

SENATE BILL No. 790

October 24, 2001, Introduced by Senators STEIL, HAMMERSTROM, EMMONS, SHUGARS, BULLARD and GARCIA and referred to the Committee on Health Policy.

A bill to amend 1980 PA 350, entitled "The nonprofit health care corporation reform act," by amending sections 401 and 414a (MCL 550.1401 and 550.1414a), section 401 as amended by 2000 PA 26 and section 414a as amended by 1988 PA 345.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 401. (1) A health care corporation established, main-
2 tained, or operating in this state shall offer health care bene-
3 fits to all residents of this state, and may offer other health
4 care benefits as the corporation specifies with the approval of
5 the commissioner.

6 (2) A health care corporation may limit the health care ben-
7 efits that it will furnish, except as provided in this act, and
8 may divide the health care benefits that it elects to furnish
9 into classes or kinds.

1 (3) A health care corporation shall not do any of the
2 following:

3 (a) Refuse to issue or continue a certificate to 1 or more
4 residents of this state, except while the individual, based on a
5 transaction or occurrence involving a health care corporation, is
6 serving a sentence arising out of a charge of fraud, is satisfy-
7 ing a civil judgment, or is making restitution pursuant to a vol-
8 untary payment agreement between the corporation and the
9 individual.

10 (b) Refuse to continue in effect a certificate with 1 or
11 more residents of this state, other than for failure to pay
12 amounts due for a certificate, except as allowed for refusal to
13 issue a certificate under subdivision (a).

14 (c) Limit the coverage available under a certificate, with-
15 out the prior approval of the commissioner, unless the limitation
16 is as a result of: an agreement with the person paying for the
17 coverage; an agreement with the individual designated by the per-
18 sons paying for or contracting for the coverage; or a collective
19 bargaining agreement.

20 (d) Rate, cancel benefits on, refuse to provide benefits
21 for, or refuse to issue or continue a certificate solely because
22 a subscriber or applicant is or has been a victim of domestic
23 violence. A health care corporation shall not be held civilly
24 liable for any cause of action that may result from compliance
25 with this subdivision. This subdivision applies to all health
26 care corporation certificates issued or renewed on or after
27 June 1, 1998. As used in this subdivision, "domestic violence"

1 means inflicting bodily injury, causing serious emotional injury
2 or psychological trauma, or placing in fear of imminent physical
3 harm by threat or force a person who is a spouse or former spouse
4 of, has or has had a dating relationship with, resides or has
5 resided with, or has a child in common with the person committing
6 the violence.

7 (e) Require a member or his or her dependent or an applicant
8 for coverage or his or her dependent to do either of the
9 following:

10 (i) Undergo genetic testing before issuing, renewing, or
11 continuing a health care corporation certificate.

12 (ii) Disclose whether genetic testing has been conducted or
13 the results of genetic testing or genetic information.

14 (4) Subsection (3) does not prevent a health care corpora-
15 tion from denying to a resident of this state coverage under a
16 certificate for any of the following grounds:

17 (a) That the individual was not a member of a group that had
18 contracted for coverage under this certificate.

19 (b) That the individual is not a member of a group with a
20 size greater than a minimum size established for a certificate
21 pursuant to sound underwriting requirements.

22 (c) That the individual does not meet requirements for cov-
23 erage contained in a certificate.

24 (5) A certificate may provide for the coordination of bene-
25 fits, subrogation, and the nonduplication of benefits. Savings
26 realized by the coordination of benefits, subrogation, and
27 nonduplication of benefits shall be reflected in the rates for

1 those certificates. If a group certificate issued by the
2 corporation contains a coordination of benefits provision, the
3 benefits shall be payable pursuant to the coordination of bene-
4 fits act, 1984 PA 64, MCL 550.251 to 550.255.

5 (6) A health care corporation shall have the right to status
6 as a party in interest, whether by intervention or otherwise, in
7 any judicial, quasi-judicial, or administrative agency proceeding
8 in this state for the purpose of enforcing any rights it may have
9 for reimbursement of payments made or advanced for health care
10 services on behalf of 1 or more of its subscribers or members.

