



# HOUSE BILL No. 5701

September 13, 1994, Introduced by Rep Hill and referred to the Committee on Human Services and Children

A bill to amend section 111a of Act No 280 of the Public Acts of 1939, entitled as amended

"The social welfare act,"

as amended by Act No 227 of the Public Acts of 1986, being section 400 111a of the Michigan Compiled Laws

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 111a of Act No 280 of the Public Acts  
2 of 1939, as amended by Act No 227 of the Public Acts of 1986,  
3 being section 400 111a of the Michigan Compiled Laws, is amended  
4 to read as follows

5 Sec 111a (1) The director, after appropriate consultation  
6 with affected providers and the medical care advisory council  
7 established pursuant to federal regulations, may establish  
8 policies and procedures that he or she considers appropriate,  
9 relating to the conditions of participation and requirements for

1 providers established by section 111b and to applicable federal  
2 law and regulations, to assure that the implementation and  
3 enforcement of state and federal laws are all of the following

4 (a) Reasonable, fair, effective, and efficient

5 (b) In conformance with law

6 (c) In conformance with the state plan for medical assist-  
7 ance adopted pursuant to section 10 and approved by the United  
8 States department of health and human services

9 (2) The consultation required by this section shall be con-  
10 ducted in accordance with guidelines adopted by the state depart-  
11 ment pursuant to section 24 of the administrative procedures act  
12 of 1969, Act No 306 of the Public Acts of 1969, being section  
13 24 224 of the Michigan Compiled Laws

14 (3) The director shall develop, after appropriate consulta-  
15 tion with affected providers in accordance with guidelines, forms  
16 and instructions to be used in administering the program Forms  
17 developed by the director shall be to the extent administra-  
18 tively feasible, compatible with forms providers are required to  
19 file with 1 or more other third party payers or with 1 or more  
20 regulatory agencies and, to the extent administratively feasible,  
21 shall be designed to facilitate use of a single form to satisfy  
22 requirements imposed on providers by more than 1 payer, agency,  
23 or other entity The forms and instructions shall relate, at a  
24 minimum, to standards of performance by providers, conditions of  
25 participation, methods of review of claims and administrative  
26 requirements and procedures that the director considers  
27 reasonable and proper to assure all of the following

1 (a) That claims against the program are timely,  
2 substantiated and not false misleading, or deceptive

3 (b) That reimbursement is made for only medically appropri-  
4 ate services

5 (c) That reimbursement is made for only covered services

6 (d) That reimbursement is not made to those providers whose  
7 services, supplies, or equipment cost the program in excess of  
8 the reasonable value received

9 (e) That the state is a prudent buyer

10 (f) That access and availability of services to the medi-  
11 cally indigent are reasonable

12 (4) As used in subsection (3), 'prudent buyer' means a pur-  
13 chaser who does 1 or more of the following

14 (a) Buys from only those providers of services supplies, or  
15 equipment to medically indigent individuals whose performance, in  
16 terms of quality quantity cost, setting and location is appro-  
17 priate to the specific needs of those individuals, and who, in  
18 the case of providers who receive payment on the basis of costs,  
19 comply with the prudent buyer concept of titles XVIII and XIX

20 (b) Pays for only those services, supplies, or equipment  
21 that are needed or appropriate

22 (c) Seeks to economize by minimizing cost

23 (5) The director shall select providers to participate in  
24 arrangements such as case management, in supervision of services  
25 for recipients who misutilize or abuse the medical services pro-  
26 gram, and in special projects for the delivery of medical  
27 services to eligible recipients Providers shall be selected

1 based upon criteria that may include a comparison of services and  
 2 related costs with those of the provider's peers and a review of  
 3 previous participation warnings or sanctions undertaken against  
 4 the provider or the provider's employer, employees related busi-  
 5 ness entities, or others who have a relationship to the provider,  
 6 by the medicaid, medicare or other health-related programs The  
 7 director may consult with the appropriate peer review advisory  
 8 committees as appointed by the department

9 (6) The director shall give notice to each provider of a  
 10 change in a policy, procedure, form, or instruction established  
 11 or developed pursuant to this section which affects the  
 12 provider In the case of a change which affects 1 or more types  
 13 of providers, a departmental bulletin or updating insert to a  
 14 departmental manual mailed 30 days before the effective date of  
 15 the change shall constitute sufficient notice

16 (7) The director may do all of the following

17 (a) Enroll in the program for medical assistance only a pro-  
 18 vider who has entered into an agreement of enrollment required by  
 19 section 111b(4), and enter into an agreement only with a provider  
 20 who satisfies the conditions of participation and requirements  
 21 for a provider established by section 111b and the administrative  
 22 requirements established or developed pursuant to subsections (1)  
 23 ~~1, (2),~~ and (3) with the appropriate consultation required by  
 24 this section

