

1 pain such that a prudent layperson, possessing average knowledge of
2 health and medicine, could reasonably expect to result in 1 or all
3 of the following:

4 (a) Placing the health of the individual or, in the case of a
5 pregnant woman, the health of the woman or the unborn child, or
6 both, in serious jeopardy.

7 (b) Serious impairment of bodily function.

8 (c) Serious dysfunction of a body organ or part.

9 (2) "Group health plan" means an employer program of health
10 benefits, including an employee welfare benefit plan as defined in
11 section 3(1) of subtitle A of title I of the employee retirement
12 income security act of 1974, Public Law 93-406, 29 USC 1002, to the
13 extent that the plan provides medical care, including items and
14 services paid for as medical care to employees or their dependents
15 as defined under the terms of the plan directly or through
16 insurance, reimbursement, or otherwise.

17 (3) "Health benefit plan" means a group health plan, an
18 individual or group expense-incurred hospital, medical, or surgical
19 policy or certificate, or an individual or group health maintenance
20 organization contract. Health benefit plan does not include
21 accident-only, credit, dental, or disability income insurance;
22 long-term care insurance; coverage issued as a supplement to
23 liability insurance; coverage only for a specified disease or
24 illness; worker's compensation or similar insurance; or automobile
25 medical-payment insurance.

26 (4) "Health care service" means a diagnostic procedure,
27 medical or surgical procedure, examination, or other treatment.

28 (5) "Health facility" means any of the following:

29 (a) A hospital.



1 (b) A freestanding surgical outpatient facility as that term
2 is defined in section 20104.

3 (c) A skilled nursing facility as that term is defined in
4 section 20109.

5 (d) A physician's office or other outpatient setting, that is
6 not otherwise described in this subsection.

7 (e) A laboratory.

8 (f) A radiology or imaging center.

9 (g) "Hospital" means that term as defined in section 20106.

10 Sec. 24503. (1) "Nonemergency patient" means an individual
11 whose physical or mental condition is such that the individual may
12 reasonably be suspected of not being in imminent danger of loss of
13 life or of significant health impairment.

14 (2) "Nonparticipating health facility" means a health facility
15 that is not a participating health facility.

16 (3) "Nonparticipating provider" means a provider who is not a
17 participating provider.

18 Sec. 24504. (1) "Participating health facility" means a health
19 facility that, under contract with an insurer that issues or
20 administers health benefit plans, or with the insurer's contractor
21 or subcontractor, has agreed to provide health care services to
22 individuals who are covered by health benefit plans issued or
23 administered by the insurer and to accept payment by the insurer,
24 contractor, or subcontractor for the services covered by the health
25 benefit plans as payment in full, other than coinsurance,
26 copayments, or deductibles.

27 (2) "Participating provider" means a provider who, under
28 contract with an insurer that issues or administers health benefit
29 plans, or with the insurer's contractor or subcontractor, has



1 agreed to provide health care services to individuals who are
 2 covered by health benefit plans issued or administered by the
 3 insurer and to accept payment by the insurer, contractor, or
 4 subcontractor for the services covered by the health benefit plans
 5 as payment in full, other than coinsurance, copayments, or
 6 deductibles.

7 (3) "Patient's representative" means any of the following:

8 (a) A person to whom a nonemergency patient has given express
 9 written consent to represent the patient.

10 (b) A person authorized by law to provide consent for a
 11 nonemergency patient.

12 (c) A provider who is treating a nonemergency patient, but
 13 only if the patient is unable to provide consent.

14 (4) "Provider" means an individual who is licensed,
 15 registered, or otherwise authorized to engage in a health
 16 profession under article 15.

17 Sec. 24507. (1) Subsection (2) applies to a nonparticipating
 18 provider who is providing a health care service if any of the
 19 following apply:

20 (a) The health care service is covered by an emergency
 21 patient's health benefit plan and is provided to the emergency
 22 patient by the nonparticipating provider at a participating health
 23 facility or nonparticipating health facility.

24 (b) The health care service is covered by a nonemergency
 25 patient's health benefit plan and is provided to the nonemergency
 26 patient by the nonparticipating provider at a participating health
 27 facility and either of the following applies:

28 (i) The nonemergency patient does not have the ability or
 29 opportunity to choose a participating provider and has not been



1 provided the disclosure required under section 24509.

2 (ii) The only provider available to perform the health care
3 service at the facility is the nonparticipating provider.

4 (c) The health care service is provided by the
5 nonparticipating provider at a hospital that is a participating
6 health facility to an emergency patient who was admitted to the
7 hospital within 72 hours after receiving a health care service in
8 the hospital's emergency room.

9 (2) If any of the circumstances described in subsection (1)
10 apply, the nonparticipating provider shall accept from the
11 patient's insurer, as payment in full, the greater of the
12 following, and shall not collect or attempt to collect from the
13 patient any amount other than applicable coinsurance, copayment, or
14 deductible:

15 (a) Subject to section 24510, the average amount negotiated by
16 the patient's health benefit plan with participating providers for
17 the health care service provided, excluding any in-network
18 coinsurance, copayments, or deductibles.

19 (b) One hundred and fifty percent of the amount that would be
20 covered by Medicare for the health care service provided, excluding
21 any in-network coinsurance, copayments, or deductibles.

22 (3) If the circumstance described in subsection (1)(c)
23 applies, this section applies to any health care service provided
24 by a nonparticipating provider to the emergency patient during his
25 or her hospital stay.

26 Sec. 24510. (1) If a nonparticipating provider believes that
27 the amount described in section 24507(2)(a) or 24509(5)(a) was
28 incorrectly calculated, the nonparticipating provider may make a
29 request to the director for a single review of the calculation.



1 (2) The director may request data on the average amount
2 negotiated by the patient's health benefit plan with participating
3 providers or any documents, materials, or other information that
4 the director believes is necessary to assist the director in
5 reviewing the calculation. If, after conducting its review, the
6 director determines that the amount described in section
7 24507(2) (a) or 24509(5) (a) was incorrectly calculated, the director
8 shall determine the correct amount.

9 (3) All of the following apply to any data, documents,
10 materials, or other information described in subsection (2) that
11 are in the possession or control of the director and that are
12 obtained by, created by, or disclosed to the director or any other
13 person for purposes of this section:

14 (a) The data, documents, materials, or other information is
15 considered proprietary and to contain trade secrets.

16 (b) The data, documents, materials, or other information are
17 confidential and privileged and are not subject to disclosure under
18 the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

19 (c) The data, documents, materials, or other information are
20 not subject to subpoena, and are not subject to discovery or
21 admissible in evidence in any private civil action.

22 (4) The director or any other person who received data,
23 documents, materials, or other information under this section shall
24 not testify in any private civil action concerning the data,
25 documents, materials, or information.

26 (5) As used in this section:

27 (a) "Department" means the department of insurance and
28 financial services.

29 (b) "Director" means the director of the department or his or



1 **her designee.**

2 Enacting section 1. This amendatory act does not take effect
3 unless all of the following bills of the 100th Legislature are
4 enacted into law:

5 (a) House Bill No. 4460.

6 (b) House Bill No. 4990.

7 (c) House Bill No. 4991.