11 (7) A health care corporation shall not directly reimburse a
12 provider in this state who has not entered into a participating
13 contract with the corporation.

14 (8) A health care corporation shall not limit or deny cover-
15 age to a subscriber or limit or deny reimbursement to a provider
16 on the ground that services were rendered while the subscriber
17 was in a health care facility operated by this state or a politi-
18 cal subdivision of this state. A health care corporation shall
19 not limit or deny participation status to a health care facility
20 on the ground that the health care facility is operated by this
21 state or a political subdivision of this state, if the facility
22 meets the standards set by the corporation for all other facili-
23 ties of that type, government-operated or otherwise. To qualify
24 for participation and reimbursement, a facility shall, at a mini-
25 mum, meet all of the following requirements, which shall apply to
26 all similar facilities:

1 (a) Be accredited by the joint commission on accreditation
2 of hospitals.

3 (b) Meet the certification standards of the medicare program
4 and the medicaid program.

5 ~~(c) Meet all statutory requirements for certificate of~~
6 ~~need.~~

7 (C) ~~(d)~~ Follow generally accepted accounting principles
8 and practices.

9 (D) ~~(e)~~ Have a community advisory board.

10 (E) ~~(f)~~ Have a program of utilization and peer review to
11 assure that patient care is appropriate and at an acute level.

12 (F) ~~(g)~~ Designate that portion of the facility that is to
13 be used for acute care.

14 (9) As used in this section:

15 (a) "Clinical purposes" includes all of the following:

16 (i) Predicted risk of diseases.

17 (ii) Identifying carriers for single-gene disorders.

18 (iii) Establishing prenatal and clinical diagnosis or
19 prognosis.

20 (iv) Prenatal, newborn, and other carrier screening, as well
21 as testing in high-risk families.

22 (v) Tests for metabolites if undertaken with high probabilit-
23 ity that an excess or deficiency of the metabolite indicates or
24 suggests the presence of heritable mutations in single genes.

25 (vi) Other tests if their intended purpose is diagnosis of a
26 presymptomatic genetic condition.

1 (b) "Genetic information" means information about a gene,
2 gene product, or inherited characteristic derived from a genetic
3 test.

4 (c) "Genetic test" means the analysis of human DNA, RNA,
5 chromosomes, and those proteins and metabolites used to detect
6 heritable or somatic disease-related genotypes or karyotypes for
7 clinical purposes. A genetic test must be generally accepted in
8 the scientific and medical communities as being specifically
9 determinative for the presence, absence, or mutation of a gene or
10 chromosome in order to qualify under this definition. Genetic
11 test does not include a routine physical examination or a routine
12 analysis, including, but not limited to, a chemical analysis, of
13 body fluids, unless conducted specifically to determine the pres-
14 ence, absence, or mutation of a gene or chromosome.

15 Sec. 414a. (1) A health care corporation shall offer bene-
16 fits for the inpatient treatment of substance abuse by a licensed
17 allopathic physician or a licensed osteopathic physician in a
18 health care facility operated by this state or approved by the
19 department of ~~public health~~ CONSUMER AND INDUSTRY SERVICES for
20 the hospitalization for, or treatment of, substance abuse.

21 (2) Subject to subsections (3), (5), and (7), a health care
22 corporation may enter into contracts with providers for the
23 rendering of inpatient substance abuse treatment by those
24 providers.

25 (3) A contracting provider rendering inpatient substance
26 abuse treatment for patients other than adolescent patients shall
27 be a licensed hospital or a substance abuse service program

1 licensed under article 6 of the public health code, ~~Act No. 368~~
2 ~~of the Public Acts of 1978, being sections 333.6101 to 333.6523~~
3 ~~of the Michigan Compiled Laws~~ 1978 PA 368, MCL 333.6101 TO
4 333.6523, and shall meet the standards set by the HEALTH CARE
5 corporation for contracting health care facilities.

