



SENATE BILL No. 592

April 29, 1993, Introduced by Senators DUNASKISS, EMMONS, KOIVISTO, FAUST, BERRYMAN, HONIGMAN, HART, DE GROW, SCHWARZ, EHLERS, DINGELL, HOLMES, GEAKE and DI NELLO and referred to the Committee on Health Policy.

A bill to amend sections 21053 and 21054 of Act No. 368 of the Public Acts of 1978, entitled as amended

"Public health code,"

section 21053 as amended by Act No. 249 of the Public Acts of 1987 and section 21054 as amended by Act No. 284 of the Public Acts of 1988, being sections 333.21053 and 333.21054 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 21053 and 21054 of Act No. 368 of the
2 Public Acts of 1978, section 21053 as amended by Act No. 249 of
3 the Public Acts of 1987 and section 21054 as amended by Act
4 No. 284 of the Public Acts of 1988, being sections 333.21053 and
5 333.21054 of the Michigan Compiled Laws, are amended to read as
6 follows:

1 Sec. 21053. (1) Upon obtaining a license, a health
2 maintenance organization may enter into health maintenance
3 contracts and engage in other activities consistent with this
4 part and other applicable laws of this state ~~which~~ THAT are
5 necessary to perform its obligations under its contracts.

6 (2) A health maintenance organization shall not terminate a
7 health maintenance contract or deny a renewal of a contract
8 because of age, sex, health status, national origin, or frequency
9 of utilization of medically indicated services of an enrollee or
10 group of enrollees.

11 (3) A health maintenance contract may be terminated for vio-
12 lation of the terms of the contract or for nonpayment of the
13 fixed prepaid sum or per capita prepayment set forth in the con-
14 tract if the fixed prepaid sum or per capita prepayment is not
15 paid within 30 days after the due date.

16 (4) ~~A~~ SUBJECT TO SUBSECTIONS (9) AND (10), A health main-
17 tenance organization may contract with or directly engage health
18 professionals and affiliated providers, including other health
19 maintenance organizations to render the services the organization
20 has agreed to provide under the terms of its health maintenance
21 contracts. An affiliated provider shall look solely to the
22 health maintenance organization for payment of services rendered
23 pursuant to a contract with the health maintenance organization.
24 In meeting the requirements of section 21021, the health mainte-
25 nance organization may contract with or employ health profession-
26 als on the basis of cost, quality, availability of services to
27 the membership, conformity to the administrative procedures of

1 the health maintenance organization, and other factors relevant
2 to delivery of economical, quality care, but shall not discrimi-
3 nate solely on the basis of the class of health professionals to
4 which the health professional belongs.

5 (5) A health maintenance organization may provide additional
6 health maintenance services or any other related health care
7 service or treatment not required under this part.

8 (6) A health maintenance organization may have health main-
9 tenance contracts that are supplemented by deductibles or addi-
10 tional nominal payments ~~which~~ THAT are required for the provi-
11 sion of specific health maintenance services, except that the
12 payments shall not exceed 50% of a reasonable charge for provid-
13 ing a single service to an enrollee as determined by comparison
14 to the amount charged for that service by other providers in the
15 geographic service area.

16 (7) A health maintenance organization may accept from gov-
17 ernmental agencies and from private persons payments covering any
18 part of the cost of health maintenance contracts.

19 (8) The health maintenance organization may provide services
20 in a noncontiguous service area if the department, with the
21 advice of the insurance bureau, finds that the requirements of
22 this article are met and that its subscriber governing body elec-
23 tion procedures provide for proportional subscriber representa-
24 tion on the governing board from each noncontiguous service area
25 with each noncontiguous service area having at least 1
26 representative.

