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TITLE 67
PUBLIC WELFARE

Part

I. Preliminary Provisions

II. Human Services Generally

III. Institution Districts (Reserved)

IV. Miscellaneous Provisions

Enactment. Unless otherwise noted, the provisions of Title 67 were added November 15, 1972, P.L.1063, No.271, effective in 90 days.

PART I
PRELIMINARY PROVISIONS

Chapter

1. Preliminary Provisions

Enactment. Part I was added November 15, 1972, P.L.1063, No.271, effective in 90 days.

CHAPTER 1
PRELIMINARY PROVISIONS

Sec.

101. Definitions.

Enactment. Chapter 1 was added December 3, 2002, P.L.1147, No.142, effective immediately.

Prior Provisions. Former Chapter 1, which related to the same subject matter, was added November 15, 1972, P.L.1063, No.271, and repealed October 22, 1981, P.L.317, No.111, effective immediately.

§ 101. Definitions.

The following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Human Services of the Commonwealth.

"Secretary." The Secretary of Human Services of the Commonwealth.

(June 28, 2019, P.L.93, No.14, eff. imd.)

PART II
HUMAN SERVICES GENERALLY

Chapter

- 11. Medical Assistance Hearings and Appeals
- 21. Adoption Opportunities
- 31. Family Finding and Kinship Care

Enactment. Part II was added November 15, 1972, P.L.1063, No.271, effective in 90 days.

Part Heading. The heading of Part II was amended June 28, 2019, P.L. 93 , No.14, effective immediately.

CHAPTER 11
MEDICAL ASSISTANCE HEARINGS AND APPEALS

Sec.

- 1101. Definitions.
- 1102. Hearings before the bureau.
- 1103. Supersedeas.
- 1104. Subpoenas.
- 1105. Determinations, review, appeal and enforcement.
- 1106. Regulations.

Enactment. Chapter 11 was added December 3, 2002, P.L.1147, No.142, effective immediately.

§ 1101. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Bureau." The Bureau of Hearings and Appeals of the Department of Human Services.

"Hearing." A proceeding commenced in accordance with this chapter by a provider concerning an adjudication of the department relating to the administration of the program. The term includes an action relating to a provider's enrollment in, participation in, claims for payment or damages under or penalties imposed under the program.

"Program." The medical assistance program established by subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

"Provider." A person that is approved or was approved by the department to participate in the program or that seeks approval to provide medical assistance services under the program.

(June 28, 2019, P.L.93, No.14, eff. imd.)

2019 Amendment. Act 14 amended the defs. of "bureau" and "program."

§ 1102. Hearings before the bureau.

(a) General rule.--A provider that is aggrieved by a decision of the department regarding the program may request a hearing before the bureau in accordance with this chapter.

(b) Filing.--

(1) Except as provided in paragraph (2), a provider must file a request for a hearing with the bureau in accordance with all of the following:

(i) The request must be in writing.

(ii) The request must be filed with the bureau:

(A) within 30 days of the date of the notice of the departmental action; or

(B) if notice was given by mail, within 33 days of the date of the notice of the departmental action.

(iii) If the request was filed by first-class mail, the United States postmark appearing upon the envelope in which the request was mailed shall be considered the filing date. The filing date of a request filed in any other manner or bearing a postmark other than a United States postmark shall be the date on which the request is received in the bureau.

(2) Paragraph (1) does not apply in the following cases:

(i) In a nunc pro tunc hearing under subsection

(c).

(ii) To the extent set forth in the standing order of the bureau issued under subsection (g).

(iii) To the extent modified by regulations promulgated under section 1106 (relating to regulations).

(c) Hearings nunc pro tunc.--The bureau, upon written request and for good cause shown, may grant leave for the filing of requests for hearing nunc pro tunc pursuant to the common law standards applicable in analogous cases in courts of original jurisdiction.

(d) Amendment.--A request for a hearing may be amended as of right within 90 days after the date of filing of the request.