6 (4) A health care corporation shall provide coverage for
7 intermediate and outpatient care for substance abuse, upon issu-
8 ance or renewal, in all group and nongroup certificates other
9 than service-specific certificates, such as certificates provid-
10 ing coverage solely for 1 of the following: dental care; hearing
11 care; vision care; prescription drugs; or another type of health
12 care benefit. Subject to subsections (5) and (7), a health care
13 corporation may enter into contracts with providers for the
14 rendering of intermediate care, outpatient care, or both types of
15 care, for the treatment of substance abuse.

16 (5) A health care corporation shall enter into and maintain
17 5-year contracts with not less than 5 providers in this state, as
18 demonstration projects pursuant to section 207(1)(b), for the
19 rendering of inpatient, intermediate, and outpatient care to ado-
20 lescent substance abuse patients. A provider who contracts with
21 a health care corporation for the rendering of inpatient, inter-
22 mediate, and outpatient care to adolescent substance abuse
23 patients shall meet all of the following requirements:

24 (a) Is accredited by the joint commission on accreditation
25 of hospitals, the council on accreditation for families and chil-
26 dren, the commission on accreditation of rehabilitation
27 facilities, or the American osteopathic association.

1 ~~(b) If applicable, has obtained a certificate of need under~~
2 ~~part 221 of the public health code, Act No. 368 of the Public~~
3 ~~Acts of 1978, being sections 333.22101 to 333.22181 of the~~
4 ~~Michigan Compiled Laws.~~

5 (B) ~~(c)~~ Is licensed by the office of substance abuse serv-
6 ices under article 6 of the public health code, ~~Act No. 368 of~~
7 ~~the Public Acts of 1978~~ 1978 PA 368, MCL 333.6101 TO 333.6523.

8 (C) ~~(d)~~ Is licensed ~~by the department of social services~~
9 as a child caring institution under ~~Act No. 116 of the Public~~
10 ~~Acts of 1973, being sections 722.111 to 722.128 of the Michigan~~
11 ~~Compiled Laws~~ 1973 PA 116, MCL 722.111 TO 722.128.

12 (D) ~~(e)~~ Agrees to follow generally accepted accounting
13 principles and practices.

14 (E) ~~(f)~~ Agrees to supply all data required to fulfill the
15 objectives of the demonstration program.

16 (F) ~~(g)~~ Agrees to work with the substance abuse advisory
17 committee and the health care corporation in conducting the eval-
18 uation of the demonstration program.

19 (6) The substance abuse advisory committee is established,
20 with the cooperation of the office of substance abuse services,
21 under the direction of the office of health and medical affairs.
22 The committee shall consist of 7 members to include the director
23 of the office of health and medical affairs or his or her desig-
24 nee, the administrator of the office of substance abuse services
25 or his or her designee, a representative of the department of
26 ~~public~~ COMMUNITY health, 2 designees of the chief executive
27 officer of a health care corporation contracting for a

1 demonstration project under subsection (5), a member of the
2 family of an adolescent substance abuser to be appointed by the
3 office of health and medical affairs, and a service provider of
4 an adolescent substance abuse treatment program to be appointed
5 by the office of health and medical affairs. The substance abuse
6 advisory committee shall evaluate each demonstration project and
7 shall report at the conclusion of each demonstration project to
8 the senate and house standing committees responsible for public
9 health issues. A final report of all the demonstration projects
10 shall be issued by not later than December 31, 1994, and shall
11 include evaluations of and recommendations concerning all of the
12 following:

13 (a) The cost of specialized adolescent substance abuse
14 treatment compared with the effectiveness of adolescent substance
15 abuse treatment.

16 (b) The cost and effectiveness of the different levels of
17 adolescent substance abuse treatment, including inpatient, inter-
18 mediate, and outpatient care and aftercare programs.