1 (9) A HEALTH MAINTENANCE ORGANIZATION SHALL NOT DIRECTLY OR
2 INDIRECTLY ENGAGE OR EMPLOY A PHARMACIST EXCEPT AS PROVIDED IN
3 THIS SUBSECTION. A HEALTH MAINTENANCE ORGANIZATION MAY CONTRACT
4 WITH A PHARMACY TO BECOME AN AFFILIATED PROVIDER FOR THE PURPOSE
5 OF DISPENSING PRESCRIPTIONS TO THE HEALTH MAINTENANCE
6 ORGANIZATION'S ENROLLEES. A HEALTH MAINTENANCE ORGANIZATION
7 SHALL NOT CONTRACT WITH A PHARMACY TO BECOME AN AFFILIATED PRO-
8 VIDER FOR THE PURPOSE OF DISPENSING PRESCRIPTIONS TO THE HEALTH
9 MAINTENANCE ORGANIZATION'S ENROLLEES UNTIL WRITTEN NOTICE OF THE
10 PROVISIONS OF THE CONTRACT HAS BEEN GIVEN TO EACH PHARMACY
11 LOCATED WITHIN THE AREA SERVICED BY THE HEALTH MAINTENANCE
12 ORGANIZATION. NOTICE TO A CHAIN OR BRANCH PHARMACY SHALL BE
13 GIVEN TO ITS PRINCIPAL PLACE OF BUSINESS OR HEADQUARTERS. A
14 PHARMACY HAS 30 DAYS FROM THE DATE OF THE NOTICE TO NOTIFY THE
15 HEALTH MAINTENANCE ORGANIZATION THAT IT WISHES TO BECOME AN
16 AFFILIATED PROVIDER WITH THE HEALTH MAINTENANCE ORGANIZATION. A
17 HEALTH MAINTENANCE ORGANIZATION THAT RECEIVES SUCH NOTICE FROM A
18 PHARMACY SHALL CONTRACT IMMEDIATELY WITH THAT PHARMACY ON THE
19 SAME TERMS AS ARE CONTAINED IN THE CONTRACT WITH THE INITIAL
20 PHARMACY. A HEALTH MAINTENANCE ORGANIZATION SHALL NOT PROVIDE AN
21 INCENTIVE OR DISINCENTIVE TO USE 1 PHARMACY THAT IS AN AFFILIATED
22 PROVIDER WITH THE HEALTH MAINTENANCE ORGANIZATION OVER ANOTHER
23 PHARMACY THAT IS AN AFFILIATED PROVIDER WITH THE HEALTH MAINTENANCE
24 ORGANIZATION.

25 (10) A HEALTH MAINTENANCE ORGANIZATION SHALL NOT DIRECTLY OR
26 INDIRECTLY DISPENSE DURABLE MEDICAL EQUIPMENT OR ENTER INTO A
27 CONTRACT CONCERNING THE SALE OF DURABLE MEDICAL EQUIPMENT TO THE

1 HEALTH MAINTENANCE ORGANIZATION'S ENROLLEES EXCEPT AS PROVIDED IN
2 THIS SUBSECTION. A HEALTH MAINTENCE ORGANIZATION MAY CONTRACT
3 WITH A DURABLE MEDICAL EQUIPMENT PROVIDER TO BECOME AN AFFILIATED
4 PROVIDER FOR THE PURPOSE OF SELLING DURABLE MEDICAL EQUIPMENT TO
5 THE HEALTH MAINTENANCE ORGANIZATION'S ENROLLEES. A HEALTH MAIN-
6 TENANCE ORGANIZATION SHALL NOT CONTRACT WITH A DURABLE MEDICAL
7 EQUIPMENT PROVIDER TO BECOME AN AFFILIATED PROVIDER FOR THE PUR-
8 POSE OF SELLING DURABLE MEDICAL EQUIPMENT TO THE HEALTH MAINTENANCE
9 ORGANIZATION'S ENROLLEES UNTIL WRITTEN NOTICE OF THE PROVI-
10 SIONS OF THE CONTRACT HAS BEEN GIVEN TO EACH DURABLE MEDICAL
11 EQUIPMENT PROVIDER LOCATED WITHIN THE AREA SERVICED BY THE HEALTH
12 MAINTENANCE ORGANIZATION. NOTICE TO A CHAIN OR BRANCH DURABLE
13 MEDICAL EQUIPMENT PROVIDER SHALL BE GIVEN TO ITS PRINCIPAL PLACE
14 OF BUSINESS OR HEADQUARTERS. A DURABLE MEDICAL EQUIPMENT PRO-
15 VIDER HAS 30 DAYS FROM THE DATE OF THE NOTICE TO NOTIFY THE
16 HEALTH MAINTENANCE ORGANIZATION THAT IT WISHES TO BECOME AN
17 AFFILIATED PROVIDER WITH THE HEALTH MAINTENANCE ORGANIZATION. A
18 HEALTH MAINTENANCE ORGANIZATION THAT RECEIVES SUCH NOTICE FROM A
19 DURABLE MEDICAL EQUIPMENT PROVIDER SHALL CONTRACT IMMEDIATELY
20 WITH THAT DURABLE MEDICAL EQUIPMENT PROVIDER ON THE SAME TERMS AS
21 ARE CONTAINED IN THE CONTRACT WITH THE INITIAL DURABLE MEDICAL
22 EQUIPMENT PROVIDER. A HEALTH MAINTENANCE ORGANIZATION SHALL NOT
23 PROVIDE AN INCENTIVE OR DISINCENTIVE TO USE 1 DURABLE MEDICAL
24 EQUIPMENT PROVIDER THAT IS AN AFFILIATED PROVIDER WITH THE HEALTH
25 MAINTENANCE ORGANIZATION OVER ANOTHER DURABLE MEDICAL EQUIPMENT
26 PROVIDER THAT IS AN AFFILIATED PROVIDER WITH THE HEALTH
27 MAINTENANCE ORGANIZATION. AS USED IN THIS SUBSECTION, "DURABLE

