

SUBSTITUTE FOR
SENATE BILL NO. 22

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,
and by adding section 106a.

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~~ **according** to title XIX.

9 (b) ~~An~~ **Except as provided in section 106a,** an individual
10 ~~meeting~~ **who meets** all of the following 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 assistance
5 available under this act for which ~~application has been made~~
6 **the individual applied** has been professionally established and
7 payment for it is not available through the legal obligation of a
8 **public or private** contractor ~~, public or private,~~ to pay or
9 provide for the care without regard to the income or resources of
10 the patient. The state department ~~shall be~~ **is** subrogated to
11 any right of recovery ~~which~~ **that** a patient may have for the
12 cost of hospitalization, pharmaceutical services, physician
13 services, nursing services, and other medical services not to
14 exceed the amount of funds expended by the department for the
15 care and treatment of the patient. The patient or other person
16 acting in the patient's behalf shall execute and deliver an
17 assignment of claim or other ~~authorizations~~ **authorization** as
18 necessary to secure the right of recovery to the department. A
19 payment may be withheld under this act for medical assistance for
20 an injury or disability for which the patient is entitled to
21 medical care or reimbursement for the cost of medical care under
22 sections 3101 to 3179 of the insurance code of 1956, ~~Act No. 218~~
23 ~~of the Public Acts of 1956, as amended, being sections 500.3101~~
24 ~~to 500.3179 of the Michigan Compiled Laws~~ **1956 PA 218, MCL**
25 **500.3101 to 500.3179**, or under ~~any other~~ **another** policy of
26 insurance providing medical or hospital benefits, or both, for
27 the patient unless the patient's entitlement to that medical care

1 or reimbursement is at issue. If a payment is made, the state
2 department, to enforce its subrogation right, may do either of
3 the following: (a) intervene or join in an action or proceeding
4 brought by the injured, diseased, or disabled person, the
5 person's guardian, personal representative, estate, dependents,
6 or survivors, against the third person who may be liable for the
7 injury, disease, or disability, or against contractors, public or
8 private, who may be liable to pay or provide medical care and
9 services rendered to an injured, diseased, or disabled patient;
10 (b) institute and prosecute a legal proceeding against a third
11 person who may be liable for the injury, disease, or disability,
12 or against contractors, public or private, who may be liable to
13 pay or provide medical care and services rendered to an injured,
14 diseased, or disabled patient, in state or federal court, either
15 alone or in conjunction with the injured, diseased, or disabled
16 person, the person's guardian, personal representative, estate,
17 dependents, or survivors. The state department may institute the
18 proceedings in its own name or in the name of the injured,
19 diseased, or disabled person, the person's guardian, personal
20 representative, estate, dependents, or survivors. As provided in
21 section 6023 of the revised judicature act of 1961, ~~Act No. 236~~
22 ~~of the Public Acts of 1961, as amended, being section 600.6023 of~~
23 ~~the Michigan Compiled Laws~~ **1961 PA 236, MCL 600.6023**, the state
24 department, in enforcing its subrogation right, shall not satisfy
25 a judgment against the third person's property ~~which~~ **that** is
26 exempt from levy and sale. The injured, diseased, or disabled
27 person may proceed in his or her own name, collecting the costs

1 without the necessity of joining the state department or the
2 state as a named party. The injured, diseased, or disabled
3 person shall notify the state department of the action or
4 proceeding entered into upon commencement of the action or
5 proceeding. An action taken by the state or the state department
6 in connection with the right of recovery afforded by this section
7 does not ~~operate to~~ deny the injured, diseased, or disabled
8 person any part of the recovery beyond the costs expended on the
9 person's behalf by the state department. The costs of legal
10 action initiated by the state shall be paid by the state. A
11 payment shall not be made under this act for medical assistance
12 for an injury, disease, or disability for which the patient is
13 entitled to medical care or the cost of medical care under the
14 worker's disability compensation act of 1969, ~~Act No. 317 of the~~
15 ~~Public Acts of 1969, as amended, being sections 418.101 to~~
16 ~~418.941 of the Michigan Compiled Laws~~ **1969 PA 317, MCL 418.101**
17 **to 418.941**; except that payment may be made if an appropriate
18 application for medical care or the cost of the medical care has
19 been made under ~~Act No. 317 of the Public Acts of 1969, as~~
20 ~~amended~~ **the worker's disability compensation act of 1969, 1969**
21 **PA 317, MCL 418.101 to 418.941**, entitlement has not been finally
22 determined, and an arrangement satisfactory to the state
23 department has been made for reimbursement if the claim under
24 ~~Act No. 317 of the Public Acts of 1969, as amended~~ **the worker's**
25 **disability compensation act of 1969, 1969 PA 317, MCL 418.101 to**
26 **418.941**, is finally sustained.

