

Act No. 145
Public Acts of 1990
Approved by the Governor
June 26, 1990
Filed with the Secretary of State
June 27, 1990

STATE OF MICHIGAN
85TH LEGISLATURE
REGULAR SESSION OF 1990

Introduced by Reps. DeMars, DeBeaussiaert, Bartnik, Owen, Weeks, Martin, Wallace, Ciaramitaro, Pitoniak, Gire, Nye, Scott, Hart and Niederstadt
Reps. Allen, Alley, Bandstra, Bankes, Bender, Bennett, Berman, Perry Bullard, Camp, Clack, Dolan, Dunaskiss, Gagliardi, Giese, Gilmer, Gnodtke, Gubow, Harrison, Hillegonds, Hoekman, Hollister, Hood, Hunter, Jonker, Kosteva, Krause, Kulchitsky, Law, Leland, London, Mathieu, Maynard, Middaugh, Munsell, Murphy, O'Neill, Oxender, Porreca, Power, Profit, Randall, Rocca, Runco, Saunders, Sparks, Strand, Stupak, Trim, Varga, Webb and Joe Young, Jr. named co-sponsors

ENROLLED HOUSE BILL No. 5470

AN ACT to amend sections 56g and 106 of Act No. 280 of the Public Acts of 1939, entitled as amended "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," section 106 as amended by Act No. 405 of the Public Acts of 1982, being sections 400.56g and 400.106 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Sections 56g and 106 of Act No. 280 of the Public Acts of 1939, section 106 as amended by Act No. 405 of the Public Acts of 1982, being sections 400.56g and 400.106 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 56g. (1) Aid to dependent children may be provided to a dependent child or family who, in addition to the requirements under section 56 meets the following:

(a) Does not own tangible and intangible property having a market value in excess of \$1,500.00 for a single individual, or if a family group, the tangible and intangible property of the family group does not exceed \$2,000.00. The following is excluded in making the determination of the value of tangible or intangible property:

(i) The value of a homestead occupied by the applicant or recipient as a home.

(ii) One thousand dollars of the cash surrender value of life insurance. If the health of the insured is such as to make continuance of the insurance desirable, the entire cash surrender value of life insurance shall be excluded from consideration up to the maximums provided or allowed by federal regulations and in accordance with the rules of the state department.

(iii) Household goods and wearing apparel.

(iv) Property used in earning income, including farm stock or implements, horses, cattle, poultry, power machinery and motor powered vehicles or tools, equipment, or an automobile necessary for attaining or retaining remunerative employment and having a fair market value of less than \$750.00.

(v) An amount paid to a family member that is a judgment or settlement for damages suffered as a result of exposure to agent orange, as defined in section 5701 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.5701 of the Michigan Compiled Laws.

(b) Does not have sufficient income from all sources of more than the amount necessary to provide the person or family with a minimum subsistence compatible with decency and health, as determined by the state department.

(c) Has not made an assignment or transfer of any real or personal property within 1 year immediately preceding the date of application, or has not made an assignment or transfer after the granting of assistance, for the purpose of qualifying for assistance or for the purpose of increasing the amount of assistance to be received under this act.

(d) Has no spouse, parent, other person, association, society, or corporation legally or contractually responsible under the laws of this state for his or her support and found by the state department to be able to support him or her. If a spouse, parent, other person, association, society, or corporation is partially able to support the applicant, the partial support shall be taken into consideration in fixing the amount of the assistance.

(2) The interest of the applicant or recipient in an estate or trust as heir, devisee, legatee, cestui que trust, or otherwise shall not be considered the property of the applicant or the recipient for eligibility requirements unless it is distributed to him or her or is available to him or her for disposition or expenditure by him or her. In fixing the value of property under this section, ownership of real property located in another state by a spouse not having a legal residence in Michigan does not preclude the applicant from receiving the aid unless it appears that the applicant has a present legal interest in the property.

Sec. 106. (1) A medically indigent individual is defined as:

(a) An individual receiving aid to dependent children or an individual receiving supplemental security income under title XVI of the social security act, 42 U.S.C. 1381 to 1385, or state supplementation thereunder subject to limitations imposed by the director pursuant to title XIX.

(b) An individual meeting all of the following conditions:

(i) The individual has made application in the manner prescribed by the state department.

(ii) The individual's need for the type of medical assistance available under this act for which application has been made has been professionally established and payment for it is not available through the legal obligation of a contractor, public or private, to pay or provide for the care without regard to the income or resources of the patient. The state department shall be subrogated to any right of recovery which 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 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 patient is entitled to medical care or reimbursement for the cost of medical care under sections 3101 to 3179 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, as amended, being sections 500.3101 to 500.3179 of the Michigan Compiled Laws, or under any other policy of insurance providing medical or hospital benefits, or both, for the patient unless the patient'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 person, the person's guardian, personal representative, estate, 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 patient; (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 patient, in state or federal court, either alone or in conjunction with the injured, diseased, or disabled person, the person'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 person, the person's guardian, personal representative, estate, dependents, or survivors. As provided in section 6023 of the revised judiciary act of 1961, Act No. 236 of the Public Acts of 1961, as amended, being section 600.6023 of the Michigan Compiled Laws, the state department, in enforcing its subrogation right, shall not satisfy a judgment against the third person's property which is exempt from levy and sale. The injured, diseased, or disabled person 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 person 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 operate to deny the injured, diseased, or disabled person any part of the recovery beyond the costs expended on the person'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 patient is entitled to medical care or the cost of medical care under the worker's disability compensation act of 1969, Act No. 317 of the Public Acts of 1969, as amended, being sections 418.101 to 418.941 of the Michigan Compiled Laws; except that payment may be made if an appropriate application for medical care or the cost of the medical care has been made under Act No. 317 of the Public Acts of 1969, as amended, entitlement has not been finally determined, and an arrangement satisfactory to the state department has been made for reimbursement if the claim under Act No. 317 of the Public Acts of 1969, as amended, is finally sustained.

(iii) The individual has an annual income which is below, or 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 higher of the payment standards generally used to determine eligibility in the aid to dependent children program and the supplemental security income program under title XVI of the social security act, 42 U.S.C. 1381 to 1385, including state supplementation. 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 aid to dependent children 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 aid to dependent children program.

(iv) The individual, if an aid to dependent children related individual and living alone, has liquid or marketable assets of not more than \$1,500.00 in value, or, if a 2-person family, the family has liquid or marketable assets of not more than \$2,000.00 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 is such as to make continuance of the insurance desirable, the entire cash surrender value of life insurance is to be excluded from consideration, up to the maximums provided or allowed by federal regulations and in accordance with the rules of the state department; 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, Act No. 368 of the Public Acts of 1978, being section 333.5701 of the Michigan Compiled Laws; and a space or plot purchased for the purposes of burial for the person. For individuals related to the title XVI program of the social security act, 42 U.S.C. 1381 to 1385, 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 of the social security act, 42 U.S.C. 1381 to 1385, or for state supplementation under the act, subject to limitations imposed by the director pursuant to title XIX; or meets the eligibility standards for aid to dependent children, except for income or income and resources; or is a child from 18 to 21 years of age and his or her adult caretaker would be eligible for aid to dependent children except for age, income, or income and resources; or is a child under 21 years of age and is from a family whose income is below the basic maintenance level.

(2) As used in this act, "medical institution" means a state licensed or approved hospital, nursing home, medical care facility, psychiatric hospital, or other facility or identifiable unit thereof certified as meeting established standards for a nursing home or hospital in accordance with the laws of this state.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved

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Governor.

