

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 768 (Delegates Simpson and Shetty)
 Appropriations

Department of Human Services - Benefits for Children in Custody - Alterations

This bill alters requirements for the management and use of specified benefits, assets, and resources of children in the custody of the Department of Human Services (DHS). When DHS serves as the representative payee or in any other fiduciary capacity for a child receiving U.S. Department of Veteran’s Affairs (VA) benefits, Supplemental Security Income (SSI), or Social Security benefits, DHS must use the benefits for the child’s current “unmet needs” in accordance with specified requirements. The bill removes the minimum percentage requirements for a child’s benefits that are not to be used to reimburse the State for specified costs of care. Within 60 days after a child enters the care of DHS, and annually thereafter, DHS must determine the child’s eligibility and, as appropriate, apply for VA benefits, SSI, and Social Security benefits. DHS must also seek coverage for the cost of this screening through the Medicaid Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit. DHS must apply for benefits on behalf of the child if DHS determines a child might be eligible. The bill also makes technical and clarifying changes.

Fiscal Summary

State Effect: DHS general fund expenditures increase by \$808,900 in FY 2027 for staff and administrative costs, as discussed below. Federal fund revenues increase beginning in FY 2027 to reflect additional Tile IV-E reimbursement for administrative costs. Future years reflect annualization. Any impact on Medicaid is indeterminate, as discussed below.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
FF Revenue	\$197,300	\$265,600	\$268,300	\$271,000	\$273,700
GF Expenditure	\$808,900	\$859,500	\$880,400	\$901,400	\$922,500
Net Effect	(\$611,600)	(\$593,900)	(\$612,100)	(\$630,400)	(\$648,900)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: “Unmet needs” means needs beyond those that DHS is required or agrees to pay, including: (1) additional services, resources, or equipment related to a child’s disability; (2) housing expenses if a child is preparing to leave the custody of DHS for reasons related to the child’s age; (3) technology, special clothing, instruments, books, or other items related to a child’s hobbies or interests; (4) transportation expenses not otherwise paid by DHS; and (5) tuition, tutoring, or training, including application fees, books, equipment, and testing.

Representative Payees

The bill removes the requirement for DHS, when applying for benefits for a child in the department’s custody, to (in cooperation with the child’s attorney) identify a representative payee or fiduciary in accordance with the requirements of federal law. Instead, if a child was receiving VA benefits, SSI, or Social Security benefits before entering the department’s custody, or if DHS applies for benefits on behalf of the child, DHS must:

- attempt to identify, in consultation with the child and the child’s guardian *ad litem* or attorney, an appropriate representative payee in accordance with federal law;
- apply to become the representative payee only if no other suitable candidate is available; and
- document all efforts to locate a suitable candidate.

DHS must periodically review whether a person other than the department is available to apply to assume the role of representative payee if the person could better serve the best interest of the child.

Benefit Eligibility and Authorized Uses

If DHS applies for benefits on behalf of a child and the benefits are denied, and DHS determines an appeal is in the best interest of the child, DHS must consult with the child’s attorney and appeal the denial.

DHS must ensure that the child’s best interest is served by using or conserving the benefits in a way that would affect the child’s eligibility to receive the benefits, including using the

benefits in a manner that is in the best interest of the child for the child's current unmet needs, as determined in consultation with the child and the attorney for the child, for costs not paid by DHS as part of the child's care or by the health insurance of the child.

When the child reaches age 16 years and 6 months, DHS must provide the child with information regarding: (1) accessing, using, and maintaining benefits; (2) transition plans; (3) when the benefits are scheduled to end; and (4) eligibility for benefits after leaving the care of DHS.

Additionally, a beneficiary who is at least 18 years old may request the court to allow the beneficiary's benefits to be used for current unmet needs. If the court determines that it is in the best interest of the beneficiary to use the benefits for current unmet needs, the court must grant the request.

Current Law: DHS must establish a program of out-of-home placement for minor children (1) who are placed in the custody of a local department, for a period of up to 180 days, by a parent or legal guardian under a voluntary placement agreement; (2) who are abused, abandoned, neglected, or dependent, if a juvenile court has determined that continued residence in the child's home is contrary to the child's welfare and has committed the child to the custody or guardianship of a local department; or (3) who, with the approval of DHS, are placed in an out-of-home placement by a local department under a voluntary placement agreement regarding a child with a developmental disability or a mental illness, as specified. An out-of-home placement may include family foster care, group and residential care, kinship care, and a treatment foster care home.

The public foster care system is funded by the State and the federal government under Title IV-E of the Social Security Act. Generally, foster care maintenance payments are payments made on behalf of a child eligible for Title IV-E foster care to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation.

Benefits for Children in State Custody

Consistent with federal law, when applying for specified benefits for a child in its custody, DHS must, in cooperation with the child's attorney, identify a representative payee or fiduciary. When DHS serves as the representative payee or in any other fiduciary capacity for a child receiving VA benefits, SSI, or Social Security benefits, DHS must:

- use the benefits or conserve the benefits in the child's best interest, including using the benefits for services for special needs not otherwise provided by DHS or conserving the benefits for the child's reasonably foreseeable future needs; and

- ensure that when the child attains the age of 14, and until DHS no longer serves as the representative payee or fiduciary, the child's benefits are not used to reimburse the State for the costs of care and are instead conserved, as follows: (1) from age 14 through age 15, at least 40% of benefits may not be used to reimburse the State; (2) from age 16 through age 17, at least 80% of benefits may not be used; and (3) from age 18 through age 20, no benefits may be used for State reimbursements.

