



# HOUSE BILL No. 4848

September 23, 1999, Introduced by Reps. Switalski, Spade, Thomas, Bogardus, DeHart, Schermesser, Garza, Martinez, Price, Wojno, Jacobs, Clarke, Rivet, Bovin, Pappageorge, LaSata and Lemmons and referred to the Committee on Family and Children Services.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 106 (MCL 400.106), as amended by 1990 PA 145.

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

1       Sec. 106. (1) A medically indigent individual is defined  
2 as:

3       (a) An individual receiving ~~aid to dependent children~~  
4 FAMILY INDEPENDENCE PROGRAM BENEFITS or an individual receiving  
5 supplemental security income under title XVI ~~of the social~~  
6 ~~security act, 42 U.S.C. 1381 to 1385,~~ or state supplementation  
7 ~~thereunder~~ UNDER TITLE XVI subject to limitations imposed by  
8 the director pursuant to title XIX.

9       (b) An individual ~~meeting~~ WHO MEETS all of the following  
10 conditions:

1           (i) The individual has ~~made application~~ APPLIED in the  
2 manner ~~prescribed by the state department~~ FAMILY INDEPENDENCE  
3 AGENCY PRESCRIBES.

4           (ii) The individual's need for the type of medical assist-  
5 ance available under this act for which ~~application has been~~  
6 ~~made~~ THE INDIVIDUAL APPLIED has been professionally established  
7 and payment for it is not available through the legal obligation  
8 of a PUBLIC OR PRIVATE contractor ~~, public or private,~~ to pay  
9 or provide for the care without regard to the income or resources  
10 of the patient. ~~The state department shall be subrogated to any~~  
11 ~~right of recovery which a patient may have for the cost of hospi-~~  
12 ~~talization, pharmaceutical services, physician services, nursing~~  
13 ~~services, and other medical services not to exceed the amount of~~  
14 ~~funds expended by the department for the care and treatment of~~  
15 ~~the patient. The patient or other person acting in the patient's~~  
16 ~~behalf shall execute and deliver an assignment of claim or other~~  
17 ~~authorizations as necessary to secure the right of recovery to~~  
18 ~~the department. A payment may be withheld under this act for~~  
19 ~~medical assistance for an injury or disability for which the~~  
20 ~~patient is entitled to medical care or reimbursement for the cost~~  
21 ~~of medical care under sections 3101 to 3179 of the insurance code~~  
22 ~~of 1956, Act No. 218 of the Public Acts of 1956, as amended,~~  
23 ~~being sections 500.3101 to 500.3179 of the Michigan Compiled~~  
24 ~~Laws, or under any other policy of insurance providing medical or~~  
25 ~~hospital benefits, or both, for the patient unless the patient's~~  
26 ~~entitlement to that medical care or reimbursement is at issue.~~  
27 ~~If a payment is made, the state department, to enforce its~~

~~1 subrogation right, may do either of the following: (a) intervene  
2 or join in an action or proceeding brought by the injured, dis-  
3 eased, or disabled person, the person's guardian, personal repre-  
4 sentative, estate, dependents, or survivors, against the third  
5 person who may be liable for the injury, disease, or disability,  
6 or against contractors, public or private, who may be liable to  
7 pay or provide medical care and services rendered to an injured,  
8 diseased, or disabled patient; (b) institute and prosecute a  
9 legal proceeding against a third person who may be liable for the  
10 injury, disease, or disability, or against contractors, public or  
11 private, who may be liable to pay or provide medical care and  
12 services rendered to an injured, diseased, or disabled patient,  
13 in state or federal court, either alone or in conjunction with  
14 the injured, diseased, or disabled person, the person's guardian,  
15 personal representative, estate, dependents, or survivors. The  
16 state department may institute the proceedings in its own name or  
17 in the name of the injured, diseased, or disabled person, the  
18 person's guardian, personal representative, estate, dependents,  
19 or survivors. As provided in section 6023 of the revised judica-  
20 ture act of 1961, Act No. 236 of the Public Acts of 1961, as  
21 amended, being section 600.6023 of the Michigan Compiled Laws,  
22 the state department, in enforcing its subrogation right, shall  
23 not satisfy a judgment against the third person's property which  
24 is exempt from levy and sale. The injured, diseased, or disabled  
25 person may proceed in his or her own name, collecting the costs  
26 without the necessity of joining the state department or the  
27 state as a named party. The injured, diseased, or disabled~~