27 (iii) The individual has an annual income ~~which~~ **that** is

1 below, or because of medical expenses falls below, the protected
 2 basic maintenance level. The protected basic maintenance level
 3 for 1-person and 2-person families shall be at least 100% of the
 4 higher of the payment standards generally used to determine
 5 eligibility in the ~~aid to dependent children~~ **family**
 6 **independence** program and the supplemental security income program
 7 under title XVI, ~~of the social security act, 42 U.S.C. 1381 to~~
 8 ~~1385,~~ including state supplementation. For families of 3 or
 9 more persons, the protected basic maintenance level shall be at
 10 least 100% of the payment standard generally used to determine
 11 eligibility in the ~~aid to dependent children~~ **family**
 12 **independence** program. These levels shall recognize regional
 13 variations and shall not exceed 133-1/3% of the payment standard
 14 generally used to determine eligibility in the ~~aid to dependent~~
 15 ~~children~~ **family independence** program.

16 (iv) The individual, if ~~an aid to dependent children~~ a
 17 **family independence program** related individual and living alone,
 18 has liquid or marketable assets of not more than ~~\$1,500.00~~
 19 **\$2,000.00** in value, or, if a 2-person family, the family has
 20 liquid or marketable assets of not more than ~~\$2,000.00~~
 21 **\$3,000.00** in value. The ~~state department~~ **family independence**
 22 **agency** shall establish comparable liquid or marketable asset
 23 amounts for larger family groups. Excluded in making the
 24 determination of the value of liquid or marketable assets are the
 25 values of: the homestead; clothing; household effects; \$1,000.00
 26 of cash surrender value of life insurance, except that if the
 27 health of the insured ~~is such as to make~~ **makes** continuance of

1 the insurance desirable, the entire cash surrender value of life
 2 insurance is ~~to be~~ excluded from consideration, up to the
 3 ~~maximums~~ **maximum** provided or allowed by federal regulations and
 4 in accordance with the rules of the ~~state department~~ **family**
 5 **independence agency**; the fair market value of tangible personal
 6 property used in earning income; an amount paid as judgment or
 7 settlement for damages suffered as a result of exposure to agent
 8 orange, as defined in section 5701 of the public health code,
 9 ~~Act No. 368 of the Public Acts of 1978, being section 333.5701~~
 10 ~~of the Michigan Compiled Laws~~ **1978 PA 368, MCL 333.5701**; and a
 11 space or plot purchased for the purposes of burial for the
 12 person. For individuals related to the title XVI program, ~~of~~
 13 ~~the social security act, 42 U.S.C. 1381 to 1385,~~ the appropriate
 14 resource levels and property exemptions specified in title XVI
 15 shall be used.

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

18 (vi) The individual meets the eligibility standards for
 19 supplemental security income under title XVI ~~of the social~~
 20 ~~security act, 42 U.S.C. 1381 to 1385,~~ or for state
 21 supplementation under the act, subject to limitations imposed by
 22 the director ~~pursuant~~ **according** to title XIX; or meets the
 23 eligibility standards for ~~aid to dependent children~~ **family**
 24 **independence program benefits**, except for income or income and
 25 resources; or is a child from 18 to 21 years of age and his or
 26 her adult caretaker would be eligible for ~~aid to dependent~~
 27 ~~children~~ **family independence program benefits** except for age,

1 income, or income and resources; or is a child under 21 years of
2 age and is from a family whose income is below the basic
3 maintenance level.

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

5 (a) **"Medical institution"** means a state licensed or approved
6 hospital, nursing home, medical care facility, psychiatric
7 hospital, or other facility or identifiable unit ~~thereof~~ of a
8 **listed institution** certified as meeting established standards for
9 a nursing home or hospital in accordance with the laws of this
10 state.

11 (b) **"Title XVI"** means title XVI of the social security act,
12 chapter 531, 49 Stat. 620, 42 U.S.C. 1381 to 1382j and 1383 to
13 1383f.

