



HOUSE BILL No. 5683

April 26, 2000, Introduced by Reps. Woodward, Dennis, Wojno, Baird, Switalski, Jacobs, Lockwood, Spade, Kilpatrick, Frank, Schauer, Rivet, Bogardus, Brater, Price, Hansen, Clarke, Bovin, Gielegem, Neumann, Rison, Scott, Basham, Reeves, Bob Brown, Minore, Hale, Pestka, Cherry, Mans and LaForge and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 20124, 21013, and 21035 (MCL 333.20124,
333.21013, and 333.21035), section 21013 as amended by 1982
PA 354 and section 21035 as added by 1996 PA 472, and by adding
sections 21035a, 21035b, and 21035c; and to repeal acts and parts
of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20124. The advisory commission shall:

2 (a) Approve rules relating to the licensure and certifica-
3 tion of health facilities and agencies and the administration of
4 this article before their promulgation.

5 (b) Receive reports of licenses denied, limited, suspended,
6 or revoked pursuant to this article.

1 (c) Advise the department as to administration of health
 2 facility and agency licensure and certification functions,
 3 including recommendations with respect to licensing actions.

4 (d) Biennially conduct a review and prepare a written evalu-
 5 ation of health facility and agency licensure and certification
 6 functions performed by the department, including appropriate
 7 recommendations. The recommendations shall give particular
 8 attention to policies as to public disclosure and nondiscrimina-
 9 tion and the standardization and integration of rules common to
 10 more than 1 category of health facility or agency.

11 (e) Review complaints made under section 20176. ~~and review~~
 12 ~~health maintenance organization enrollee grievances pursuant to~~
 13 ~~section 21088.~~

14 (f) Provide other assistance the department reasonably
 15 requests.

16 Sec. 21013. (1) The advisory commission created in section
 17 20121 may review and comment on:

18 (a) A rate or contract change proposed pursuant to section
 19 21063.

20 (b) A license issued or renewed pursuant to section 21034,
 21 21041, or 21043.

22 (c) A waiver granted pursuant to section 21071(1).

23 (2) The advisory commission, with the advice of task force 3
 24 created under section 20126(1)(c), shall review a protest or
 25 appeal filed by an enrollee under section 21065. ~~or 21088(2).~~

26 Sec. 21035. (1) ~~By October 1, 1997, a~~ A health
 27 maintenance organization shall establish pursuant to section

1 21034(i) an internal formal enrollee grievance procedure for
2 approval by the insurance bureau that includes all of the
3 following:

4 (a) That when an adverse determination is made, a written
5 statement containing the reasons for the adverse determination
6 will be provided to an enrollee ~~—(b) That~~ ALONG WITH a writ-
7 ten notification of the grievance procedures, ~~will be provided~~
8 ~~to an enrollee when the enrollee contests an adverse~~
9 ~~determination~~ INCLUDING THE RIGHT TO A REVIEW BY THE DEPARTMENT
10 THROUGH DECEMBER 31, 2000 AND BEGINNING JANUARY 1, 2001 BY AN
11 INDEPENDENT MEDICAL REVIEW ORGANIZATION UNDER SECTION 21035A.

12 (B) ~~—(c)~~ That a final determination will be made in writing
13 by the organization not later than ~~90~~ 15 calendar days after a
14 formal grievance is submitted by an enrollee. The timing for the
15 ~~90-calendar-day~~ 15-CALENDAR-DAY period may be tolled, however,
16 for any period of time the enrollee is permitted to take under
17 the grievance procedure.