(e) Adjudication.--

(1) The bureau shall hold hearings and conduct adjudications regarding timely filed requests for hearing

in accordance with 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of Commonwealth agencies).

(2) Notwithstanding paragraph (1), in holding hearings and conducting adjudications, the bureau shall do all of the following:

(i) Act independently of employees or public officials of the department whose actions are subject to review before the bureau.

(ii) Not engage in ex parte communications concerning a hearing with any party to the hearing.

(iii) Promptly adjudicate timely filed requests for hearing.

(iv) Establish deadlines for interim and final actions by the bureau and parties to any proceeding before the bureau.

(v) Allow reasonable and necessary discovery in the form of interrogatories, requests for the production of documents, expert reports, requests for admissions and depositions of witnesses and designees of parties, subject to case management plans and limitations as necessary to facilitate the prompt and efficient issuance of adjudications.

(vi) Consider and, when appropriate, grant applications by affected parties to consolidate hearings involving substantially similar or materially related issues of law or fact.

(vii) Conduct de novo review of all factual and legal issues raised by a provider in the request for hearing based upon evidence presented to the bureau.

(viii) Except as prohibited by statute or regulation, index and publish at reasonable costs determinations issued by the bureau and final orders issued by the secretary adjudicating requests on or after the effective date of this section. By July 1, 2003, the bureau shall make the determinations, final orders and index available electronically without cost to the public.

(f) Mediation.--The bureau may establish programs and procedures to promote the settlement of matters subject to its jurisdiction or to narrow issues subject to dispute through the use of mediation and arbitration.

(g) Standing order.--By July 1, 2003, the bureau shall, after receiving comment by interested parties, issue a standing order establishing rules governing practice before the bureau. The standing order shall be published in the Pennsylvania Bulletin. The standing order of the bureau shall be effective until modified by regulation.

Cross References. Section 1102 is referred to in section 1104 of this title.

§ 1103. Supersedeas.

(a) Not automatic.--A request for hearing filed pursuant to this chapter shall not act as an automatic supersedeas. The bureau may, however, grant a supersedeas upon good cause shown.

(b) Criteria.--The bureau, in granting or denying a supersedeas, shall be guided by relevant judicial precedent. Among the factors to be considered are:

- (1) irreparable harm to the petitioner;
- (2) likelihood of the petitioner prevailing on the merits; and
- (3) likelihood of injury to the public or other parties.

(c) Prohibition.--A supersedeas shall not be issued if injury to the public health, safety or welfare exists or is threatened during the period when the supersedeas would be in effect.

(d) Conditions.--In granting a supersedeas, the bureau may impose conditions which are warranted by the circumstances, including the filing of a bond or other security.

§ 1104. Subpoenas.

Consistent with section 1102(e)(2)(v) (relating to hearings before the bureau), the bureau may issue subpoenas compelling the attendance of witnesses, records and papers. The bureau may enforce its subpoenas in Commonwealth Court. Commonwealth Court, after a hearing, may make an adjudication of contempt or may issue another appropriate order.

§ 1105. Determinations, review, appeal and enforcement.

(a) Determinations.--The bureau shall issue a determination adjudicating contested issues of fact and law and any appropriate order, decree or decision. A determination not appealed in accordance with subsection (b) shall be the final determination of the bureau and shall be binding upon the department and the provider who brought the appeal.

(b) Review.--

(1) A party that is aggrieved by a determination of the bureau may request review of the determination by the secretary within 30 days of the issuance of the determination.

(2) If the secretary fails to act upon a request within 30 days of receipt of the request for review, the request for review shall be deemed denied.

(3) If the secretary grants review, the secretary shall enter a final order within 180 days of the date of the order granting review. The secretary may affirm, reverse or modify the determination of the bureau or may waive compliance with program requirements to promote fairness and the proper administration of the program.

(4) If the secretary grants review but fails to act within 180 days of the date of the order granting the review, the determination of the bureau shall be deemed approved by the secretary.