14 Sec. 106a. (1) This section shall be known and may be cited
15 as the "Michigan freedom to work for individuals with
16 disabilities law".

17 (2) The department of community health shall establish a
18 program to provide medical assistance to individuals who have
19 earned income and who meet all of the following eligibility
20 criteria:

21 (a) The individual has been found to be disabled under the
22 federal supplemental security income program or the social
23 security disability income program, or would be found to be
24 disabled except for earnings in excess of the substantial gainful
25 activity level as established by the United States social
26 security administration.

27 (b) The individual is at least 16 years of age and younger

1 than 65 years of age.

2 (c) The individual has an unearned income level of not more
3 than 100% of the current federal poverty guidelines.

4 (d) The individual is a current medical assistance recipient
5 under section 106 or meets income, asset, and eligibility
6 requirements for the medical assistance program under section
7 106.

8 (e) The individual is employed on a regular and continuing
9 basis.

10 (3) The program is limited to the medical assistance services
11 made available to recipients under the medical assistance program
12 administered under section 105 and does not include personal
13 assistance services in the workplace.

14 (4) Without losing eligibility for medical assistance, an
15 individual who qualifies for and is enrolled under this program
16 is permitted to do all of the following:

17 (a) Accumulate personal savings and assets not to exceed
18 \$75,000.00.

19 (b) Accumulate unlimited retirement and individual retirement
20 accounts.

21 (c) Have temporary breaks in employment that do not exceed 24
22 months if the temporary breaks are the result of an involuntary
23 layoff or are determined to be medically necessary.

24 (d) Work and have income that exceeds the amount permitted
25 under section 106, but shall not have unearned income that
26 exceeds 100% of the federal poverty guidelines.

27 (5) The department of community health shall establish a

1 premium that is based on earned income for individuals enrolled
2 in the program subject to all of the following provisions:

3 (a) The premium shall be based on the enrolled individual's
4 annualized earned income above 250% of the current federal
5 poverty guidelines for a family of 1.

6 (b) Individuals with an earned income of between 250% of the
7 federal poverty guidelines for a family of 1 and \$75,000.00 shall
8 pay a sliding fee scale premium starting at \$600.00 annually and
9 increasing to 100% of the average medical assistance recipient
10 cost as determined by the department of community health for
11 individuals with annual income of \$75,000.00 or more.

12 (c) The premium sliding fee scale shall have no more than 5
13 tiers.

14 (d) The premium for an enrolled individual shall generally be
15 assessed on an annual basis based on the annual return required
16 to be filed under the internal revenue code of 1986 or other
17 evidence of earned income and shall be payable on a monthly
18 basis. The premium shall be adjusted during the year when a
19 change in an enrolled individual's rate of annual income moves
20 the individual to a different premium tier.

21 (6) An enrolled individual has an affirmative duty to report
22 earned income changes that would result in a different premium
23 within 30 days to the department of community health.

24 (7) The department of community health shall report to the
25 governor and the legislature within 2 years of the effective date
26 of the amendatory act that added this section regarding all of
27 the following:

1 (a) The effectiveness of the program in achieving its
2 purposes.

3 (b) The number of individuals enrolled in the program.

4 (c) The costs and benefits of the program.

5 (d) The opportunities and projected costs of expanding the
6 program to working individuals with disabilities who are not
7 currently eligible for the program.

8 (e) Additional services that should be covered under the
9 program to assist working individuals with disabilities in
10 obtaining and maintaining employment.

11 (8) If the terms of this section are inconsistent with
12 federal regulations governing federal financial participation in
13 the medical assistance program, the department of community
14 health may to the extent necessary waive any requirement set
15 forth in subsections (1) to (5).

16 (9) The program established in this section shall be
17 implemented on or before January 1, 2004.

18 (10) As used in this section:

19 (a) "Earned income" and "unearned income" mean those terms as
20 used by the family independence agency in determining eligibility
21 for the medical assistance program administered under this act.

22 (b) "Federal poverty guidelines" means the poverty guidelines
23 published annually in the federal register by the United States
24 department of health and human services under its authority to
25 revise the poverty line under section 673(2) of subtitle B of
26 title VI of the omnibus budget reconciliation act of 1981, Public
27 Law 97-35, 42 U.S.C. 9902.