25 (b) Enforce the requirements established pursuant to this  
 26 act by applying the procedures of sections 111c to 111f ~~when,~~  
 27 ~~in these procedures~~ IF the director is required to consult with

1 professionals or experts, ~~prior to first utilizing these~~  
2 ~~individuals in the program,~~ the director shall ~~have given the~~  
3 ~~opportunity to review their professional credentials to~~ GIVE the  
4 appropriate medicaid peer review advisory committee THE OPPORTU-  
5 NITY TO REVIEW THE CREDENTIALS OF THE PROFESSIONALS OR EXPERTS  
6 BEFORE FIRST USING THOSE INDIVIDUALS IN THE PROGRAM

7 (c) Develop with the appropriate consultation required by  
8 this section, and require the form or format for claims, applica-  
9 tions, certifications, or certifications and recertifications of  
10 medical necessity required by section 108, and develop specifica-  
11 tions for and require supporting documentation that is compatible  
12 with the approved state medical assistance plan under title XIX  
13 THE DEPARTMENT SHALL REQUIRE ALL PROVIDERS TO SUBMIT CLAIMS ON  
14 THE STANDARD MEDICAL CLAIM FORM ESTABLISHED BY THE INSURANCE COM-  
15 MISSIONER PURSUANT TO SECTION 2240 OF THE INSURANCE CODE OF 1956,  
16 ACT NO 218 OF THE PUBLIC ACTS OF 1956 BEING SECTION 500 2240 OF  
17 THE MICHIGAN COMPILED LAWS

18 (d) Recover payments to a provider in excess of the reim-  
19 bursement to which the provider is entitled The department  
20 shall have a priority lien on any assets of a provider for any  
21 overpayment, as a consequence of fraud or abuse, which is not  
22 reimbursed to the department

23 (e) Notwithstanding any other provisions of this act, before  
24 payment of claims, identify for examination for compliance with  
25 the program of medical assistance, including but not limited to  
26 medical necessity, the claims submitted by a particular provider  
27 based upon a determination that the provider s claims for

1 disputed services exceed the average program dollar amount or  
2 volume of the same type of services submitted by the same type  
3 of provider, performed in the same setting and submitted during  
4 the same period In order to carry out the authority conferred  
5 by this subdivision the director shall notify the provider in  
6 the form of registered mail receipted by the addressee, or by  
7 proof of service to the provider, or representative of the pro-  
8 vider of the state department's intent to impose specific condi-  
9 tions and controls prior to authorizing payment for specific  
10 claims for services The notice shall contain all of the  
11 following

12 (1) A list of the particular practice or practices disputed  
13 by the state department and a factual description of the nature  
14 of the dispute

15 (11) A request for specific medical records and any other  
16 relevant supporting information that fully discloses the basis  
17 and extent to which the disputed practice or practices were  
18 rendered

19 (111) A date certain for an informal conference between the  
20 provider or representative of the provider and the state depart-  
21 ment to resolve the differences surrounding the disputed practice  
22 or practices

23 (1v) A statement that unless the provider or representative  
24 of the provider demonstrates at the informal conference that the  
25 disputed practice or practices are medically necessary, or are in  
26 compliance with other program coverages specific conditions and  
27 controls may be imposed on future payments for the disputed

1 practice or practices, and claims may be rejected, beginning on  
2 the sixteenth day after delivery of this notice

3       (8) For any provider who is subject to a notice of intent to  
4 impose specific conditions and controls prior to authorizing pay-  
5 ment for specific claims for services, as specified in subsection  
6 (7)(e), the state department shall afford that provider an oppor-  
7 tunity for an informal conference before the sixteenth day after  
8 delivery of the notice under subsection (7)(e) If the provider  
9 fails to appear at the conference or fails to demonstrate that  
10 the disputed practice or practices are medically necessary or are  
11 in compliance with program coverages, the state department begin-  
12 ning on the sixteenth day following receipt of notice by the pro-  
13 vider ~~—~~ is authorized to impose specific conditions and con-  
14 trols prior to payment for the disputed practice or practices and  
15 may reject claims for payments for such practice or practices  
16 The state department, within 5 days following the informal con-  
17 ference, shall notify the provider of its decision regarding the  
18 imposition of special conditions and controls prior to payment  
19 for the disputed practice or practices Upon the imposition of  
20 specific conditions and controls prior to payment, the provider  
21 upon request shall be entitled to an immediate hearing held in  
22 conformity with chapter 4 and chapter 6 of the administrative  
23 procedures act of 1969, Act No 306 of the Public Acts of 1969,  
24 being sections 24 271 to 24 287 and 24 301 to 24 306 of the  
25 Michigan Compiled Laws, if any of the following occurs