(c) Appeals.--A provider aggrieved by a final determination of the bureau or a final order of the secretary may petition for judicial review in accordance with 2 Pa.C.S. Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).

(d) Enforcement.--Final determinations, orders, decrees or decisions of the department, the bureau or the secretary shall be subject to enforcement by Commonwealth Court.

§ 1106. Regulations.

(a) Authority.--By July 1, 2004, the bureau, through the department, shall promulgate regulations establishing rules of procedure as may be necessary to carry out the provisions of this chapter.

(b) Advisory committee.--The bureau shall establish an advisory committee, including individuals experienced in proceedings before the bureau and other administrative agencies, to provide assistance and guidance in the development and modification of regulations which may be promulgated under this section.

Cross References. Section 1106 is referred to in section 1102 of this title.

CHAPTER 21
ADOPTION OPPORTUNITIES

Sec.

- 2101. Declaration of purpose.
- 2102. Definitions.
- 2103. Regulations.
- 2104. Adoption opportunity payments and reimbursement.

Enactment. Chapter 21 was added June 28, 2019, P.L.93, No.14, effective immediately and retroactive to July 18, 2018.

Special Provisions in Appendix. See section 6 of Act 14 of 2019 in the appendix to this title for special provisions relating to continuation of prior law.

§ 2101. Declaration of purpose.

This chapter shall be interpreted and construed to effect the purpose of encouraging and promoting the placement of children who have disabilities or are hard to place by virtue of age, sibling relationship or ethnicity in adoptive homes.

§ 2102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Adoption opportunity." A subsidy which may include:

- (1) maintenance costs;
- (2) medical, surgical and psychological expenses; and
- (3) other costs incident to the adoption.

"Child." An individual who:

- (1) is under the age of 18 years; or
- (2) is under the age of 21 years and attained 13 years of age before the adoption assistance agreement became effective and is:

- (i) completing secondary education or an equivalent credential;

- (ii) enrolled in an institution that provides postsecondary or vocational education;

- (iii) participating in a program actively designed to promote or remove barriers to employment;

- (iv) employed for at least 80 hours per month; or

- (v) incapable of doing any of the activities described in subparagraph (i), (ii), (iii) or (iv) due to a medical or behavioral health condition that is supported by regularly updated information in the permanency plan of the child.

"County agency." The county children and youth social service agency exercising the power and duties provided for in section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the department under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

"Eligible child." A child in the legal custody of the county agency where parental rights have been terminated pursuant to the procedure set forth in 23 Pa.C.S. Pt. III (relating to adoption) and who has been in foster placement for a period of not less than six months and shown to be difficult to adopt because of a disability or by virtue of age, sibling relationship or ethnicity. A child in the legal custody of an agency approved by the department shall be an eligible child if the child is certified as eligible by the county agency.

§ 2103. Regulations.

(a) Duty of department.--The department may establish and develop criteria and promulgate necessary regulations for county agencies to implement an adoption opportunity in accordance with the provisions of this chapter.

(b) Content.--The regulations shall include, but are not limited to, the following:

- (1) Criteria for identifying eligible children and adoptive homes.
- (2) Procedures for implementing the adoption opportunity payment.
- (3) Reporting requirements by county agencies.

Cross References. Section 2103 is referred to in section 2104 of this title.

§ 2104. Adoption opportunity payments and reimbursement.

(a) Amount.--The amount of adoption opportunity payment for maintenance costs to an adoptive family shall not exceed the monthly payment rate for foster family care in the county in which the child resides.

(b) County reimbursement.--The department shall reimburse county agencies for at least 80% of the cost of an adoption opportunity provided by the county agency under this chapter if the county agency complies with the reporting requirements established by the department under section 2103 (relating to regulations).

