

HOUSE BILL No. 6140

September, 24, 1992, Introduced by Reps. Hollister and Emerson and referred to the Committee on Public Health.

A bill to provide for a Michigan medical insurance account and pool; to create the Michigan medical insurance board; to provide for certain powers and duties; to provide for certain powers and duties of certain state offices and agencies; and to provide for an assessment on certain insurers.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Account" means the Michigan medical insurance pool
3 account created in section 3.

4 (b) "APA" means the administrative procedures act of 1969,
5 Act No. 306 of the Public Acts of 1969, being sections 24.201 to
6 24.328 of the Michigan Compiled Laws.

7 (c) "Benefits plan" means the coverages to be offered by the
8 pool to eligible persons under this act.

1 (d) "Board" means the Michigan medical insurance pool board
2 created in section 9.

3 (e) "Commissioner" means the commissioner of insurance.

4 (f) "ERISA" means the employee retirement income security
5 act of 1974, Public Law 93-406.

6 (g) "Insured" means an individual resident of this state who
7 is eligible to receive health coverage or benefits from an
8 insurer.

9 (h) "Insurer" means a health insurer under the insurance
10 code of 1956, Act No. 218 of the Public Acts of 1956, being sec-
11 tions 500.100 to 500.8302 of the Michigan Compiled Laws, a health
12 care corporation under the nonprofit health care corporation
13 reform act, Act No. 350 of the Public Acts of 1980, being sec-
14 tions 550.1101 to 550.1704 of the Michigan Compiled Laws, a
15 health maintenance organization under the public health code, Act
16 No. 368 of the Public Acts of 1978, being sections 333.1101 to
17 333.25211 of the Michigan Compiled Laws, a reinsurer reinsuring
18 health insurance in this state, a self-insurance arrangement not
19 covered by ERISA, and to the extent consistent with federal law,
20 each self-insurance arrangement covered by ERISA.

21 (i) "Medicaid" means title XIX of the social security act,
22 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f and 1396i to
23 1396u.

24 (j) "Medical insurance" means a hospital, medical, or surgi-
25 cal expense-incurred health insurance policy or certificate, a
26 health maintenance organization contract, or a health care
27 corporation certificate. Medical insurance does not include

1 accident only, disability income, hospital confinement indemnity,
2 dental or credit insurance, coverage issued as a supplement to
3 liability insurance, coverage issued as a supplement to medicare,
4 insurance arising out of a workers' compensation or similar law,
5 automobile medical-payment insurance, or insurance under which
6 benefits are payable with or without regard to fault and which is
7 statutorily required to be contained in any liability insurance
8 policy or equivalent self-insurance.

9 (k) "Medicare" means title XVIII of the social security act,
10 chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2,
11 1395c to 1395i, 1395i-2 to 1395i-4, 1395j to 1395t, 1395u to
12 1395w-2, 1395w-4 to 1395zz, and 1395bbb to 1395ccc.

13 (l) "Plan of operation" means the plan of operation of the
14 pool, including articles, by-laws, and operating rules, adopted
15 by the board under this act.

16 (m) "Pool" means the Michigan medical insurance pool estab-
17 lished pursuant to section 9.

18 (n) "Self-insurance arrangement" means any plan, program,
19 contract, or any other arrangement under which 1 or more employ-
20 ers, unions, or other organizations provide health care services
21 or benefits to their employees or members in this state, either
22 directly or indirectly through a trust or third party administra-
23 tor, unless the health care services or benefits are provided by
24 an insurance policy issued by an insurer other than a
25 self-insurance arrangement.

1 Sec. 3. There is established in the state treasury a
2 separate fund to be known as the Michigan medical insurance pool
3 account, which shall consist of all of the following:

4 (a) Money appropriated to the account by the legislature.

5 (b) Interest earnings from the investment of money in the
6 account.

7 (c) Assessments and other revenues collected or received by
8 the board.

