
**Health & Human Services Appropriations
& Oversight Committee**

HB 2657

Brief Description: Revising provisions affecting adoption support expenditures.

Sponsors: Representatives Roberts, Kagi, Maxwell and Kenney.

Brief Summary of Bill

- Sets the maximum adoption support payment at 90 percent of what the foster care maintenance payment would have been had the child remained in a family foster home.
- Requires the Department of Social and Health Services (DSHS) Division of Behavioral Health and Recovery to convene a workgroup as part of the children's mental health redesign to better address mental health needs of adoptive families.
- Requires the DSHS report to the Legislature regarding the workgroup by December 15, 2012.

Hearing Date: 1/31/12

Staff: Melissa Palmer (786-7388).

Background:

Adoption Support Program.

The adoption support program provides assistance to families adopting foster children who, because of their special conditions or needs, face barriers to adoption, by providing one or more of the following benefits:

- reimbursement for nonrecurring adoption finalization costs—limited to \$1,500 per child;
- cash payments (adoption subsidy);
- payment for counseling services as preauthorized; or
- medical services through the Medicaid program.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The adoption support program is governed by state and federal law and policy. Washington's adoption support statutes were adopted in 1971, almost 10 years before the federal law was passed. Washington law authorizes support for "hard to place" children without defining the term while the federal law uses and defines the term "special needs child." Because the federal adoption support law is part of Title IV-E of the Social Security Act, it requires the state to have a federally approved Title IV-E plan to enter into adoption assistance (support) agreements with the adoptive parents of special needs children.

Federal law requires that the following criteria be met for a child to qualify as a "special needs child":

- The state has determined that the child cannot or should not be returned to the birth parents' home.
- The state has found a specific factor or condition, or combination of factors and conditions, which make the child more difficult to place for adoption. Each state sets its own special needs definition, which may include the child's ethnic background; age; sibling group status; medical condition; or physical, mental, or emotional disabilities.
- The state has made a reasonable, but unsuccessful, effort to place the child without providing adoption assistance. An exception is made to this requirement if making the effort to locate a family is not in the best interest of the child.

Under the second criterion above, the state has the authority to determine what constitutes a specific factor or condition. State regulations provides that in order for a child to be considered a child with special needs, the child must have one of the following specific factors or conditions:

- the child is of a minority ethnic background;
- the child is six years of age or older at the time of the application for adoption support;
- the child is a member of a sibling group of three or more, or of a sibling group in which one or more siblings meets the definition of special needs;
- the child is diagnosed with a physical, mental, developmental, cognitive, or emotional disability; or
- the child is at risk for a diagnosis of a physical, mental, developmental, cognitive, or emotional disability due to prenatal exposure to toxins, a history of serious abuse or neglect, or genetic history.

Adoption support agreements, for children who are determined to have special needs, are entered into between adoptive parents and the state, and are contracts that provide benefits the adoptive family will receive. Under federal law, these agreements must be individually negotiated and the amount of the subsidy cannot exceed the amount of the foster care maintenance payment the child would receive if the child were in foster care. An adoptive parent can request a review of the level of adoption support in writing.

Adoption Support Caseload and Payments.

The Caseload Forecast Council (CFC) develops a forecast of adoption support. The CFC forecasts and per capita expenditure data are used to develop the maintenance level of funding for the Adoption Support Program within the Department of Social and Health Services Children's Administration (DSHS/CA). The state receives federal Title IV-E funds for children who meet the federal IV-E criteria and have special needs. The state is required to match the federal funds, which is a 50 percent match in federal fiscal year 2012.

The 2010 Supplemental Omnibus Operating Budget, Chapter 37, Laws of 2010 (ESSB 6444), included language setting the maximum amount for adoption support payments to 90 percent of what the foster care maintenance payment would have been for the child, had the child remained in family foster care. The 90 percent maximum applied to new adoption support agreements rather than adoption support agreements that were already in existence. This requirement was also included in the 2011-13 Omnibus Operating Budget, Chapter 50, Laws of 2011 1st sp. sess. (2ESHB 1087).

Mental Health Services.

The DSHS contracts primarily with Regional Support Networks (RSNs) to oversee the delivery of mental health services for adults and children who suffer from mental illness or severe emotional disturbance. Entities that are selected to operate as the RSN for designated geographic areas must meet regulatory and contractual standards. There are currently 13 RSNs in Washington. The RSNs are required to provide access to a wide array of services for Medicaid enrollees who meet diagnostic and functional eligibility criteria referred to as the RSN Access to Care Standards. The RSNs must include crisis, assessment, outpatient, residential, and inpatient services. Children who are adopted from foster care are eligible for Medicaid and as such are entitled to RSN assessments as well as crisis services. In order to access other levels of RSN care, children must meet RSN Access to Care Standards. The DSHS is currently undertaking a redesign effort regarding children's mental health services.

Summary of Bill:

The Department of Social and Health Services (DSHS) secretary must not set the amount of an adoption support payment to more than 90 percent of what the foster care maintenance payment would have been for the child, had the child remained in foster care during the same period. The maximum does not apply to adoption agreements in existence before June 15, 2011.

The DSHS must ensure staff involved with adoption support negotiations are trained to provide accurate and consistent information to all adoptive parents regarding the ability to access adoption support payments, how to navigate the adoption support process, and the ability to access funds for exceptional circumstances.

The DSHS Division of Behavior Health and Recovery must convene a work group as part of the children's mental health redesign process to develop recommendations to better address the mental health service needs of adoptive families and reduce the need for adoptive families to spend adoption support payments on mental health services. The work group must include certain representatives in the workgroup and must report to the Legislature no later than December 15, 2012.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.