(c) Limitation.--No public money shall be expended under this chapter on behalf of an eligible child until all available benefits under existing or future private, public, local, State or Federal programs have been exhausted. Notwithstanding any other provision of law, adoptive families subsidized under the provisions of this chapter shall not be liable under the provisions of the act of October 20, 1966 (3rd Sp.Sess., P.L.96, No.6), known as the Mental Health and Intellectual Disability Act of 1966, or 23 Pa.C.S. Ch. 46 (relating to support of the indigent) in the event that the adopted child needs services or assistance under the provisions of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, or under the provisions of the Mental Health and Intellectual Disability Act of 1966.

CHAPTER 31

FAMILY FINDING AND KINSHIP CARE

Sec.

3101. Legislative intent.
3102. Definitions.
3103. Family finding required.
3104. Discontinuance of family finding.
3105. Kinship Care Program.
3106. Subsidized Permanent Legal Custodianship Program.
3107. Permanent legal custodianship subsidy and reimbursement.

Enactment. Chapter 31 was added June 28, 2019, P.L.93, No.14, effective immediately and retroactive to July 18, 2018.

Special Provisions in Appendix. See section 6 of Act 14 of 2019 in the appendix to this title for special provisions relating to continuation of prior law.

§ 3101. Legislative intent.

This chapter is intended to ensure that family finding occurs on an ongoing basis for all children entering the child welfare system. This chapter is also intended to promote the use of

kinship care when it is necessary to remove a child from the child's home in an effort to:

- (1) Identify and build positive connections between the child and the child's relatives and kin.
- (2) Support the engagement of relatives and kin in children and youth social service planning and delivery.
- (3) Create a network of extended family support to assist in remedying the concerns that led the child to be involved with the county agency.

§ 3102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Accept for service." Decide on the basis of the needs and problems of an individual to admit or receive the individual as a client of the county agency or as required by a court order entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

"Child." An individual who:

- (1) is under 18 years of age; or
- (2) is under 21 years of age and attained 13 years of age before the subsidized permanent legal custodianship agreement became effective and is:
 - (i) completing secondary education or an equivalent credential;
 - (ii) enrolled in an institution that provides postsecondary or vocational education;
 - (iii) participating in a program actively designed to promote or remove barriers to employment;
 - (iv) employed for at least 80 hours per month; or
 - (v) incapable of doing any of the activities described in subparagraph (i), (ii), (iii) or (iv) due to a medical or behavioral health condition, which is supported by regularly updated information in the permanency plan of the child.

"County agency." The county children and youth social service agency exercising the power and duties provided for in section 405 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law, or its successor, and supervised by the department under Article IX of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

"Eligible child." A child who meets all of the following:

- (1) Has a court-ordered disposition of placement with a permanent legal custodian pursuant to 42 Pa.C.S. § 6351(a)(2.1) (relating to disposition of dependent child).
- (2) Has lived with an eligible permanent legal custodian for at least six months, which need not be consecutive.
- (3) Is a citizen or an alien lawfully residing in this Commonwealth.

"Eligible permanent legal custodian." A relative or kin who meets all of the following:

- (1) Whose home is approved pursuant to applicable regulations for placement of foster children.
- (2) With whom an eligible child has resided for at least six months, which need not be consecutive.
- (3) Who meets the requirements to be approved as a foster parent under 23 Pa.C.S. § 6344 (relating to employees having contact with children; adoptive and foster parents).

"Family finding." Ongoing diligent efforts between a county agency, or its contracted providers, and relatives and kin to:

(1) Search for and identify adult relatives and kin and engage them in children and youth social service planning and delivery.

(2) Gain commitment from relatives and kin to support a child or parent receiving children and youth social services.

"Foster parent." An individual approved by a public or private foster family care agency to provide foster family care services to a child who is temporarily separated from the child's legal family and placed in the legal custody of an agency.

"Kin." An individual 21 years of age or older who is one of the following:

(1) A godparent of the child as recognized by an organized church.

(2) A member of the child's tribe, nation or tribal organization.

(3) An individual with a significant, positive relationship with the child or family.

"Permanent legal custodian." A person to whom legal custody of the child has been given by order of a court pursuant to 42 Pa.C.S. § 6351(a)(2.1).