19 (7) Based on the final report submitted pursuant to
20 subsection (6), beginning December 31, 1994, a health care corpo-
21 ration shall continue to enter into and maintain contracts with
22 not less than 5 providers in this state, and may enter into addi-
23 tional contracts for the rendering of inpatient, intermediate,
24 and outpatient care to adolescent substance abuse patients if the
25 provider meets the requirements of subsection (5)(a) to ~~(e)~~
26 (D). Contracts entered into under this subsection shall be based

1 upon the recommendations of the final report submitted pursuant
2 to subsection (6).

3 (8) A health care corporation shall reimburse providers for
4 the rendering of inpatient, intermediate, and outpatient care to
5 adolescent substance abuse patients at a rate that ~~shall be~~ IS
6 commensurate with reimbursement rates for other similar providers
7 rendering inpatient, intermediate, and outpatient care to adoles-
8 cent substance abuse patients.

9 (9) In the case of group certificates, if the amount due for
10 a group certificate would be increased by 3% or more because of
11 the provision of the coverage required under subsection (4), the
12 master policyholder ~~shall have~~ HAS the option to decline the
13 coverage required to be provided under subsection (4). In the
14 case of nongroup certificates, if the total amount due for all
15 nongroup certificates of the health care corporation would be
16 increased by 3% or more because of the provision of the coverage
17 required under subsection (4), the subscriber for each such cer-
18 tificate ~~shall have~~ HAS the option to decline the coverage
19 required to be provided under subsection (4).

20 (10) Charges, terms, and conditions for the coverage for
21 intermediate and outpatient care for substance abuse required to
22 be provided under subsection (4) shall not be less favorable than
23 the maximum prescribed for any other comparable service.

24 (11) The coverage for intermediate and outpatient care for
25 substance abuse required to be provided under subsection (4)
26 shall not be reduced by terms or conditions which apply to other
27 items of coverage in a certificate, group or nongroup. This

1 subsection ~~shall not be construed to~~ DOES NOT prohibit
2 certificates that provide for deductibles and copayment provi-
3 sions for coverage for intermediate and outpatient care for sub-
4 stance abuse, as approved by the commissioner.

5 (12) The coverage for intermediate and outpatient care for
6 substance abuse required to be provided under subsection (4)
7 shall, at a minimum, provide for up to \$1,500.00 in health care
8 benefits for intermediate and outpatient care for substance abuse
9 per member per year. This minimum shall be adjusted by March 31,
10 1982 and by March 31 each year thereafter in accordance with the
11 annual average percentage increase or decrease in the United
12 States consumer price index for the 12-month period ending the
13 preceding December 31.

14 (13) As used in this section:

15 (a) "Adolescent" means an individual who is less than 18
16 years of age, but more than 11 years of age.

17 (b) "Intermediate care" means the use, in a full 24-hour
18 residential therapy setting, or in a partial, less than 24-hour,
19 residential therapy setting, of any or all of the following ther-
20 apeutic techniques, as identified in a treatment plan for indi-
21 viduals physiologically or psychologically dependent upon or
22 abusing alcohol or drugs:

23 (i) Chemotherapy.

24 (ii) Counseling.

25 (iii) Detoxification services.

1 (iv) Other ancillary services, such as medical testing,
2 diagnostic evaluation, and referral to other services identified
3 in a treatment plan.

4 (c) "Outpatient care" means the use, on both a scheduled and
5 a nonscheduled basis, of any or all of the following therapeutic
6 techniques, as identified in a treatment plan for individuals
7 physiologically or psychologically dependent upon or abusing
8 alcohol or drugs:

9 (i) Chemotherapy.

10 (ii) Counseling.

11 (iii) Detoxification services.

12 (iv) Other ancillary services, such as medical testing,
13 diagnostic evaluation, and referral to other services identified
14 in a treatment plan.

15 (d) "Substance abuse" means that term as defined in section
16 6107 of the public health code, ~~Act No. 368 of the Public Acts~~
17 ~~of 1978, being section 333.6107 of the Michigan Compiled Laws~~
18 1978 PA 368, MCL 333.6107.

19 Enacting section 1. This amendatory act does not take
20 effect unless Senate Bill No. 787

21 of the 91st Legislature is enacted into
22 law.