



# HOUSE BILL No. 5417

November 28, 1995, Introduced by Rep. Varga and referred to the Committee on Insurance.

A bill to amend Act No. 218 of the Public Acts of 1984, entitled "Third party administrator act," being sections 550.901 to 550.962 of the Michigan Compiled Laws, by adding section 43.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Act No. 218 of the Public Acts of 1984, being  
2 sections 550.901 to 550.962 of the Michigan Compiled Laws, is  
3 amended by adding section 43 to read as follows:

4 SEC. 43. (1) AS USED IN THIS SECTION:

5 (A) "INDEPENDENT MEDICAL EXAMINATION" MEANS A HEALTH CARE  
6 PROVIDER'S DIRECT EXAMINATION OF A PATIENT TO EVALUATE THE APPRO-  
7 PRIATENESS OF TREATMENT OR CARE PROVIDED THAT PATIENT BY A  
8 TREATING HEALTH CARE PROVIDER.

1 (B) "UTILIZATION REVIEW" MEANS THE EVALUATION OF THE  
2 NECESSITY, APPROPRIATENESS, AND EFFICIENCY OF THE USE OF A HEALTH  
3 CARE SERVICE, PROCEDURE, OR FACILITY. UTILIZATION REVIEW DOES  
4 NOT INCLUDE TECHNICAL ANALYSIS OF A BILL FOR ACCURACY OR  
5 COMPLETENESS.

6 (2) A THIRD PARTY ADMINISTRATOR REQUIRING A UTILIZATION  
7 REVIEW SHALL COMPLY WITH THIS SECTION.

8 (3) AN INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW REQUIRED  
9 BY A THIRD PARTY ADMINISTRATOR SHALL MEET ALL OF THE FOLLOWING  
10 REQUIREMENTS:

11 (A) POSSESS THE SAME TYPE OF HEALTH CARE PROVIDER LICENSE AS  
12 THE TREATING HEALTH CARE PROVIDER, AND ADDITIONALLY BE CERTIFIED  
13 IN THE TREATING HEALTH CARE PROVIDER'S SPECIALTY OR PRIMARY AREA  
14 OF PRACTICE BY AN ORGANIZATION OR EDUCATIONAL INSTITUTION  
15 APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH.

16 (B) HAVE AT LEAST 7 YEARS' ACTIVE EXPERIENCE IN THE TYPE OF  
17 CLINICAL PRACTICE THAT IS BEING REVIEWED.

18 (C) DERIVE AT LEAST 65% OF HIS OR HER ANNUAL INCOME FROM  
19 ACTIVE PATIENT CARE, AND ENGAGE IN ACTIVE PATIENT CARE NOT LESS  
20 THAN AN AVERAGE OF 24 HOURS PER WEEK.

21 (D) HAVE COMPLETED AT LEAST 10 HOURS OF CONTINUING EDUCATION  
22 IN THE SPECIALTY OR PRIMARY AREA OF PRACTICE OF THE TREATING  
23 HEALTH CARE PROVIDER.

24 (E) NOT HAVE BEEN DETERMINED IN AN ADMINISTRATIVE OR OTHER  
25 PROCEEDING TO HAVE VIOLATED ANY LAW GOVERNING HIS OR HER PRACTICE  
26 OR SPECIALTY WITHIN THE 7-YEAR PERIOD PRECEDING THE INDEPENDENT  
27 MEDICAL EXAMINATION.

1 (4) A THIRD PARTY ADMINISTRATOR SHALL NOT PROVIDE, AND AN  
2 INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW UPON THE REQUEST OF  
3 A THIRD PARTY ADMINISTRATOR SHALL NOT RECEIVE, ANY FINANCIAL  
4 INCENTIVE BASED UPON THE NUMBER OF ADVERSE UTILIZATION REVIEW  
5 DETERMINATIONS MADE BY THE INDIVIDUAL PERFORMING THE UTILIZATION  
6 REVIEW.

7 (5) A THIRD PARTY ADMINISTRATOR SHALL INFORM A TREATING  
8 HEALTH CARE PROVIDER AND THE PATIENT IF A TREATMENT IS TO BE  
9 REVIEWED.

10 (6) THE TREATING HEALTH CARE PROVIDER OR HIS OR HER REPRESENTATIVE,  
11 AND A REPRESENTATIVE OF THE PATIENT, MAY BE PRESENT AT  
12 AN INDEPENDENT MEDICAL EXAMINATION AND MAY RECORD THE ENTIRE  
13 EXAMINATION BY ANY MEANS.

