

1985 Assembly Bill 390

Date of enactment: **June 28, 1985**
Date of publication: **July 1, 1985**

1985 Wisconsin Act 24

AN ACT to renumber 48.627; to amend 20.435 (4) (db) and (pd); and to create 48.627 (2) of the statutes, relating to payment for claims against foster parents.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.435 (4) (db) and (pd) of the statutes are amended to read:

20.435 (4) (db) *Foster parent insurance.* The amounts in the schedule for the ~~purchase by the department of health and social services of insurance for foster parents as purposes~~ described in s. 48.627.

(pd) *Federal aid; state foster care and adoption services.* All federal moneys received for meeting the costs of providing foster care and institutional child care under ss. 48.48 (4) and (14) and 48.52, and for the cost of care for children under s. 49.19 (10) (d). Disbursements for foster care under s. 46.03 (20) and for ~~foster parent insurance~~ the purposes described under s. 48.627 may be made from this appropriation.

SECTION 2. 48.627 of the statutes is renumbered 48.627 (1).

SECTION 3. 48.627 (2) of the statutes is created to read:

48.627 (2) (a) Notwithstanding sub. (1), if the department is not able to purchase the insurance required under that subsection at a reasonable cost, it may expend the funds appropriated for that purpose under s. 20.435 (4) (a), (db) and (pd) for the purpose of paying claims for which the insurer, if any, would be liable under that subsection, and for purposes of administering this subsection.

(b) A claim for physical injury or property damage shall be submitted to the department within 90 days after the injury or property damage occurs, but no later than December 31, 1985. All other claims shall be submitted within 90 days after a foster parent learns that a legal action has been commenced against him or her that arises out of an action or omission of the foster child or the foster parent, but no later than December 31, 1985. No claim may be paid under this subsection unless it is submitted within the time limits specified in this paragraph.

(c) The department shall review and approve or disapprove all claims received under this subsection during each 3-month period beginning with the period from July 1, 1985, to September 30, 1985. The department shall determine whether to approve a claim based on the specifications of the insurance policy purchased under sub. (1) that was in effect during the 1984-85 fiscal year.

(d) If a claim is approved, the department shall determine the amount to which the claimant is entitled. No claim may be approved in an amount exceeding the total amount available for paying claims under

this subsection in fiscal year 1985-86. No claim for property damage may be approved in an amount exceeding \$5,000.

(e) The department may not approve a claim unless the claimant submits with the claim evidence that no insurance is available to cover the cost of the injury or damages or that the available insurance is inadequate to cover the entire cost of the injury or damages. If the available insurance is inadequate to cover the entire cost of the injury or damages, the department may approve a claim only for the amount in excess of the available insurance.

(f) If the total amount of the claims approved during any calendar quarter exceeds 25% of the total funds available during the fiscal year for purposes of this subsection plus any unencumbered funds remaining from the previous quarter, the department shall prorate the available funds among the applicants with approved claims. Payment of a prorated amount constitutes a complete payment of the claim.

(g) A claimant whose claim is denied or whose payment is prorated is not entitled to a hearing under ch. 227 on the issue of the denial or proration.

(h) If a claim is filed by a foster parent or a member of the foster parent's family, the department shall deduct \$200 from the amount that would otherwise be paid.

(i) The department may enter into a contract for the administration of this subsection.

(j) Paragraphs (a) to (i) do not apply after December 31, 1985.

SECTION 4. **Initial applicability.** The treatment of section 48.627 (2) of the statutes by this act applies to any injury or property damage arising out of an incident or occurrence happening on or after July 1, 1985, and before January 1, 1986 and for which insurance is not available under section 48.627 (1) of the statutes, as affected by this act.

SECTION 5. **Effective date.** This act takes effect on July 1, 1985, or the day after publication, whichever is later.