1 (a) The claim for services rendered is not paid within  
2 30 days of the provider's compliance with the conditions  
3 imposed

4 (b) The claim is rejected

5 (c) The provider notifies the state department by registered  
6 mail that the provider does not intend to comply with the spe-  
7 cific conditions and controls imposed, and the claim for services  
8 rendered is not paid within 30 days after delivery of this  
9 notice

10 (9) The hearing provided for under subsection (8) shall be  
11 conducted in a prompt and expeditious manner At the hearing,  
12 the provider may contest the state department's decision to  
13 impose specific conditions and controls prior to payment  
14 Subsequent hearings may be conducted at the provider's request  
15 only if the claims have not been considered at a prior hearing  
16 and reflect issues that also have not been considered at a prior  
17 hearing or if a claim for services rendered is not paid within  
18 60 days after the provider s compliance with the conditions  
19 imposed

20 (10) The authority conferred in subsection (8) with respect  
21 to the claims submitted by a particular provider does not pro-  
22 hibit the state department from examining claims or portions of  
23 claims before payment of the claims to determine their compliance  
24 with the program of medical assistance, in compliance with law  
25 The director may take additional action pursuant to  
26 subsection (8) during the pendency of an appeal taken pursuant to  
27 subsection (8)



1       (11) If in the department's opinion, the provider shifts his  
2 or her claims from the disputed services addressed under subsec-  
3 tion (7)(e) to other claims which fall under the purview of  
4 subsection (7)(e), the director may impose the claims review pro-  
5 cess of this section immediately upon delivery of the notice of  
6 that imposition to the provider as provided in  
7 subsection (7)(e)

8       (12) If in the department's opinion, claims similar to the  
9 disputed services addressed under subsection (7)(e) are shifted  
10 to another provider in the same corporation, partnership, clinic,  
11 provider group, or to another provider in the employ of the same  
12 employer or contractor, the director may impose the claims review  
13 process of this section immediately upon delivery of notice of  
14 that imposition to the new provider as provided in  
15 subsection (7)(e)   The department shall afford the new provider  
16 an opportunity for an immediate informal conference within 7 days  
17 pursuant to subsection (8) after the initiation of the claims  
18 process

19       (13) The director may request a provider to open books and  
20 records in accordance with section 111b(7) and may photocopy, at  
21 the state department's expense, the records of a medically indi-  
22 gent individual   The records shall be confidential, and the  
23 state department shall use the records only for purposes directly  
24 and specifically related to the administration of the program  
25 The immunity from liability of a provider subject to the  
26 director's authority under this subsection shall be governed by  
27 section 111b(7)

1       (14) The director shall not pay for services supplies, or  
2 equipment furnished by a provider, or shall recover for payment  
3 made, during a period in which the provider does not have on file  
4 with the state department disclosure forms as required by section  
5 111b(19)

6       (15) The director shall make payments to, and collect over-  
7 payments from, the provider, unless the provider and the  
8 provider's employer satisfy the conditions prescribed in  
9 section 111b(25), (26), and (27), in which case the director may  
10 make payments directly to, and collect overpayments from, the  
11 provider's employer

12       (16) The director, with the appropriate consultation  
13 required by this section, may develop specifications for and  
14 require estimated cost and charge information to be submitted by  
15 a provider under section 111b(13) and the form or format for sub-  
16 mission of the information

17       (17) If the director decides that a payment under the pro-  
18 gram has been made to which a provider is not or may not be enti-  
19 tled, or that the amount of a payment is or may be greater or  
20 less than the amount to which the provider is entitled, the  
21 director, except as otherwise provided in this subsection or  
22 under other applicable law or regulation, shall promptly notify  
23 the provider of this decision The director shall withhold noti-  
24 fication to the provider of the decision upon advice from the  
25 department of attorney general or other state or federal enforce-  
26 ment agency in a case where action by the department of attorney  
27 general or other state or federal enforcement agency may be

1 compromised by the notification If the director notifies a  
2 provider of a decision that the provider has received an under-  
3 payment, the state department shall reimburse the provider,  
4 either directly or through an adjustment of payments, in the  
5 amount found to be due

6 (18) THE DEPARTMENT SHALL COORDINATE REIMBURSEMENT FOR A  
7 CLAIM AS REQUIRED BY SECTION 2240 OF ACT NO 218 OF THE PUBLIC  
8 ACTS OF 1956, BEING SECTION 500 2240 OF THE MICHIGAN COMPILED  
9 LAWS

10 Section 2 This amendatory act shall not take effect unless  
11 Senate Bill No \_\_\_\_\_ or House Bill No \_\_\_\_\_ (request  
12 no 04032'93) of the 87th Legislature is enacted into law