DHS must appropriately monitor any federal asset or resource limits for the benefits and ensure that the child's best interest is 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. DHS must exercise discretion, for benefits or resources below or not subject to any federal asset or resource limit, to conserve or use the funds for services for special needs not otherwise provided by DHS. These options include:

- applying to the Social Security Administration (SSA) to establish a Plan for Achieving Self-Support account for the child and determining whether it is in the best interest of the child to conserve all or part of the benefits in the account;
- establishing an individual development account or a 529A plan for the child and conserving the child's benefits within the accounts 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 appropriately avoids any federal asset or resource limits; and
- 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.

DHS must also provide an annual accounting to the child and the child's attorney of how the child's resources have been used or conserved and provide the child with financial literacy training when the child reaches age 14. DHS must immediately notify the child, through the child's attorney, of (1) any application for VA benefits, SSI, or Social Security benefits made on the child's behalf or any application to become representative payee for those benefits on the child's behalf; (2) any decisions or communications from the VA or SSA regarding an application for benefits; and (3) any appeal or other action requested by DHS regarding an application for benefits.

When DHS serves as the representative payee or otherwise receives VA benefits, SSI, or Social Security benefits on the child's behalf, DHS must provide notice to the child, through the child's attorney, of the following before each juvenile court hearing regarding the child: (1) the dates and the amount of benefit funds received on the child's behalf since any prior notification to the child's attorney; and (2) information regarding all of the child's

assets and resources, including the child's benefits, insurance, cash assets, trust accounts, earnings, and other resources.

Early and Periodic Screening, Diagnosis, and Treatment

The EPSDT Program is a federal requirement that mandates that states cover certain benefits for Medicaid recipients from birth through age 20 – benefits that are not necessarily covered for recipients who are aged 21 and older. Maryland's EPSDT Program promotes access to, and ensures availability of, quality health care for Medicaid-eligible children, teens, and adults younger than 21. EPSDT assessments can be used to identify disabilities and serve as medical evidence for federal benefits applications.

State Revenues:

Department of Human Services

The bill requires a child's federal benefits to be used for the child's current unmet needs in accordance with specified requirements, rather than permitting a portion of the benefits to be used toward the child's total cost of care. Thus, special fund revenues that have in the past been designated as available for cost of care are no longer available for that use. Instead, the revenues must be used only for a child's current unmet needs or conserved for the child.

In fiscal 2024, there were 3,652 children in foster care, of which 5.15% entered foster care receiving federal benefits, and 2% were identified as eligible for federal benefits. DHS advises that 205 of these children had a portion of their federal benefits applied toward the total cost of their care (ranging from 20% to 100% based on the child's age). The amount of federal benefits applied to the total cost of care was \$557,735 in fiscal 2024. Thus, under the bill, approximately \$557,735 in federal benefits may be used only for the child's current unmet needs or conserved for the child. Funds cannot be used by DHS toward the child's total cost of care.

Although not required under the bill, to the extent that DHS must backfill for these federal benefits with general funds, general fund expenditures increase significantly beginning in fiscal 2027. DHS advises that in the absence of these funds, the standard of care would decrease for all children receiving federal benefits.

To the extent that additional children receive federal benefits due to the enhanced screening and applications required under the bill, special fund revenues increase accordingly beginning as early as fiscal 2027.

Title IV-E administrative costs for foster care, which include case management, eligibility determination, legal representation, and recruitment, are generally reimbursed at a 50% federal matching rate. DHS anticipates approximately \$526,000 in such administrative costs annually (as discussed below). Therefore, federal fund revenues increase beginning in fiscal 2027.

State Expenditures:

Department of Human Services

Among other things, the bill requires DHS, within 60 days after a child enters its care, to determine the child’s eligibility and, as appropriate, apply for VA benefits, SSI, and Social Security benefits. DHS advises that additional staff are required to determine each child’s eligibility, and if appropriate, apply for benefits. DHS estimates that approximately 3,396 eligibility screenings will be conducted annually.

DHS further advises that coordination between a child and their counsel to identify a representative payee, in addition to efforts by local department attorneys to appeal a denial of benefits, will create an additional administrative burden for the department. DHS estimates that general fund expenditures increase by approximately \$526,000 annually to provide such services to approximately 260 children (\$394,500 in fiscal 2027 to reflect the bill’s October 1, 2026 effective date). However, as noted above Title IV-E administrative costs for foster care are generally reimbursed at a rate of 50%.

Thus, DHS general fund expenditures increase by \$808,887 in fiscal 2027, which accounts for the bill’s October 1, 2026 effective date. This estimate reflects the cost of hiring four human services specialists to determine eligibility for and apply for specified benefits and monitor specified trust accounts. It includes salaries, fringe benefits, one-time start-up costs, ongoing operating expenses, one-time updates to the Child, Juvenile, and Adult Management System (CJAMS) to track benefits and assets, and Title IV-E administrative costs as noted above.

Positions	4.0
Salaries and Fringe Benefits	\$246,784
CJAMS Programming Costs	131,040
Title IV-E Administrative Costs	394,500
Other Operating Expenses	<u>36,563</u>
Total FY 2027 State Expenditures	\$808,887

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Medicaid

Under the bill, DHS must seek coverage for the cost of screening to determine a child's eligibility for federal benefits through the Medicaid EPSDT program. While most children in foster care are automatically eligible for Medicaid, to the extent that this provision results in additional children receiving EPSDT benefits, Medicaid expenditures may increase. EPSDT screening information may also be used to document a child's disability for certain federal benefits.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 658 (Senator West, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Human Services; Department of Legislative Services

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