

HOUSE BILL No. 4270

February 25, 2003, Introduced by Rep. Ehardt and referred to the Committee on Health Policy.

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 subrogated to any~~
11 ~~right of recovery which a patient may have for the cost of~~
12 ~~hospitalization, pharmaceutical services, physician services,~~
13 ~~nursing services, and other medical services not to exceed the~~
14 ~~amount of funds expended by the department for the care and~~
15 ~~treatment of the patient. The patient or other person acting in~~
16 ~~the patient's behalf shall execute and deliver an assignment of~~
17 ~~claim or other authorizations as necessary to secure the right of~~
18 ~~recovery to the department. A payment may be withheld under this~~
19 ~~act for medical assistance for an injury or disability for which~~
20 ~~the patient is entitled to medical care or reimbursement for the~~
21 ~~cost of medical care under sections 3101 to 3179 of the insurance~~
22 ~~code 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,
3 diseased, or disabled person, the person's guardian, personal
4 representative, estate, dependents, or survivors, against the
5 third person who may be liable for the injury, disease, or
6 disability, or against contractors, public or private, who may be
7 liable to pay or provide medical care and services rendered to an
8 injured, diseased, or disabled patient; (b) institute and
9 prosecute a legal proceeding against a third person who may be
10 liable for the injury, disease, or disability, or against
11 contractors, public or private, who may be liable to pay or
12 provide medical care and services rendered to an injured,
13 diseased, or disabled patient, in state or federal court, either
14 alone or in conjunction with the injured, diseased, or disabled
15 person, the person's guardian, personal representative, estate,
16 dependents, or survivors. The state department may institute the
17 proceedings in its own name or in the name of the injured,
18 diseased, or disabled person, the person's guardian, personal
19 representative, estate, dependents, or survivors. As provided in
20 section 6023 of the revised judicature act of 1961, Act No. 236
21 of the Public Acts of 1961, as amended, being section 600.6023 of
22 the Michigan Compiled Laws, the state department, in enforcing
23 its subrogation right, shall not satisfy a judgment against the
24 third person's property which is exempt from levy and sale. The
25 injured, diseased, or disabled person may proceed in his or her
26 own name, collecting the costs without the necessity of joining
27 the state department or the state as a named party. The injured,~~

~~1 diseased, or disabled person shall notify the state department of~~
~~2 the action or proceeding entered into upon commencement of the~~
~~3 action or proceeding. An action taken by the state or the state~~
~~4 department in connection with the right of recovery afforded by~~
~~5 this section does not operate to deny the injured, diseased, or~~
~~6 disabled person any part of the recovery beyond the costs~~
~~7 expended on the person's behalf by the state department. The~~
~~8 costs of legal action initiated by the state shall be paid by the~~
~~9 state. A payment shall not be made under this act for medical~~
~~10 assistance for an injury, disease, or disability for which the~~
~~11 patient is entitled to medical care or the cost of medical care~~
~~12 under the worker's disability compensation act of 1969, Act~~
~~13 No. 317 of the Public Acts of 1969, as amended, being sections~~
~~14 418.101 to 418.941 of the Michigan Compiled Laws; except that~~
~~15 payment may be made if an appropriate application for medical~~
~~16 care or the cost of the medical care has been made under Act~~
~~17 No. 317 of the Public Acts of 1969, as amended, entitlement has~~
~~18 not been finally determined, and an arrangement satisfactory to~~
~~19 the state department has been made for reimbursement if the claim~~
~~20 under Act No. 317 of the Public Acts of 1969, as amended, is~~
~~21 finally sustained.~~

22 (iii) ~~The~~ **Except as provided in section 106a, the**
 23 individual has an annual income ~~which~~ **that** is below, or because
 24 of medical expenses falls below, the protected basic maintenance
 25 level. The protected basic maintenance level for 1-person and
 26 2-person families shall be at least 100% of the higher of the
 27 payment standards generally used to determine eligibility in the

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

12 (iv) The individual, if ~~an aid to dependent children~~ a
13 **family independence program** related individual and living alone,
14 has liquid or marketable assets of not more than \$1,500.00 in
15 value, or, if a 2-person family, the family has liquid or
16 marketable assets of not more than \$2,000.00 in value. The
17 ~~state department~~ **family independence agency** shall establish
18 comparable liquid or marketable asset amounts for larger family
19 groups. Excluded in making the determination of the value of
20 liquid or marketable assets are the values of: the homestead;
21 clothing; household effects; \$1,000.00 of cash surrender value of
22 life insurance, except that if the health of the insured ~~is such~~
23 ~~as to make~~ **makes** continuance of the insurance desirable, the
24 entire cash surrender value of life insurance is ~~to be~~ excluded
25 from consideration, up to the ~~maximums~~ **maximum** provided or
26 allowed by federal regulations and in accordance with the rules
27 of the ~~state department~~ **family independence agency**; the fair

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

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

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

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

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

7 (b) "Title XVI" means title XVI of the social security act,
8 chapter 531, 49 Stat. 620, 42 U.S.C. 1381 to 1382j and 1383 to
9 1383f.

