Welfare Reform, Again

An initial look at the 2006 amendments to Michigan's Social Welfare Act

(HB 6580 & 6587, SB 1500 & 1501)

CENTER FOR CIVIL JUSTICE

320 South Washington, 2nd Floor

Saginaw, Michigan 48607

Voice: (989) 755-3120 Fax: (989) 755-3558

Fighting poverty through advocacy, education, and empowerment.

© Center for Civil Justice -reproduction by permission only

Acronyms

- DHS = Department of Human Services
- FIP= Family Independence Program
- FSSP = Family Self Sufficiency Plan, replaces “Social Contract” in the statute
- WF = Work First
- JET= Jobs Education Training (program)

© Center for Civil Justice -reproduction by permission only

General Goals of New Law

- More people expected to work
- More screening for barriers
- More individualized self-sufficiency plans
- Lifetime limits on receipt of welfare
- Stricter penalties for those who fail to meet work requirements or self-sufficiency plan without good cause

© Center for Civil Justice -reproduction by permission only

Positive features –

- Requires "thorough assessment" of whether adults in the FIP group are WF eligible or WF exempt. *Sec.57e(1)*
- Three new groups may qualify for Work First exemptions/deferrals effective April 2007. *Sec.57f(3)(i)*
- "Up to 40 hours" requirement removed. *Sec. 57e(1)(c)*
- $10 per month in FIP payments for 6 months for those who would otherwise lose FIP because of earnings. *Sec.57s*

© Center for Civil Justice -reproduction by permission only

Positive Features - continued

- As written, penalties apply only to the recipient, not the entire group. *Sec. 57g(10)*
  - *DHS intends to continue full family sanctions*
- Right to cure a first instance of noncompliance by attending meeting and coming into compliance. *Sec.57g(14)(b)*

© Center for Civil Justice -reproduction by permission only

Potentially positive features

- JET goes statewide by Sept. 30, 2007. *Sec. 57t*
- Evaluation & assessment ("triage") of individuals applying for SSI and claiming a WF exemption. *Sec.57b(3)* *(see "Triage" slide below)*
- Assigned activities need not meet federal work participation requirements if modified to accommodate disability of recipient or a household member, or other barriers. *Sec. 57e(1)*
- Required assignment to GED prep, adult ed, or literacy training if basic skills deficits are identified as a barrier. (?) *Sec.57e(1)(g)*

© Center for Civil Justice -reproduction by permission only

Potentially positive features - cont'd

- Incremental increase in the earned income disregard for FIP from $200 +20% to "not more than 67%" by September 30, 2010. *Sec. 57q*

- DHS rulemaking authority for identifying WF exemptions; DHS Director discretion to grant exemptions based on "extenuating circumstances." *Sec.57f(6)*

- "Noncompliance" no longer includes reducing earnings or hours of work *Sec. 57f(9)&(11)*

© Center for Civil Justice -reproduction by permission only

Triage for individuals applying for SSI and seeking WF exemption

- Evaluation and assessment required prior to development of FSSP. Three options:

  1. Determine eligible for WF, refer to WF; or
  2. Determine exempt from WF, refer to sheltered workshop or subsidized employment; or
  3. Determine exempt from WF, refer to legal services for SSI advocacy

eff. 1/1/07 *Sec. 57b(3)*

© Center for Civil Justice -reproduction by permission only

Provisions with unclear consequences

- Except under Triage provision for SSI applicants (Section 57b), DHS must determine whether "eligible for" or "exempt from" WF **at the time DHS determines the individual is eligible to receive FIP** *Sec. 57f(2)*
- DHS must **complete thorough assessment to facilitate development of the FSSP**, including determination of whether eligible for or exempt from WF *Sec. 57e(1)*

© Center for Civil Justice -reproduction by permission only

The Down Side

- 48 Month Lifetime Limit
- Longer mandatory penalties for work- or FSSP-related noncompliance
  - 3 months 1st or 2nd instance of noncompliance
  - 12 months for 3rd noncompliance
- Penalty months count toward the lifetime limit

© Center for Civil Justice -reproduction by permission only

48 Month Lifetime Limit

- Prospective from October 1, 2007
- Applies to an individual *(but DHS indicates other group members –i.e. children --will be time limited as well)*
  - "eligible to participate in the work first program" and
  - residing in a county where JET program is available
- Includes penalty months (*Sec. 57g)*

eff. 10/1/2007 - Sec. 57r

© Center for Civil Justice -reproduction by permission only

“Stop the clock” provision: months not counted toward 48- month limit

- Recipient is deferred/exempt from WF as the parent of a newborn under MCLA 400.57(f)(3)(g) or
- Recipient is employed AND meeting FSSP requirements or
- County unemployment rate is 25% above statewide average or
- Recipient is deferred/exempt from WF due to domestic violence under MCLA 400.56i(c)

eff. 10/1/2007 - Sec. 57p(1)

© Center for Civil Justice -reproduction by permission only

Exception to Lifetime Limit

No bar on payment to individuals exempt from WF (even if they have used up their 48 months)

eff. 10/1/2007 - Sec. 57r

© Center for Civil Justice -reproduction by permission only

Current exemptions from Work First (& exceptions to 48-month limit)

Fully Exempt:

- Under age 16.
- Age 65 or older.
- Parent if child under 3 months. (w/ possible participation in family services after 6 weeks)
- Recipient of SSI, RSDI, disability-based Medicaid (MA-P).