"Relative." An individual who is:

(1) Related within the fifth degree of consanguinity or affinity to the parent or stepparent of a child.

(2) At least 21 years of age.

"Sibling." An individual who has at least one parent in common with another individual, whether by blood, marriage or adoption, regardless of whether or not there is a termination of parental rights or parental death. The term includes biological, adoptive, stepsiblings and half-siblings.

"Subsidized permanent legal custodianship." A court-ordered disposition of a dependent child pursuant to 42 Pa.C.S. § 6351(a)(2.1) for which the child's permanent legal custodian receives a monetary payment from the county agency pursuant to a subsidized permanent legal custodianship agreement.

"Subsidized permanent legal custodianship agreement." A written agreement signed by the director of the county agency, or a designee, and a permanent legal custodian that sets forth the terms and subsidy payments for a subsidized permanent legal custodianship.

"Successor permanent legal custodian." A relative or kin who meets all of the following:

(1) With whom an eligible child resides for any period of time.

(2) Who has been named as a successor in a permanent legal custodianship agreement executed by an eligible child's previous eligible permanent legal custodian.

(3) Who meets the requirements for employment in child-care services and approval as a foster or adoptive parent under 23 Pa.C.S. § 6344.

§ 3103. Family finding required.

Family finding shall be conducted for a child when the child is accepted for service and at least annually thereafter until the child's involvement with the county agency is terminated or the family finding is discontinued in accordance with section 3104 (relating to discontinuance of family finding).

§ 3104. Discontinuance of family finding.

(a) **General rule.**--A county agency may discontinue family finding for a child under the following circumstances:

(1) The child has been adjudicated dependent pursuant to 42 Pa.C.S. Ch. 63 (relating to juvenile matters) and a

court has made a specific determination that continued family finding no longer serves the best interests of the child or is a threat to the child's safety.

(2) The child is not under the jurisdiction of a court and the county agency has determined that continued family finding is a threat to the child's safety. A determination that continued family finding is a threat to the child's safety must be based on credible information about a specific safety threat, and the county agency shall document the reasons for the county agency's determination.

(3) The child is in a preadoptive placement, and court proceedings to adopt the child have been commenced pursuant to 23 Pa.C.S. Pt. III (relating to adoption).

(b) Resuming family finding.--Notwithstanding the provisions of subsection (a), a county agency shall resume family finding for a child if:

(1) the child is under the jurisdiction of a court and the court determines that resuming family finding is best suited to the safety, protection and physical, mental and moral welfare of the child and does not pose a threat to the child's safety; or

(2) the child is not under the jurisdiction of a court and the county agency determines that resuming family finding serves the best interests of the child and does not pose a threat to the child's safety.

Cross References. Section 3104 is referred to in section 3103 of this title.

§ 3105. Kinship Care Program.

(a) Establishment of program.--The Kinship Care Program is established in the department.

(b) Relative notification.--Except in situations of family or domestic violence, the county agency shall exercise due diligence to identify and notify all grandparents and other adult relatives to the fifth degree of consanguinity or affinity to the parent or stepparent of a dependent child and each parent who has legal custody of a sibling of a dependent child within 30 days of the child's removal from the child's home if temporary legal and physical custody has been transferred to the county agency. The notice must explain all of the following:

(1) Any options under Federal and State law available to the relative to participate in the care and placement of the child, including any options that would be lost by failing to respond to the notice.

(2) The requirements to become a foster parent, permanent legal custodian or adoptive parent.

(3) The additional supports that are available for children removed from the child's home.

(c) Placement of children.--If a child has been removed from the child's home under a voluntary placement agreement or is in the legal custody of the county agency, the county agency shall give first consideration to placement with relatives or kin. The county agency shall document that an attempt was made to place the child with a relative or kin. If the child is not placed with a relative or kin, the agency shall document the reason why the placement was not possible.