1 MEDICAL EQUIPMENT" MEANS EQUIPMENT THAT IS PRIMARILY AND
2 CUSTOMARILY USED FOR MEDICAL PURPOSES, IS INTENDED FOR REPEATED
3 USE, AND IS NOT GENERALLY USEFUL TO A PERSON IN THE ABSENCE OF
4 ILLNESS OR INJURY.

5 Sec. 21054. (1) A health maintenance organization may offer
6 prudent purchaser contracts to groups or individuals and in con-
7 junction with ~~such~~ THOSE contracts a health maintenance organi-
8 zation may pay or may reimburse enrollees, or may contract with
9 another entity to pay or reimburse enrollees, for unauthorized
10 services or for services by nonaffiliated providers in accordance
11 with the terms of the contract and subject to co-payments,
12 deductibles, or other financial penalties designed to encourage
13 enrollees to obtain services from the organization's providers.

14 (2) A prudent purchaser contract may cover all or only part
15 of the basic health services or any other health care services
16 the organization provides or covers.

17 (3) A HEALTH MAINTENANCE ORGANIZATION SHALL NOT INSTITUTE,
18 RENEW, MAKE A CHANGE IN REIMBURSEMENT, OR OTHERWISE MODIFY A PRU-
19 DENT PURCHASER AGREEMENT CONCERNING A PRESCRIPTION PROGRAM IN
20 THIS STATE AFTER THE EFFECTIVE DATE OF THIS SUBSECTION UNTIL
21 WRITTEN NOTICE OF THE PROVISIONS OF THE AGREEMENT HAS BEEN GIVEN
22 TO EACH PHARMACY THAT IS LOCATED WITHIN A COUNTY COVERED BY THE
23 AGREEMENT AT LEAST 30 DAYS BEFORE THE COMMENCEMENT OR MODIFICA-
24 TION OF THE AGREEMENT. NOTICE TO A CHAIN OR BRANCH PHARMACY
25 SHALL BE GIVEN TO ITS PRINCIPAL PLACE OF BUSINESS OR
26 HEADQUARTERS. A PHARMACY HAS 30 DAYS FROM THE DATE OF THE NOTICE
27 TO ENROLL IN THE AGREEMENT. A CONTRACT ISSUED IN CONJUNCTION

1 WITH A PRUDENT PURCHASER AGREEMENT CONCERNING A PRESCRIPTION
2 PROGRAM SHALL NOT PROVIDE AN INCENTIVE OR DISINCENTIVE TO USE 1
3 PHARMACY WHO HAS ENROLLED IN THE AGREEMENT OVER ANOTHER PHARMACY
4 WHO HAS ENROLLED IN THE AGREEMENT.