~~1 person shall notify the state department of the action or  
2 proceeding entered into upon commencement of the action or  
3 proceeding. An action taken by the state or the state department  
4 in connection with the right of recovery afforded by this section  
5 does not operate to deny the injured, diseased, or disabled  
6 person any part of the recovery beyond the costs expended on the  
7 person's behalf by the state department. The costs of legal  
8 action initiated by the state shall be paid by the state. A pay-  
9 ment shall not be made under this act for medical assistance for  
10 an injury, disease, or disability for which the patient is enti-  
11 tled to medical care or the cost of medical care under the  
12 worker's disability compensation act of 1969, Act No. 317 of the  
13 Public Acts of 1969, as amended, being sections 418.101 to  
14 418.941 of the Michigan Compiled Laws; except that payment may be  
15 made if an appropriate application for medical care or the cost  
16 of the medical care has been made under Act No. 317 of the Public  
17 Acts of 1969, as amended, entitlement has not been finally deter-  
18 mined, and an arrangement satisfactory to the state department  
19 has been made for reimbursement if the claim under Act No. 317 of  
20 the Public Acts of 1969, as amended, is finally sustained.~~

21       (iii) The individual has an annual income ~~which~~ THAT is  
22 below, or because of medical expenses falls below, the protected  
23 basic maintenance level. The protected basic maintenance level  
24 for 1-person and 2-person families shall be at least 100% of the  
25 higher of the payment standards generally used to determine eli-  
26 gibility in the ~~aid to dependent children~~ FAMILY INDEPENDENCE  
27 program and the supplemental security income program under title

1 XVI of the social security act, CHAPTER 531, 49 STAT. 620, 42  
2 U.S.C. 1381 to ~~1385~~ 1382j AND 1383 TO 1383f, including state  
3 supplementation. For families of 3 or more persons, the pro-  
4 tected basic maintenance level shall be at least 100% of the pay-  
5 ment standard generally used to determine eligibility in the ~~aid~~  
6 ~~to dependent children~~ FAMILY INDEPENDENCE program. These levels  
7 shall recognize regional variations and shall not exceed 133-1/3%  
8 of the payment standard generally used to determine eligibility  
9 in the ~~aid to dependent children~~ FAMILY INDEPENDENCE program.

10 (iv) The individual, if ~~an aid to dependent children~~ A  
11 FAMILY INDEPENDENCE PROGRAM related individual and living alone,  
12 has liquid or marketable assets of not more than \$1,500.00 in  
13 value, or, if a 2-person family, the family has liquid or market-  
14 able assets of not more than \$2,000.00 in value. The ~~state~~  
15 ~~department~~ FAMILY INDEPENDENCE AGENCY shall establish comparable  
16 liquid or marketable asset amounts for larger family groups.  
17 Excluded in making the determination of the value of liquid or  
18 marketable assets are the values of: the homestead; clothing;  
19 household effects; ~~\$1,000.00~~ \$10,000.00 of cash surrender value  
20 of life insurance, except that if the health of the insured ~~is~~  
21 ~~such as to make~~ MAKES continuance of the insurance desirable,  
22 the entire cash surrender value of life insurance is ~~to be~~  
23 excluded from consideration, up to the ~~maximums~~ MAXIMUM pro-  
24 vided or allowed by federal regulations and in accordance with  
25 the rules of the ~~state department~~ FAMILY INDEPENDENCE AGENCY;  
26 the fair market value of tangible personal property used in  
27 earning income; an amount paid as judgment or settlement for

1 damages suffered as a result of exposure to agent orange, as  
 2 defined in section 5701 of the public health code, ~~Act No. 368~~  
 3 ~~of the Public Acts of 1978, being section 333.5701 of the~~  
 4 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.5701; and a space or  
 5 plot purchased for the purposes of burial for the person. For  
 6 individuals related to the title XVI program, ~~of the social~~  
 7 ~~security act, 42 U.S.C. 1381 to 1385,~~ the appropriate resource  
 8 levels and property exemptions specified in title XVI shall be  
 9 used.

10 (v) The individual is not an inmate of a public institution  
 11 except as a patient in a medical institution.