10 (3) The family independence agency is subrogated to a right
11 of recovery that a patient has for the cost of hospitalization,
12 pharmaceutical services, physician services, nursing services,
13 and other medical services not to exceed the amount of money
14 expended by the department for the care and treatment of the
15 patient. The patient or other person acting in the patient's
16 behalf shall execute and deliver an assignment of claim or other
17 authorization as necessary to secure the right of recovery to the
18 department. A payment may be withheld under this act for medical
19 assistance for an injury or disability for which the patient is
20 entitled to medical care or reimbursement for the cost of medical
21 care under sections 3101 to 3179 of the insurance code of 1956,
22 1956 PA 218, MCL 500.3101 to 500.3179, or under another policy of
23 insurance providing medical or hospital benefits, or both, for
24 another the patient unless the patient's entitlement to that
25 medical care or reimbursement is at issue. If a payment is made,
26 the family independence agency, to enforce its subrogation right,
27 may do either of the following:

1 (a) Intervene or join in an action or proceeding brought by
2 the injured, diseased, or disabled person, or the person's
3 guardian, personal representative, estate, dependents, or
4 survivors, against the third person who may be liable for the
5 injury, disease, or disability or against public or private
6 contractors who may be liable to pay or provide medical care and
7 services rendered to an injured, diseased, or disabled patient.

8 (b) Institute and prosecute a legal proceeding against a
9 third person who may be liable for the injury, disease, or
10 disability or against a public or private contractor who may be
11 liable to pay or provide medical care and services rendered to an
12 injured, diseased, or disabled patient, in state or federal
13 court, either alone or in conjunction with the injured, diseased,
14 or disabled person or the person's guardian, personal
15 representative, estate, dependent, or survivor.

16 (4) In enforcing its subrogation right under subsection (3),
17 the family independence agency may institute the proceedings in
18 its own name or in the name of the injured, diseased, or disabled
19 person or the person's guardian, personal representative, estate,
20 dependent, or survivor. As provided in section 6023 of the
21 revised judicature act of 1961, 1961 PA 236, MCL 600.6023, the
22 family independence agency, in enforcing its subrogation right,
23 shall not satisfy a judgment against the third person's property
24 that is exempt from levy and sale.

25 (5) The injured, diseased, or disabled person may proceed in
26 his or her own name, collecting the costs without the necessity
27 of joining the family independence agency or the state as a named

1 party. The injured, diseased, or disabled person shall notify
2 the family independence agency of the action or proceeding
3 entered into upon commencement of the action or proceeding.

4 (6) An action taken by the state or the family independence
5 agency in connection with the right of recovery afforded by this
6 section does not deny the injured, diseased, or disabled person a
7 part of the recovery beyond the costs expended on the person's
8 behalf by the family independence agency. The costs of legal
9 action initiated by the state shall be paid by the state. A
10 payment shall not be made under this act for medical assistance
11 for an injury, disease, or disability for which the patient is
12 entitled to medical care or the cost of medical care under the
13 worker's disability compensation act of 1969, 1969 PA 317,
14 MCL 418.101 to 418.941; except that payment may be made if an
15 appropriate application for medical care or the cost of the
16 medical care has been made under the worker's disability
17 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941,
18 entitlement has not been finally determined, and an arrangement
19 satisfactory to the family independence agency has been made for
20 reimbursement if the claim is finally sustained.

21 Sec. 106a. (1) The department of community health shall
22 establish a program to provide medical assistance to an
23 individual who has qualifying income and who meets all of the
24 following criteria:

25 (a) The individual meets the criteria for being disabled
26 under the federal supplemental security income program, excluding
27 the earnings and resources criteria under that program.

1 (b) The individual is at least 18 years of age and younger
2 than 65 years of age.

3 (c) The individual pays a premium, if required. Any spousal
4 income or assets shall be disregarded for the purposes of
5 eligibility and premium payment determinations.

6 (d) The individual is a medical assistance recipient under
7 this act or became eligible to receive and started receiving
8 medical assistance under this act within the 12 months preceding
9 the date of application for medical assistance benefits under
10 this section.

11 (2) An individual whose qualifying income is greater than
12 250% of the federal poverty guidelines for the applicable family
13 size shall pay a premium to be eligible for medical assistance.
14 A premium paid under this subsection shall be not more than 7.5%
15 of the individual's qualifying income up to the cost of
16 coverage. If the individual has qualifying income above
17 \$75,000.00, the department of community health may require the
18 individual to pay 100% of the premium.

19 (3) All premiums collected under this section shall be
20 dedicated to the general fund to be used only for the medical
21 assistance program created and administered under section 109.

22 (4) A premium required under this section shall be determined
23 at the time of application to the program established under this
24 section. The premium shall be redetermined annually at the time
25 of recertification or at the time that a change in qualifying
26 income or family size occurs.

27 (5) A premium payment is due at the time of notification from

1 the department of community health to the individual of the
2 premium amount. A premium may be paid in installments at the
3 department's discretion.

4 (6) As used in this section:

5 (a) "Federal poverty guidelines" means the poverty guidelines
6 published annually in the federal register by the United States
7 department of health and human services under its authority to
8 revise the poverty line under section 673(2) of subtitle B of
9 title VI of the omnibus budget reconciliation act of 1981, Public
10 Law 97-35, 42 U.S.C. 9902.

11 (b) "Qualifying income" means wages or salary subject to
12 withholding under subchapter A of chapter 24 of subtitle B of the
13 internal revenue code of 1986, 26 U.S.C. 3401 to 3406.