18 (C) ~~—(d)~~ That an initial determination will be made by the
19 health maintenance organization not later than 72 hours after
20 receipt of an expedited grievance. Within 3 business days after
21 the initial determination by the health maintenance organization,
22 the enrollee ~~or a person, including, but not limited to, a phy-~~
23 ~~sician, authorized in writing to act on behalf of the enrollee~~
24 may request further review by the health maintenance organization
25 or the enrollee may appeal to the department THROUGH DECEMBER 31,
26 2000 AND BEGINNING JANUARY 1, 2001 TO AN INDEPENDENT MEDICAL
27 REVIEW ORGANIZATION UNDER SECTION 21035A. If further review is

1 requested, a final determination by the health maintenance
2 organization shall be made not later than 30 days after receipt
3 of the request for further review. Within 10 days after receipt
4 of a final determination, the enrollee ~~or a person, including,~~
5 ~~but not limited to, a physician, authorized in writing to act on~~
6 ~~behalf of the enrollee~~ may appeal to the department THROUGH
7 DECEMBER 31, 2000 AND BEGINNING JANUARY 1, 2001 TO AN INDEPENDENT
8 MEDICAL REVIEW ORGANIZATION UNDER SECTION 21035A. If the initial
9 or final determination by the health maintenance organization is
10 made orally, the health maintenance organization shall provide a
11 written confirmation of the determination to the enrollee not
12 later than 2 business days after the oral determination. An
13 expedited grievance under this subdivision applies if a grievance
14 is submitted and a physician, orally or in writing, substantiates
15 that the time frame for a grievance under subdivision ~~(c)~~ (B)
16 would acutely jeopardize the life of the enrollee.

17 (D) ~~(c)~~ That an enrollee has the right to a final appeal
18 to the department THROUGH DECEMBER 31, 2000 AND BEGINNING JANUARY
19 1, 2001 TO AN INDEPENDENT MEDICAL REVIEW ORGANIZATION UNDER SEC-
20 TION 21035A.

21 (2) AN ENROLLEE MAY AUTHORIZE IN WRITING ANY PERSON, INCLUD-
22 ING, BUT NOT LIMITED TO, A PHYSICIAN, TO ACT ON HIS OR HER BEHALF
23 AT ANY STAGE IN A GRIEVANCE PROCEEDING UNDER THIS SECTION.

24 (3) ~~(2)~~ This section does not apply to a provider's com-
25 plaint concerning claims payment, handling, or reimbursement for
26 health care services.

(4) ~~-(3)-~~ As used in this section:

(a) "Adverse determination" means a determination that an admission, availability of care, continued stay, or other health care service has been reviewed and denied. Failure to respond in a timely manner to a request for a determination constitutes an adverse determination.

(b) "Grievance" means a complaint on behalf of an enrollee submitted by an enrollee ~~or a person, including, but not limited to, a physician, authorized in writing to act on behalf of the~~

~~enrollee regarding~~ CONCERNING ANY OF THE FOLLOWING:

(i) The availability, delivery, or quality of health care services, including a complaint regarding an adverse determination made pursuant to utilization review.

(ii) Benefits or claims payment, handling, or reimbursement for health care services.

(iii) Matters pertaining to the contractual relationship between an enrollee and the organization.

SEC. 21035A. (1) AN ENROLLEE MAY APPEAL TO AN INDEPENDENT MEDICAL REVIEW ORGANIZATION FOR A REVIEW OF A FINAL ADVERSE DETERMINATION MADE BY A HEALTH MAINTENANCE ORGANIZATION UNDER SECTION 21035. AN INDEPENDENT MEDICAL REVIEW ORGANIZATION SHALL COMPLETE ITS REVIEW AND MAKE ITS DETERMINATION IN WRITING NOT LATER THAN 30 DAYS AFTER RECEIPT OF THE APPLICATION FOR REVIEW AND SUPPORTING DOCUMENTATION OR NOT LATER THAN 3 DAYS AFTER RECEIPT OF THE APPLICATION FOR REVIEW AND SUPPORTING DOCUMENTATION OF AN EXPEDITED GRIEVANCE UNDER SECTION 21035(1)(C).