9 Sec. 5. All money in the account is continuously appropri-
10 ated and money in the fund at the close of the fiscal year shall
11 not revert to the general fund but shall remain in the fund.

12 Sec. 7. (1) If the board determines at any time that funds
13 in the account are or will become insufficient for payment of
14 expenses of the pool in a timely manner, the board shall deter-
15 mine the amount of funds needed and shall impose and collect
16 assessments against insurers, as provided in this section, in the
17 amount of the funds determined to be needed.

18 (2) Each insurer's assessment shall be determined by multi-
19 plying the total amount to be assessed by a fraction, the numera-
20 tor of which equals the number of Michigan insureds who are
21 insured or reinsured by each insurer, and the denominator of
22 which equals the total of all Michigan insureds who are insured
23 or reinsured by all insurers, all determined as of the end of the
24 prior calendar year.

25 (3) The board shall insure that each insured is counted only
26 once with respect to any assessment. For that purpose, the board
27 shall require each insurer that obtains reinsurance for its

1 insureds to include in its count of insureds all insureds whose
2 coverage is reinsured in whole or part. The board shall allow an
3 insurer who is a reinsurer to exclude from its number of insureds
4 those that have been counted by the primary insurer or the pri-
5 mary reinsurer for the purpose of determining its assessment
6 under this subsection.

7 (4) Each insurer shall pay its assessment as required by the
8 board.

9 (5) If assessments exceed the amounts actually needed, the
10 excess shall be held and invested and, with the earnings and
11 interest, used by the board to offset future net losses or to
12 reduce pool premiums. For purposes of this subsection, future
13 net losses include reserves for incurred but not reported
14 claims.

15 (6) Each insurer's proportion of participation in the pool
16 shall be determined by the board based on annual statements and
17 other reports considered necessary by the board and filed by the
18 insurer with the board. The board may use any reasonable method
19 of estimating the number of insureds of an insurer if the spe-
20 cific number is unknown. With respect to insurers that are rein-
21 surers, the board may use any reasonable method of estimating the
22 number of persons insured by each reinsurer.

23 (7) The board may abate or defer, in whole or in part, an
24 insurer's assessment if, in the board's opinion, payment of the
25 assessment would endanger the insurer's ability to fulfill the
26 insurer's contractual obligations. If an assessment against an
27 insurer is abated or deferred in whole or in part, the amount by

1 which the assessment is abated or deferred may be assessed
2 against the other insurers in a manner consistent with the basis
3 for assessments set forth in this section. The insurer receiving
4 the abatement or deferment shall remain liable to the board for
5 the deficiency for 4 years.

6 (8) The board shall abate or defer assessments authorized by
7 this section if the board determines that assessments cannot be
8 made applicable to reinsurers.

9 Sec. 9. (1) There is created in the insurance bureau a
10 state agency to be known as the Michigan medical insurance pool
11 board. The board shall establish the Michigan medical insurance
12 pool and otherwise carry out the board's responsibilities under
13 this act.

14 (2) The board shall consist of 9 individuals, 8 of whom
15 shall be appointed by the governor with the advice and consent of
16 the senate. The commissioner or his or her designated represen-
17 tative shall be a member of the board and shall also serve as the
18 chair of the board or shall designate such chair. The board
19 shall include at all times, to the extent possible, at least 1
20 representative of a domestic insurance company authorized to
21 transact health insurance in this state, 1 representative of a
22 domestic health care corporation, 1 representative of a health
23 maintenance organization, 1 representative of reinsurers, and 2
24 members of the general public who are not associated with the
25 medical profession, a hospital, or an insurer.

26 (3) The governor may fill any vacancy on the board by
27 appointment.

1 (4) An appointed board member serves for a 3-year term of
2 office. A board member is eligible for reappointment. Of the
3 members first appointed to the board, 3 shall serve for a 1-year
4 term, 3 shall serve for a 2-year term, and 2 shall serve for a
5 3-year term.