5 (4) A HEALTH MAINTENANCE ORGANIZATION SHALL NOT INSTITUTE,
6 RENEW, MAKE A CHANGE IN REIMBURSEMENT, OR OTHERWISE MODIFY A PRU-
7 DENT PURCHASER AGREEMENT CONCERNING A DURABLE MEDICAL EQUIPMENT
8 PROGRAM IN THIS STATE AFTER THE EFFECTIVE DATE OF THIS SUBSECTION
9 UNTIL WRITTEN NOTICE OF THE PROVISIONS OF THE AGREEMENT HAS BEEN
10 GIVEN TO EACH DURABLE MEDICAL EQUIPMENT PROVIDER THAT IS LOCATED
11 WITHIN A COUNTY COVERED BY THE AGREEMENT AT LEAST 30 DAYS BEFORE
12 THE COMMENCEMENT OR MODIFICATION OF THE AGREEMENT. NOTICE TO A
13 CHAIN OR BRANCH DURABLE MEDICAL EQUIPMENT PROVIDER SHALL BE GIVEN
14 TO ITS PRINCIPAL PLACE OF BUSINESS OR HEADQUARTERS. A DURABLE
15 MEDICAL EQUIPMENT PROVIDER HAS 30 DAYS FROM THE DATE OF THE
16 NOTICE TO ENROLL IN THE AGREEMENT. A CONTRACT ISSUED IN CONJUNC-
17 TION WITH A PRUDENT PURCHASER AGREEMENT CONCERNING A DURABLE MED-
18 ICAL EQUIPMENT PROGRAM SHALL NOT PROVIDE AN INCENTIVE OR DISIN-
19 CENTIVE TO USE 1 DURABLE MEDICAL EQUIPMENT PROVIDER WHO HAS
20 ENROLLED IN THE AGREEMENT OVER ANOTHER DURABLE MEDICAL EQUIPMENT
21 PROVIDER WHO HAS ENROLLED IN THE AGREEMENT. AS USED IN THIS SUB-
22 SECTION, "DURABLE MEDICAL EQUIPMENT" MEANS EQUIPMENT THAT IS PRI-
23 MARILY AND CUSTOMARILY USED FOR MEDICAL PURPOSES, IS INTENDED FOR
24 REPEATED USE, AND IS NOT GENERALLY USEFUL TO A PERSON IN THE
25 ABSENCE OF ILLNESS OR INJURY.

26 (5) ~~-(3)-~~ Prudent purchaser contracts and the rates charged
27 therefore shall be subject to the same regulatory requirements as

1 health maintenance contracts. The rates charged by an
2 organization for coverage under contracts issued under this sec-
3 tion shall not be unreasonably lower than what is necessary to
4 meet the expenses of the organization for providing this coverage
5 and shall not have an anticompetitive effect or result in preda-
6 tory pricing in relation to prudent purchaser agreement coverages
7 offered by other organizations.

8 (6) ~~-(4)-~~ A health maintenance organization shall not issue
9 prudent purchaser contracts unless it is in full compliance with
10 the requirements for adequate working capital, statutory depos-
11 its, and reserves as provided in section 21034(a) and it is not
12 operating under any limitation to its license under section
13 21027.

14 (7) ~~-(5)-~~ A health maintenance organization shall maintain
15 financial records for its prudent purchaser contracts and activi-
16 ties in a form separate or separable from the financial records
17 of other operations and activities carried on by the
18 organization.

19 (8) ~~-(6)-~~ A health maintenance organization ~~which~~ THAT
20 enters into prudent purchaser contracts with health care provid-
21 ers under this section shall report with its annual statement, or
22 on a date set by the commissioner, on forms prescribed by the
23 commissioner, the following information:

24 (a) The number of natural persons receiving health care ben-
25 efits under prudent purchaser contracts.

26 (b) The number of individual and group contracts providing
27 health care services pursuant to prudent purchaser contracts.

1 (c) The dollar volume of business conducted under prudent
2 purchaser contracts.

3 (9) ~~-(7)-~~ Information received by the commissioner pursuant
4 to this section shall be made available to appropriate state
5 agencies for purposes of reviewing and evaluating this section.
6 The commissioner and state agencies shall ensure the confiden-
7 tiality of information containing data ~~-which-~~ THAT may be asso-
8 ciated with a particular organization. Information pertaining to
9 the diagnosis, treatment, or health of any person receiving
10 health care benefits under prudent purchaser contracts shall be
11 confidential and shall not be disclosed to any person, except to
12 the extent that it may be necessary to carry out the purposes of
13 this section; upon the express consent of the person; pursuant to
14 statute or court order for the production of evidence or the dis-
15 covery thereof; or in the event of claim or litigation between
16 the person and the organization, to the extent that the data or
17 information is pertinent.

18 (10) ~~-(8)-~~ Nothing in the 1984 amendatory act that added
19 this section shall apply to any contract ~~-which-~~ THAT was in
20 existence before December 20, 1984, or the renewal of ~~-such-~~ THAT
21 contract.