

HOUSE BILL No. 4059

January 8, 1997, Introduced by Rep. Varga and referred to the Committee on Insurance.

A bill to amend 1984 PA 218, entitled
"Third party administrator act,"
(MCL 550.901 to 550.962) by adding section 43.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 43. (1) AS USED IN THIS SECTION:
2 (A) "INDEPENDENT MEDICAL EXAMINATION" MEANS A HEALTH CARE
3 PROVIDER'S DIRECT EXAMINATION OF A PATIENT TO EVALUATE THE APPRO-
4 PRIATENESS OF TREATMENT OR CARE PROVIDED THAT PATIENT BY A TREAT-
5 ING HEALTH CARE PROVIDER.
6 (B) "UTILIZATION REVIEW" MEANS THE EVALUATION OF THE NECES-
7 SITY, APPROPRIATENESS, AND EFFICIENCY OF THE USE OF A HEALTH CARE
8 SERVICE, PROCEDURE, OR FACILITY. UTILIZATION REVIEW DOES NOT
9 INCLUDE TECHNICAL ANALYSIS OF A BILL FOR ACCURACY OR
10 COMPLETENESS.

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

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

6 (A) POSSESS THE SAME TYPE OF HEALTH CARE PROVIDER LICENSE AS
7 THE TREATING HEALTH CARE PROVIDER, AND ADDITIONALLY BE CERTIFIED
8 IN THE TREATING HEALTH CARE PROVIDER'S SPECIALTY OR PRIMARY AREA
9 OF PRACTICE BY AN ORGANIZATION OR EDUCATIONAL INSTITUTION
10 APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH.

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

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

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

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

23 (4) A THIRD PARTY ADMINISTRATOR SHALL NOT PROVIDE, AND AN
24 INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW UPON THE REQUEST OF
25 A THIRD PARTY ADMINISTRATOR SHALL NOT RECEIVE, ANY FINANCIAL
26 INCENTIVE BASED UPON THE NUMBER OF ADVERSE UTILIZATION REVIEW

1 DETERMINATIONS MADE BY THE INDIVIDUAL PERFORMING THE UTILIZATION
2 REVIEW.

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

6 (6) THE TREATING HEALTH CARE PROVIDER OR HIS OR HER REPRE-
7 SENTATIVE, AND A REPRESENTATIVE OF THE PATIENT, MAY BE PRESENT AT
8 AN INDEPENDENT MEDICAL EXAMINATION AND MAY RECORD THE ENTIRE
9 EXAMINATION BY ANY MEANS.

10 (7) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL EXAMINATION
11 MAY RECORD THE EXAMINATION AND MAY ADDITIONALLY REQUIRE A WITNESS
12 TO BE PRESENT.

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

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

18 (B) THE PATIENT SHALL RECEIVE NOTICE OF THE FIRST INDEPEN-
19 DENT MEDICAL EXAMINATION AT LEAST 5 BUSINESS DAYS IN ADVANCE OF
20 THAT EXAMINATION.

21 (C) INDEPENDENT MEDICAL EXAMINATIONS THAT ARE SUBSEQUENT TO
22 THE FIRST EXAMINATION MAY BE ORDERED AT REASONABLE INTERVALS, BUT
23 SHALL NOT EXCEED 1 PER MONTH FOR A MAXIMUM OF 6 PER YEAR FOR EACH
24 CONDITION BEING TREATED, ABSENT THE CONSENT OF THE PATIENT AND
25 THE TREATING HEALTH CARE PROVIDER.

26 (D) IF THE EXERCISE OF A PATIENT'S RIGHT CONFERRED UNDER
27 THIS SECTION IS PROHIBITED BY THE PERSON DESIGNATED TO PERFORM

1 THE EXAMINATION, THE PATIENT IS NOT REQUIRED TO SUBMIT TO THE
2 EXAMINATION, AND A THIRD PARTY ADMINISTRATOR THAT DENIED OR WITH-
3 HELD BENEFITS PENDING THE EXAMINATION SHALL IMMEDIATELY PROVIDE
4 THE BENEFITS.

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

21 (10) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL EXAMINA-
22 TION OR UTILIZATION REVIEW SHALL PROVIDE THE PATIENT, THE
23 PATIENT'S TREATING HEALTH CARE PROVIDER, AND THE PERSON REQUEST-
24 ING THE EXAMINATION OR REVIEW A COPY OF THE EXAMINATION RESULTS
25 NOT MORE THAN 14 DAYS AFTER THE EXAMINATION OR REVIEW.