6 (5) A board member shall not be compensated, but is entitled
7 to reimbursement for actual expenses in an amount established by
8 the legislature.

9 (6) A majority of the board members constitutes a quorum for
10 the transaction of business.

11 (7) The board shall submit to the commissioner a plan of
12 operation for the pool and any amendments necessary or suitable
13 to assure the fair, reasonable, and equitable administration of
14 the pool. The commissioner, after notice and hearing, shall
15 approve the plan of operation provided the plan is determined to
16 be suitable to assure the fair, reasonable, and equitable admin-
17 istration of the pool. The plan of operation shall become effec-
18 tive upon approval in writing by the commissioner. If the board
19 fails to submit a suitable plan of operation within 180 days
20 after the appointment of the board or at any time thereafter
21 fails to submit suitable amendments to the plan, the commission-
22 er, after notice and hearing, shall promulgate rules pursuant to
23 the APA necessary or advisable to effectuate the provisions of
24 this act. The rules shall continue in force until modified by
25 the commissioner or superseded by a plan submitted by the board
26 and approved by the commissioner.

1 (8) In its plan, the board shall do all of the following:

2 (a) Establish procedures for the handling and accounting of
3 assets and money of the pool.

4 (b) Select an administering insurer or insurers.

5 (c) Establish rules of procedure for the board's operation.

6 (d) Develop and implement a program to publicize the plan's
7 existence, the eligibility requirements and procedures for
8 enrollment, and to maintain public awareness of the plan.

9 (9) The board shall have the general powers and authority
10 granted under this state's laws to insurance companies with a
11 certificate of authority in this state to transact health insur-
12 ance and the specific authority to do all of the following:

13 (a) Enter into contracts as are necessary or proper to carry
14 out the provisions and purposes of this act including the author-
15 ity with the commissioner's approval to enter into contracts with
16 similar pools of other states for the joint performance of common
17 administrative functions, or with persons or other organizations
18 for the performance of administrative functions.

19 (b) Recover any assessments for, on behalf of, or against
20 pool member insurers.

21 (c) Take legal action as necessary to avoid the payment of
22 improper claims against the pool or the coverage provided by or
23 through the pool.

24 (d) Establish appropriate rates, rate schedules, rate
25 adjustments, expense allowances, agents' referral fees, claim
26 reserves or formulas, and perform any other actuarial function
27 appropriate to the pool's operation. Rates shall not be

1 unreasonable in relation to the coverage provided, the risk
2 experience, and expenses of providing the coverage. Rates and
3 rate schedules may be adjusted for appropriate risk factors such
4 as age and area variation in claim costs and shall take into con-
5 sideration appropriate risk factors in accordance with estab-
6 lished actuarial and underwriting practices.

7 (e) Issue policies of insurance in accordance with the
8 requirements of this act.

9 (f) Appoint from among member insurers appropriate actuarial
10 and other committees as necessary to provide technical assistance
11 in the pool's operation, policy, and other contract design, and
12 any other function within the board's authority.

13 (g) Borrow money to effect the pool's purposes.

14 (h) Establish rules, conditions, and procedures for reinsur-
15 ing risks under this act.

16 (i) Adopt rules pursuant to the APA for the purpose gener-
17 ally of carrying out this act.

18 (j) Employ staff and consultants as may be necessary for the
19 purpose of carrying out board responsibilities under this act.

20 Sec. 11. The board may assess member insurers for organiza-
21 tional and initial operating expenses. The total assessment
22 under this section may not exceed \$150,000.00. The board shall
23 determine each member insurer's share of the total assessment in
24 a reasonable manner. This section does not limit the amount of
25 assessments that the board may otherwise impose under section 7.

26 Sec. 13. (1) Except as provided in subsection (3), any
27 individual person who is a resident of this state shall be

1 eligible for pool coverage if he or she meets any 1 of the
2 following:

3 (a) An insurer, or an insurance company with a certificate
4 of authority in any other state, has made an adverse underwriting
5 decision on medical insurance for health reasons while the person
6 was a resident.

