

Legislative Analysis



FOSTER YOUTH BENEFITS

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House Bill 4750 as introduced
Sponsor: Rep. Kathy Schmaltz
Committee: Families and Veterans
Complete to 8-18-25

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

SUMMARY:

House Bill 4750 would amend the Foster Care and Adoption Services Act to require the Department of Health and Human Services (DHHS), within 60 days after a child enters foster care and annually thereafter while the child is in foster care, to screen the child for potential eligibility for *benefits* and apply for benefits the child may be eligible for and is not already receiving. When applying for benefits for a child in foster care under the bill, DHHS would, in cooperation with the child's attorney, have to identify a representative payee or fiduciary in accordance with applicable federal regulations.¹

Benefits would mean all of the following:

- Federal Supplemental Security Income.
- Social Security benefits.
- United States Department of Veterans Affairs benefits.
- Other applicable benefits the child in foster care is eligible for.

DHHS could apply to become the representative payee only if no other suitable candidate is available. If DHHS acts as the representative payee, it would have to annually review whether someone else is available to act as representative payee that could better serve the best interests of the child in that role. Consistent with federal law, when DHHS serves as the representative payee or in any other fiduciary capacity for a child receiving benefits, it would have to do all of the following:

- Use or conserve the benefits in the child's best interests, including using benefits for services for special needs not otherwise provided by DHHS or conserving the benefits for the child's reasonably foreseeable future needs. DHHS could not use any benefits of the child to reimburse the state for the cost of care of the child in foster care.
- Ensure that when the child attains the age of 14 years and until DHHS no longer serves as the representative payee or fiduciary, a minimum percentage of the child's benefits is not used to reimburse the state for the cost of care and is used or conserved as described below, as follows:
 - From age 14 through age 15, at least 40%.
 - From age 16 through age 17, at least 80%.
 - From age 18 through age 20, 100%.
- For the child's benefits or resources that are below or not subject to any federal asset or resource limit, use discretion in accordance with federal law and in the best interests of the child to conserve the funds for services for special needs not otherwise provided

¹ 20 CFR 404.2021: <https://www.ecfr.gov/current/title-20/chapter-III/part-404/subpart-U/section-404.2021>
and 20 CFR 416.621: <https://www.ecfr.gov/current/title-20/chapter-III/part-416/subpart-F/section-416.621>

by DHHS, including choosing one or more of options described in the next bulleted item.

- Appropriately monitor any federal asset or resource limits for the benefits and ensure that the child's best interests are served by using or conserving the benefits in a way that avoids violating any federal asset or resource limits that would affect the child's eligibility to receive the benefits, including the following:
 - Applying to the Social Security Administration to establish a plan for achieving self-support (PASS) account² for the child under the federal Social Security Act³ and determining whether it is in the best interests of the child to conserve all or part of the benefits in the account.
 - Establishing a plan under section 529A of the Internal Revenue Code for the child and conserving the child's benefits in that account.⁴
 - Establishing an individual development account for the child and conserving the child's benefits in that account in a manner that appropriately avoids any federal asset or resource limits.
 - Establishing a special needs trust for the child and conserving the child's benefits in the trust in a manner that is consistent with federal requirements and appropriately avoids any federal asset or resource limits.
 - If DHHS determines that using the benefits for services for current special needs not already provided by DHHS is in the best interests of the child, using the benefits for those services.
 - If federal law requires certain back payments of benefits to be placed in a dedicated account, complying with the applicable requirements.
 - Applying any other exclusions from federal asset or resource limits available under federal law and using or conserving the child's benefits in a manner that appropriately avoids any federal asset or resource limits.
- Provide an annual accounting to the child and the child's attorney of how the child's resources, including VA benefits, SSI, and Social Security benefits, have been used.
- Provide the child with financial literacy training when the child has attained the age of 14 years.

DHHS would be required to immediately notify the child through the child's attorney of any of the following:

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

If DHHS serves as the representative payee or otherwise receives benefits on the child's behalf, DHHS would have to provide notice to the child through the child's attorney of the following before each juvenile court hearing regarding the child:

- The date and the amount of benefit funds received since any previous notification to the child's attorney.

² <https://choosework.ssa.gov/library/faq-plan-to-achieve-self-support>

³ <https://www.law.cornell.edu/uscode/text/42/chapter-7>

⁴ <https://www.law.cornell.edu/uscode/text/26/529A>

- Information regarding all of the child's assets and resources, including, insurance, cash assets, trust accounts, earnings, and other resources.

All payments from benefits received under the bill would be the property of the child in foster care. Upon termination of DHHS's responsibility for the child in foster care as described above, DHHS would have to release any funds remaining to the child's credit under the requirements of the funding source or, in the absence of any requirements, as follows:

- To the child, if the child is at least 18 years of age or is emancipated.
- To the person responsible for the child in foster care if the child is under 18 years of age and is not emancipated.

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

Proposed MCL 722.968e

FISCAL IMPACT:

House Bill 4750 would increase state expenditures to the Department of Health and Human Services by up to \$3.5 million GF/GP and have no significant fiscal impact on local units of government. Under the provisions of the bill, the department would not be able to use the entirety of that revenue on the cost of a child's care but instead would need to redirect a portion of these revenues to be saved based on the age of the child starting at age 14 and ending at age 20. The minimum percentage that the department is required to save for a youth in foster care would range from 40% to 100% unless a child has special needs that require more funding to maintain the current level of care. The FY 2025-26 Executive Recommendation includes a \$3.5 million GF/GP increase to offset the loss of restricted funding that was made up of foster youth benefits.

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■ 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.