© Center for Civil Justice -reproduction by permission only

Current Exemptions

<u>Fully or partially exempt depending on evidence</u>

- Recipient w/ impairment that meets SSI disability standards except duration.
- Fulltime caregiver for spouse suffering from impairment that meets SSI standards except duration, or receiving RSDI or MA-P.
- Parent or caretaker of child suffering from impairment that meets SSI standards except duration.
- Recipient w/ short term disability (90 day limit on exemption). *Sec. 57f(3)&(4)*

© Center for Civil Justice -reproduction by permission only

New, additional exemptions from WF (exceptions to 48 month limit)

Full or partial exemption – based on medical evidence and DHS assessment of severe restriction on WF participation

- Low intellectual capacity or learning disability
  - IQ Less than 80 or
  - if IQ >80, capacity/disability impedes comprehension and prevents success in acquiring basic reading, writing, & math skills
- Chronic mental health problem if cannot be controlled by treatment or medication
- Physical limitation on ability to perform routine manual tasks (bending, lifting, etc.) plus intellectual capacity or learning disabilities

eff. 4/1/2007 - Sec 57f(3)(g)(v) – (vii)

© Center for Civil Justice -reproduction by permission only

DHS Director's authority regarding exemptions

- Grant exemptions for extenuating circumstances not covered by statutory exemptions
- Make rules for identifying statutory exemptions

Sec. 57f(6)

© Center for Civil Justice -reproduction by permission only

Extension of Lifetime Limit

- No more than 12 additional months in a lifetime
- Must be meeting all requirements of FSSP, and
- Have no more than 2 penalties for noncompliance after December 31, 2006, and
- Have no penalties for noncompliance in past 12 months, and
- Labor market conditions or (individual) employment barriers prevent employment placement, and

eff. 10/1/2007 - Sec. 57r

© Center for Civil Justice -reproduction by permission only

Penalties – Noncompliance if:

- Job quit
- Fired from job for misconduct or absenteeism
- Not participating in WF activities
- Noncompliance with FSSP
  - Note: under section 57e(1)(d) FSSP must include obligations to pursue child support/paternity
- Until April 1, 2007- Voluntary reduction of earnings or work hours

eff. 4/1/2007 - Sec. 57g(11)

© Center for Civil Justice -reproduction by permission only

Penalties – No penalty if

WF and DHS workers agree that good cause exists

eff. 4/1/07 - Sec. 57g(6)

© Center for Civil Justice -reproduction by permission only

Penalties – Good cause reasons

- Recipient or immediate family member has debilitating illness or injury & recipient need in home to provide care
- Recipient lacks child care per federal TANF statute protecting parents of child under age 6
- Commute more than 2 hours (3 hours if only available job or pay is twice minimum wage)
- Transportation not available at reasonable cost
- Illegal activities involved
- Physically or mentally unfit for the job
- Illegal discrimination
- Unplanned or unexpected events or factors reasonably expected to prevent or significantly interfere with compliance
- Quit for comparable job

eff. 4/1/07 - Sec. 57g(6)

© Center for Civil Justice -reproduction by permission only

Penalties – Notice of first noncompliance after April 1, 2007

- Sent within 3 business days of the determination of noncompliance
- Including:
  - Reason determined noncompliant
  - Penalty
  - Opportunity to meet in person with FIS within 10 business days to review good cause

eff. 4/1/2007 - Sec. 57g(14)(a)

© Center for Civil Justice -reproduction by permission only

Penalties – Right to cure first noncompliance after April 1, 2007

- Must meet face to face with FIS
- Receive official warning from DHS
- Must comply with (possibly modified) FSSP within 10 business days of meeting
- Must verify compliance with FSSP

Counts as first noncompliance even if "cured" (one time only)

eff. 4/1/2007 - Sec. 57g(14)(b) & (15)

© Center for Civil Justice -reproduction by permission only

Effective dates

	Begin	**End**
Triage for SSI applicants	January 1, 2007	N/A
New WF exemptions	April 1, 2007	December 31, 2011 (all WF exemptions)
Penalties & good cause provisions	April 1, 2007	December 31, 2011
48 month limit	October 1, 2007	N/A
“Stop the clock” provisions	April 1, 2007	December 31, 2011

© Center for Civil Justice -reproduction by permission only

Helping clients with the new laws

- Encourage clients to report to caseworkers any disabilities or barriers to meeting work requirements and to ask for help. If possible, make a written record of requests or include witnesses.

- Advocate for self-sufficiency plans and activities that are achievable and appropriate for clients based on their individual and family circumstances.

- Encourage clients threatened with sanctions to request timely hearings and seek legal help to prevent the loss of benefits.

© Center for Civil Justice -reproduction by permission only