12 (vi) The individual meets the eligibility standards for sup-  
 13 plemental security income under title XVI ~~of the social security~~  
 14 ~~act, 42 U.S.C. 1381 to 1385,~~ or for state supplementation under  
 15 the act, subject to limitations imposed by the director pursuant  
 16 to title XIX; or meets the eligibility standards for ~~aid to~~  
 17 ~~dependent children~~ THE FAMILY INDEPENDENCE PROGRAM BENEFITS,  
 18 except for income or income and resources; or is a child from 18  
 19 to 21 years of age and his or her adult caretaker would be eligi-  
 20 ble for ~~aid to dependent children~~ FAMILY INDEPENDENCE PROGRAM  
 21 BENEFITS except for age, income, or income and resources; or is a  
 22 child under 21 years of age and is from a family whose income is  
 23 below the basic maintenance level.

24 (2) As used in this act: ~~,"medical"~~

25 (A) "MEDICAL institution" means a state licensed or approved  
 26 hospital, nursing home, medical care facility, psychiatric  
 27 hospital, or other facility or identifiable unit ~~thereof~~ OF A

1 LISTED INSTITUTION certified as meeting established standards for  
2 a nursing home or hospital in accordance with the laws of this  
3 state.

4 (B) "TITLE XVI" MEANS TITLE XVI OF THE SOCIAL SECURITY ACT,  
5 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1381 TO 1382j AND 1383 TO  
6 1383f.

7 (3) THE FAMILY INDEPENDENCE AGENCY IS SUBROGATED TO A RIGHT  
8 OF RECOVERY THAT A PATIENT HAS FOR THE COST OF HOSPITALIZATION,  
9 PHARMACEUTICAL SERVICES, PHYSICIAN SERVICES, NURSING SERVICES,  
10 AND OTHER MEDICAL SERVICES NOT TO EXCEED THE AMOUNT OF MONEY  
11 EXPENDED BY THE DEPARTMENT FOR THE CARE AND TREATMENT OF THE  
12 PATIENT. THE PATIENT OR OTHER PERSON ACTING IN THE PATIENT'S  
13 BEHALF SHALL EXECUTE AND DELIVER AN ASSIGNMENT OF CLAIM OR OTHER  
14 AUTHORIZATION AS NECESSARY TO SECURE THE RIGHT OF RECOVERY TO THE  
15 DEPARTMENT. A PAYMENT MAY BE WITHHELD UNDER THIS ACT FOR MEDICAL  
16 ASSISTANCE FOR AN INJURY OR DISABILITY FOR WHICH THE PATIENT IS  
17 ENTITLED TO MEDICAL CARE OR REIMBURSEMENT FOR THE COST OF MEDICAL  
18 CARE UNDER SECTIONS 3101 TO 3179 OF THE INSURANCE CODE OF 1956,  
19 1956 PA 218, MCL 500.3101 TO 500.3179, OR UNDER ANOTHER POLICY OF  
20 INSURANCE PROVIDING MEDICAL OR HOSPITAL BENEFITS, OR BOTH, FOR  
21 ANOTHER THE PATIENT UNLESS THE PATIENT'S ENTITLEMENT TO THAT MED-  
22 ICAL CARE OR REIMBURSEMENT IS AT ISSUE. IF A PAYMENT IS MADE,  
23 THE FAMILY INDEPENDENCE AGENCY, TO ENFORCE ITS SUBROGATION RIGHT,  
24 MAY DO EITHER OF THE FOLLOWING:

25 (A) INTERVENE OR JOIN IN AN ACTION OR PROCEEDING BROUGHT BY  
26 THE INJURED, DISEASED, OR DISABLED PERSON, OR THE PERSON'S  
27 GUARDIAN, PERSONAL REPRESENTATIVE, ESTATE, DEPENDENTS, OR

1 SURVIVORS, AGAINST THE THIRD PERSON WHO MAY BE LIABLE FOR THE  
2 INJURY, DISEASE, OR DISABILITY OR AGAINST PUBLIC OR PRIVATE CON-  
3 TRACTORS WHO MAY BE LIABLE TO PAY OR PROVIDE MEDICAL CARE AND  
4 SERVICES RENDERED TO AN INJURED, DISEASED, OR DISABLED PATIENT.