1 (2) A DECISION OF THE INDEPENDENT MEDICAL REVIEW
2 ORGANIZATION IS BINDING ON THE HEALTH MAINTENANCE ORGANIZATION.

3 (3) BY JANUARY 1, 2001, THE DIRECTOR OF THE DEPARTMENT OF
4 COMMUNITY HEALTH SHALL CONTRACT WITH 1 OR MORE INDEPENDENT MEDI-
5 CAL REVIEW ORGANIZATIONS TO CONDUCT REVIEWS UNDER THIS SECTION.
6 TO BE ELIGIBLE TO CONDUCT REVIEWS UNDER THIS SECTION, AN INDEPEN-
7 DENT MEDICAL REVIEW ORGANIZATION SHALL NOT HAVE ANY MATERIAL,
8 PROFESSIONAL, FAMILIAL, OR FINANCIAL CONFLICT OF INTEREST WITH
9 ANY OF THE FOLLOWING:

10 (A) THE HEALTH MAINTENANCE ORGANIZATION.

11 (B) AN OFFICER, DIRECTOR, OR EMPLOYEE OF THE HEALTH MAINTENANCE ORGANIZATION.

12 (C) ANY HEALTH CARE PROVIDER INVOLVED IN THE TREATMENT OF
13 THE COVERED PERSON.

14 (D) THE COVERED PERSON WHOSE TREATMENT IS UNDER REVIEW.

15 (E) THE DEVELOPMENT OR MANUFACTURE OF THE PRINCIPAL DRUG,
16 DEVICE, PROCEDURE, OR THERAPY PROPOSED FOR THE COVERED PERSON
17 WHOSE TREATMENT IS UNDER REVIEW.

18 (F) THE FACILITY OR INSTITUTION AT WHICH A PROPOSED TREAT-
19 MENT OR SERVICE WOULD BE PERFORMED FOR THE COVERED PERSON WHOSE
20 TREATMENT IS UNDER REVIEW.

21 (4) THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY HEALTH SHALL
22 ESTABLISH A REASONABLE, PER-CASE REIMBURSEMENT SCHEDULE TO PAY
23 THE COSTS OF INDEPENDENT MEDICAL REVIEW ORGANIZATION REVIEWS,
24 WHICH MAY VARY DEPENDING ON THE TYPE OF MEDICAL CONDITION UNDER
25 REVIEW AND OTHER RELEVANT FACTORS. THE COSTS OF THE INDEPENDENT
26 MEDICAL REVIEW SYSTEM FOR AN ENROLLEE SHALL BE PAID BY THE HEALTH
27

1 MAINTENANCE ORGANIZATION PURSUANT TO AN ASSESSMENT FEE SYSTEM
2 ESTABLISHED BY THE DIRECTOR.

3 SEC. 21035B. THERE IS CREATED IN THE DEPARTMENT OF COMMU-
4 NITY HEALTH AN OFFICE OF PATIENT ADVOCACY. THE OFFICE OF PATIENT
5 ADVOCACY SHALL ASSIST ENROLLEES WITH PREPARING AND PRESENTING
6 GRIEVANCES UNDER SECTION 21035 AND APPEALS UNDER SECTION 21035A.

7 SEC. 21035C. A HEALTH MAINTENANCE ORGANIZATION THAT VIO-
8 LATES SECTION 21035 OR 21035A IS SUBJECT TO A CIVIL FINE OF NOT
9 MORE THAN \$5,000.00 FOR EACH VIOLATION. IF A HEALTH MAINTENANCE
10 ORGANIZATION KNEW IT WAS VIOLATING SECTION 21035 OR 21035A, THE
11 HEALTH MAINTENANCE ORGANIZATION IS SUBJECT TO A CIVIL FINE OF NOT
12 MORE THAN \$25,000.00 FOR EACH VIOLATION.

13 Enacting section 1. Section 21088 of the public health
14 code, 1978 PA 368, MCL 333.21088, is repealed.