14 (7) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL EXAMINATION  
15 MAY RECORD THE EXAMINATION AND MAY ADDITIONALLY REQUIRE A WITNESS  
16 TO BE PRESENT.

17 (8) IF A THIRD PARTY ADMINISTRATOR REQUIRES AN INDEPENDENT  
18 MEDICAL EXAMINATION TO VERIFY THE APPROPRIATENESS OF TREATMENT BY  
19 A TREATING HEALTH CARE PROVIDER, ALL OF THE FOLLOWING APPLY:

20 (A) THE EXAMINATION MAY BE ORDERED SOLELY IF THE TREATMENT  
21 EXTENDS BEYOND ESTABLISHED PROTOCOLS.

22 (B) THE PATIENT SHALL RECEIVE NOTICE OF THE FIRST INDEPENDENT  
23 MEDICAL EXAMINATION AT LEAST 5 BUSINESS DAYS IN ADVANCE OF  
24 THAT EXAMINATION.

25 (C) INDEPENDENT MEDICAL EXAMINATIONS THAT ARE SUBSEQUENT TO  
26 THE FIRST EXAMINATION MAY BE ORDERED AT REASONABLE INTERVALS, BUT  
27 SHALL NOT EXCEED 1 PER MONTH FOR A MAXIMUM OF 6 PER YEAR FOR EACH

1 CONDITION BEING TREATED, ABSENT THE CONSENT OF THE PATIENT AND  
2 THE TREATING HEALTH CARE PROVIDER.

3 (D) IF THE EXERCISE OF A PATIENT'S RIGHT CONFERRED UNDER  
4 THIS SECTION IS PROHIBITED BY THE PERSON DESIGNATED TO PERFORM  
5 THE EXAMINATION, THE PATIENT IS NOT REQUIRED TO SUBMIT TO THE  
6 EXAMINATION, AND A THIRD PARTY ADMINISTRATOR THAT DENIED OR WITH-  
7 HELD BENEFITS PENDING THE EXAMINATION SHALL IMMEDIATELY PROVIDE  
8 THE BENEFITS.

9 (9) IF THE RESULTS OF AN INDEPENDENT MEDICAL EXAMINATION  
10 ESTABLISH THAT THE HEALTH CARE PROVIDED BY THE TREATING HEALTH  
11 CARE PROVIDER WAS APPROPRIATE, AND THE THIRD PARTY ADMINISTRATOR  
12 FAILS TO PAY FOR THAT HEALTH CARE WITHIN 30 DAYS AFTER THE EXAMI-  
13 NATION, THE THIRD PARTY ADMINISTRATOR SHALL PAY TO THE TREATING  
14 HEALTH CARE PROVIDER A SUM EQUIVALENT TO TWICE THE TREATING  
15 HEALTH CARE PROVIDER'S FEE PLUS 10% FOR THE HEALTH CARE DETER-  
16 MINED APPROPRIATE. ANY FEES INCURRED BEFORE NOTIFICATION OF AN  
17 INDEPENDENT MEDICAL EXAMINATION OR NOTIFICATION OF THE TERMINA-  
18 TION OF BENEFITS SHALL BE PAID IN FULL BEFORE THE INDEPENDENT  
19 MEDICAL EXAMINATION. IF TREATMENT OR CARE IS TERMINATED OR  
20 DENIED DUE TO AN INDEPENDENT MEDICAL EXAMINATION AND SUBSEQUENTLY  
21 DETERMINED TO HAVE BEEN APPROPRIATE, THE THIRD PARTY ADMINISTRA-  
22 TOR SHALL PAY ALL FEES, INCLUDING ATTORNEY FEES, INCURRED BY THE  
23 INDIVIDUAL COVERED BY THE BENEFIT PLAN AS A RESULT OF THE TERMI-  
24 NATION OR DENIAL.

25 (10) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL EXAMINA-  
26 TION OR UTILIZATION REVIEW SHALL PROVIDE THE PATIENT, THE  
27 PATIENT'S TREATING HEALTH CARE PROVIDER, AND THE PERSON

- 1 REQUESTING THE EXAMINATION OR REVIEW A COPY OF THE EXAMINATION
- 2 RESULTS NOT MORE THAN 14 DAYS AFTER THE EXAMINATION OR REVIEW.