In addition, the bill would delete the expiration date for the section of the act regarding departmental payments to attorneys who represented clients in SSI appeal proceedings.

MCL 400.44

FISCAL IMPLICATIONS:

According to the Department of Social Services, for the past three years 618 cases have occurred in which attorneys were reimbursed under this section of the act. The attorneys were reimbursed a total of \$480,000 with an average of \$777 awarded per case. The department was reimbursed a total of \$1.8 million from SSA and retained \$1.3 million after transferring cases to SSA and after making payments to attorneys (9-12-90).

ARGUMENTS:

For:

Maintenance of the payment provision for attorneys who represent clients in SSI appeal proceedings is positive for everyone involved. Attorneys can continue to receive payment for representing clients in appeals for SSI benefits, clients can continue to receive more benefits under the SSI program than they do under state programs when an attorney is successful in winning an appeal to SSA, and the state can continue to transfer clients to the federal program and save money. In addition, the bill will help the department save money by decreasing administrative costs and allowing the department to pay less in attorney fees.

POSITIONS:

The Department of Social Services supports the bill (9-12-90).

The Legal Aid Directors of Michigan supports the bill (9-14-90).

The Michigan Trial Lawyers Association supports the bill (9-14-90).

H.B. 5947 (10-26-90)