(d) Regulations.--The department is authorized to promulgate regulations necessary to carry out the provisions of this chapter. The regulations shall include, but not be limited to, the following:

(1) Relatives and kin shall receive the same foster care rate as other foster parents if they comply with the regulations governing foster parents.

(2) Foster care payments received by a relative or kin who is a foster parent shall be excluded from consideration when calculating eligibility for public assistance.

§ 3106. Subsidized Permanent Legal Custodianship Program.

(a) Establishment of program.--The Subsidized Permanent Legal Custodianship Program is established in the department.

(b) Implementation.--The department shall establish and develop criteria and is authorized to promulgate necessary regulations for county agencies to implement the Subsidized Permanent Legal Custodianship Program in accordance with the provisions of this chapter. The criteria and regulations shall include, but not be limited to, identification of eligible children and eligible permanent legal custodians, procedures for implementing the program and reporting requirements by county agencies.

§ 3107. Permanent legal custodianship subsidy and reimbursement.

(a) Amount.--The amount of permanent legal custodianship subsidy for maintenance costs to a permanent legal custodian or a successor permanent legal custodian shall not exceed the monthly payment rate for foster family care in the county in which the child resides.

(b) County reimbursement.--The department shall reimburse the county agency for at least 80% of the cost of a permanent legal custodianship subsidy payment provided by a county agency in accordance with the provisions of this chapter, provided that the county agency complies with the requirements established by the department.

PART III
INSTITUTION DISTRICTS
(Reserved)

Enactment. Part III (Reserved) was added November 15, 1972, P.L.1063, No.271, effective in 90 days.

PART IV
MISCELLANEOUS PROVISIONS

Chapter

61. Nonprofit Charitable Institutions (Repealed)

Enactment. Part IV was added November 15, 1972, P.L.1063, No.271, effective in 90 days.

CHAPTER 61
NONPROFIT CHARITABLE INSTITUTIONS
(Repealed)

1981 Repeal Note. Chapter 61 (§§ 6101 - 6104) was added November 15, 1972, P.L.1063, No.271, and repealed October 22, 1981, P.L.317, No.111, effective immediately.

APPENDIX TO TITLE 67
PUBLIC WELFARE

Supplementary Provisions of Amendatory Statutes

2019, JUNE 28, P.L.93, NO.14

§ 6. Continuation of prior law.

The addition of 67 Pa.C.S. Chs. 21 and 31 is a continuation of subarticle (e) of Article VII and Article XIII of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code. The following apply:

(1) Except as otherwise provided in 67 Pa.C.S. Chs. 21 and 31, all activities initiated under subarticle (e) of Article VII and Article XIII of the Human Services Code shall continue and remain in full force and effect and may be completed under 67 Pa.C.S. Ch. 21 or 31. Orders, regulations and decisions that were made under subarticle (e) of Article VII or Article XIII of the Human Services Code and which are in effect on the effective date of this section shall remain in full force and effect until revoked, vacated or modified under 67 Pa.C.S. Ch. 21 or 31. Contracts, obligations and agreements entered into under subarticle (e) of Article VII or Article XIII of the Human Services Code are not affected or impaired by the repeal of these provisions.

(2) Any difference in language between 67 Pa.C.S. Chs. 21 and 31 and subarticle (e) of Article VII and Article XIII of the Human Services Code, respectively, is intended only to conform to the style of the Pennsylvania Consolidated Statutes and is not intended to change or affect the legislative intent, judicial construction or administration and implementation of subarticle (e) of Article VII and Article XIII of the Human Services Code.

(3) Any reference in a statute or a regulation to subarticle (e) of Article VII of the Human Services Code shall be deemed a reference to 67 Pa.C.S. Ch. 21.

(4) Any reference in a statute or a regulation to Article XIII of the Human Services Code shall be deemed a reference to 67 Pa.C.S. Ch. 31.

Explanatory Note. Act 14 amended or added section 101, the heading of Part II, section 1101 and Chapters 21 and 31.