7 (b) The person has a history of any medical or health condi-
8 tions on the list adopted by the board under subsection (2).

9 (c) The person is a spouse or dependent of a person
10 described in this subsection.

11 (2) The board may adopt a list of medical or health condi-
12 tions for which a person is eligible for pool coverage without
13 applying for medical insurance pursuant to this section.

14 (3) A person is not eligible for coverage under this act if
15 he or she meets any 1 of the following:

16 (a) The person is eligible for health care benefits under
17 medicaid or medicare.

18 (b) The person has terminated coverage in the pool unless 12
19 months have lapsed since that termination.

20 (c) The board has paid out \$1,000,000.00 in benefits on
21 behalf of the person.

22 (d) The person is an inmate of a correctional institution.

23 (e) The person, on the date of issue of coverage by the
24 board, has coverage under health insurance or self-insurance
25 arrangement that is substantially equivalent to coverage under
26 section 17.

1 (4) A person applying for coverage under the pool shall
2 establish initial eligibility as provided for in the plan of
3 operation.

4 Sec. 15. (1) The board shall select an insurer or insurers
5 through a competitive bidding process to administer the pool
6 insurance program. The board shall evaluate bids submitted based
7 on criteria established by the board that shall include all of
8 the following:

9 (a) The insurer's proven ability to handle individual medi-
10 cal insurance.

11 (b) The efficiency of the insurer's claim paying
12 procedures.

13 (c) An estimate of total charges for administering the
14 plan.

15 (d) The insurer's ability to administer the pool in a
16 cost-effective manner.

17 (2) The administering insurer shall serve for a period of 3
18 years subject to removal for cause. At least 1 year prior to the
19 expiration of each 3-year period of service by an administering
20 insurer, the board shall invite all insurers, including the cur-
21 rent administering insurer, to submit bids to serve as the admin-
22 istering insurer for the succeeding 3-year period. Selection of
23 the administering insurer for the succeeding period shall be made
24 at least 6 months prior to the end of the current 3-year period.

25 (3) The administering insurer shall do all of the
26 following:

1 (a) Perform all eligibility and administrative claims
2 payment functions relating to the pool.

3 (b) Establish a premium billing procedure for collection of
4 premiums from insured persons on a periodic basis as determined
5 by the board.

6 (c) Perform all necessary functions to assure timely payment
7 of benefits to covered persons under the pool including both of
8 the following:

9 (i) Making available information relating to the proper
10 manner of submitting a claim for benefits to the pool and dis-
11 tributing forms upon which submission shall be made.

12 (ii) Evaluating the eligibility of each claim for payment.

13 (d) Submit regular reports to the board regarding the pool's
14 operation. The frequency, content, and form of the report shall
15 be as determined by the board.

16 (e) Following the close of each calendar year, determine net
17 written and earned premiums, the expense of administration, and
18 the paid and incurred losses for the year and report this infor-
19 mation to the board on a form as prescribed by the board.

20 (f) Be paid as provided in the plan of operation for its
21 expenses incurred in the performance of its services.

22 Sec. 17. (1) The board shall offer major medical expense
23 coverage to every eligible person.

24 (2) The coverage to be issued by the board, its schedule of
25 benefits, exclusions, and other limitations shall be established
26 through rules promulgated pursuant to the APA by the board taking

1 into consideration the advice and recommendations of the pool
2 members.

3 (3) In establishing the pool coverage, the board shall take
4 into consideration the levels of medical insurance provided in
5 the state and medical economic factors as may be considered
6 appropriate and shall promulgate benefit levels, deductibles,
7 coinsurance factors, exclusions, and limitations determined to be
8 generally reflective of, and commensurate with, medical insurance
9 provided through a representative number of large employers in
10 the state.