5 (B) INSTITUTE AND PROSECUTE A LEGAL PROCEEDING AGAINST A  
6 THIRD PERSON WHO MAY BE LIABLE FOR THE INJURY, DISEASE, OR DIS-  
7 ABILITY OR AGAINST A PUBLIC OR PRIVATE CONTRACTOR WHO MAY BE  
8 LIABLE TO PAY OR PROVIDE MEDICAL CARE AND SERVICES RENDERED TO AN  
9 INJURED, DISEASED, OR DISABLED PATIENT, IN STATE OR FEDERAL  
10 COURT, EITHER ALONE OR IN CONJUNCTION WITH THE INJURED, DISEASED,  
11 OR DISABLED PERSON OR THE PERSON'S GUARDIAN, PERSONAL REPRESENTA-  
12 TIVE, ESTATE, DEPENDENT, OR SURVIVOR.

13 (4) IN ENFORCING ITS SUBROGATION RIGHT UNDER SUBSECTION (3),  
14 THE FAMILY INDEPENDENCE AGENCY MAY INSTITUTE THE PROCEEDINGS IN  
15 ITS OWN NAME OR IN THE NAME OF THE INJURED, DISEASED, OR DISABLED  
16 PERSON OR THE PERSON'S GUARDIAN, PERSONAL REPRESENTATIVE, ESTATE,  
17 DEPENDENT, OR SURVIVOR. AS PROVIDED IN SECTION 6023 OF THE  
18 REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL 600.6023, THE  
19 FAMILY INDEPENDENCE AGENCY, IN ENFORCING ITS SUBROGATION RIGHT,  
20 SHALL NOT SATISFY A JUDGMENT AGAINST THE THIRD PERSON'S PROPERTY  
21 THAT IS EXEMPT FROM LEVY AND SALE.

22 (5) THE INJURED, DISEASED, OR DISABLED PERSON MAY PROCEED IN  
23 HIS OR HER OWN NAME, COLLECTING THE COSTS WITHOUT THE NECESSITY  
24 OF JOINING THE FAMILY INDEPENDENCE AGENCY OR THE STATE AS A NAMED  
25 PARTY. THE INJURED, DISEASED, OR DISABLED PERSON SHALL NOTIFY  
26 THE FAMILY INDEPENDENCE AGENCY OF THE ACTION OR PROCEEDING  
27 ENTERED INTO UPON COMMENCEMENT OF THE ACTION OR PROCEEDING.

1           (6) AN ACTION TAKEN BY THE STATE OR THE FAMILY INDEPENDENCE  
2 AGENCY IN CONNECTION WITH THE RIGHT OF RECOVERY AFFORDED BY THIS  
3 SECTION DOES NOT DENY THE INJURED, DISEASED, OR DISABLED PERSON A  
4 PART OF THE RECOVERY BEYOND THE COSTS EXPENDED ON THE PERSON'S  
5 BEHALF BY THE FAMILY INDEPENDENCE AGENCY. THE COSTS OF LEGAL  
6 ACTION INITIATED BY THE STATE SHALL BE PAID BY THE STATE. A PAY-  
7 MENT SHALL NOT BE MADE UNDER THIS ACT FOR MEDICAL ASSISTANCE FOR  
8 AN INJURY, DISEASE, OR DISABILITY FOR WHICH THE PATIENT IS ENTI-  
9 TLED TO MEDICAL CARE OR THE COST OF MEDICAL CARE UNDER THE  
10 WORKER'S DISABILITY COMPENSATION ACT OF 1969, 1969 PA 317, MCL  
11 418.101 TO 418.941; EXCEPT THAT PAYMENT MAY BE MADE IF AN APPRO-  
12 PRIATE APPLICATION FOR MEDICAL CARE OR THE COST OF THE MEDICAL  
13 CARE HAS BEEN MADE UNDER THE WORKER'S DISABILITY COMPENSATION ACT  
14 OF 1969, 1969 PA 317, MCL 418.101 TO 418.941, ENTITLEMENT HAS NOT  
15 BEEN FINALLY DETERMINED, AND AN ARRANGEMENT SATISFACTORY TO THE  
16 FAMILY INDEPENDENCE AGENCY HAS BEEN MADE FOR REIMBURSEMENT IF THE  
17 CLAIM IS FINALLY SUSTAINED.