11 (4) Premiums charged for coverages issued by the board may
12 not be unreasonable in relation to the benefits provided, the
13 risk experience, and the reasonable expenses of providing the
14 coverage. Separate schedules of premium rates based on age and
15 geographical location may apply for individual risks. The board
16 shall determine the standard risk rate by calculating the average
17 individual rate charged by the 5 largest health insurers offering
18 coverages in the state comparable to the pool coverage. If 5
19 insurers do not offer comparable coverage, the standard risk rate
20 shall be established using reasonable actuarial techniques and
21 shall reflect anticipated experience and expenses for such
22 coverage. Initial rates for pool coverage shall not be more than
23 150% of rates established as applicable for individual risks.
24 The board shall annually determine adjusted benefits and
25 premiums. The adjustments shall be made keeping within the pur-
26 poses of this act and are subject to a limitation of keeping pool
27 losses under 1% of the total of all medical insurance premiums,

1 subscriber contract charges, and 110% of all benefits paid by
2 member self-insurance arrangements. The board may determine the
3 total number of persons that may be enrolled for coverage by the
4 pool at any time and may permit and prohibit enrollment in order
5 to maintain the number authorized. Nothing in this subsection
6 authorizes the board to prohibit enrollment for any reason other
7 than to control the number of persons in the pool.

8 (5) Pool coverage shall exclude charges or expenses incurred
9 during the first 6 months following the effective date of cover-
10 age as to any condition if either of the following occurs:

11 (a) The condition manifested itself within the 6-month
12 period immediately preceding the effective date of coverage in
13 such a manner as would cause an ordinarily prudent person to seek
14 diagnosis, care, or treatment.

15 (b) Medical advice, care, or treatment was recommended or
16 received within the 6-month period immediately preceding the
17 effective date of coverage.

18 (6) The preexisting condition exclusions described in
19 subsection (5) shall be waived to the extent to which similar
20 exclusions have been satisfied under any prior health insurance
21 coverage that was involuntarily terminated if the application for
22 pool coverage is made not later than 60 days following the invol-
23 untary termination. In such a case, coverage in the pool shall
24 be effective from the date on which the prior coverage was
25 terminated. The board may assess an additional premium of up to
26 10% for coverage provided under the plan in this manner
27 notwithstanding any other premium limitation stated in this act.

1 (7) Benefits otherwise payable under pool coverage shall be
2 reduced by all amounts paid or payable through any other health
3 insurance or self-insurance arrangement, and by all hospital and
4 medical expense benefits paid or payable under any worker's com-
5 pensation coverage, automobile policy medical payment, or liabil-
6 ity insurance whether provided on the basis of fault or nonfault,
7 and by any hospital or medical benefits paid or payable under or
8 provided pursuant to any state or federal law or program except
9 medicaid.

10 (8) The board shall have a cause of action against an eligi-
11 ble person for the recovery of the amount of benefits paid that
12 are not for covered expenses. Benefits due from the pool may be
13 reduced or refused as a setoff against any amount recoverable
14 under this subsection.

15 (9) Pool coverage may be furnished through a health care
16 service contractor or such alternative delivery system as will
17 contain costs while maintaining quality of care.

18 Sec. 19. The pool is subject to examination and regulation
19 by the commissioner.

20 Sec. 21. The pool is exempt from any and all taxes assessed
21 by the state.

22 Sec. 23. By January 1, 1995 and every 2 years thereafter,
23 the board shall conduct a study of the pool and adjust the plan
24 of operation and benefits plan to reflect the study's findings
25 and may make recommendations to the legislature concerning amend-
26 ments needed to this act to adjust the pool's claims loss
27 experience.

1 Sec. 25. On and after the date the pool becomes
2 operational, every insurer shall include a notice of the exis-
3 tence of the medical insurance pool in any adverse underwriting
4 decision on medical insurance for reasons of the applicant's
5 health.

6 Sec. 27. This act shall be known and may be cited as the
7 "Michigan medical insurance pool account act".

8 Sec. 29. This act shall take effect January 1, 1993.