

SENATE BILL No. 22

January 21, 2003, Introduced by Senators JOHNSON and VAN WOERKOM and referred to the Committee on Families and Human 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,
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 II" means title II of the social security act,
8 chapter 531, 49 Stat. 620, 42 U.S.C. 401 to 405, 406 to 418, 420
9 to 423, 424a to 426-1, and 427 to 433.

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

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

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

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

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

1 (5) The injured, diseased, or disabled person may proceed in
2 his or her own name, collecting the costs without the necessity
3 of joining the department or the state as a named party. The
4 injured, diseased, or disabled person shall notify the department
5 of the action or proceeding entered into upon commencement of the
6 action or proceeding.

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

23 Sec. 106a. (1) The department of community health shall
24 implement a program with provisions as prescribed by this
25 section. The program shall offer medical assistance and
26 supplementary benefits to a person who meets either of the
27 following requirements:

1 (a) A person at least 16 years of age and younger than 65
2 years of age who would otherwise be eligible except that the
3 person has earnings that exceed the limit established by the
4 department of community health.

5 (b) A person employed with a medically improved disability
6 whose assets, resources, and earned and unearned income do not
7 exceed the limit established by the department of community
8 health.

9 (2) The department of community health may require a person
10 eligible for benefits under subsection (1) to pay a premium or
11 other cost-sharing charge that the department of community health
12 determines set on a sliding scale based on income.

13 (3) The department of community health may require a person
14 eligible for benefits under subsection (1) to pay 100% of a
15 premium in a year that the person has income for a year that
16 exceeds 250% of the federal poverty level applicable to a family
17 of the size involved. If the person has income for a year that
18 does not exceed 450% of the federal poverty level, the
19 requirement to pay the premium only applies to the extent that
20 the premium does not exceed 7.5% of the income.

21 (4) The department of community health shall require a person
22 to pay 100% of the premium for a year when the person's adjusted
23 gross income as defined in section 62 of the internal revenue
24 code of 1986, 26 U.S.C. 62, exceeds \$75,000.00. The department
25 of community health may elect to subsidize the premium by using
26 state funds only that are not matched by federal funds under
27 title XIX.

1 (5) The department of community health shall make personal
2 assistance services available to a person eligible for medical
3 assistance and supplementary benefits under subsection (1) to the
4 extent necessary to enable the person to remain employed.

5 (6) The department of community health shall submit an annual
6 report on the use of federal funds for the program established in
7 this section to the secretary. The report shall include the
8 percentage increase in the number of title II and title XVI
9 disability beneficiaries in the state who return to work.

10 (7) The department of community health shall apply to the
11 secretary for approval of a pilot project under which up to a
12 specified maximum number of individuals who are workers with a
13 potentially severe disability are provided medical assistance
14 equal to that provided under section 1905(a) of title XIX, 42
15 U.S.C. 1396d, to a person described in section
16 1902(a)(10)(A)(ii)(XV) of title XIX, 42 U.S.C. 1396a.

17 (8) As used in this section:

18 (a) "Employed" means a person who is either of the
19 following:

20 (i) Earning at least the applicable minimum wage requirement
21 under section 6 of the fair labor standards act of 1938,
22 chapter 676, 52 Stat. 1062, 29 U.S.C. 206, and working 40 hours
23 per month or more.

24 (ii) Engaged in a work effort that meets substantial and
25 reasonable criteria for hours of work, wages, or other measures,
26 as defined by the department of community health.

27 (b) "Employed person with a medically improved disability"

1 means a person to whom all of the following apply:

2 (i) The person is at least 16 years of age and less than 65
3 years of age.

4 (ii) The person is employed.

5 (iii) The person is no longer eligible for medical assistance
6 under section 106 because the person, due to medical improvement,
7 is determined at the time of a regularly scheduled continuing
8 disability review to no longer be eligible for benefits under
9 sections 106 and 107.

10 (iv) The person continues to have a severe medically
11 determinable impairment as determined under regulations of the
12 secretary.

13 (c) "Personal assistance services" means a range of services,
14 provided by 1 or more persons, designed to assist a person with a
15 disability in performing daily activities on or off the job that
16 the person would typically perform if he or she did not have a
17 disability. Personal assistance services shall be designed to
18 increase the person's control in life and ability to perform
19 everyday activities on or off the job.

20 (d) "Secretary" means the secretary of the United States
21 department of health and human services.

22 (e) "Worker with a potentially severe disability" means a
23 person who meets all of the following criteria:

24 (i) The person is at least 16 years of age and less than 65
25 years of age.

26 (ii) The person has a specific physical or mental impairment
27 that, as defined by the department of community health, is

1 reasonably expected, but for the receipt of items and services
2 described in section 1905(a) of title XIX, 42 U.S.C. 1396d, to
3 become blind or disabled as defined under section 1614(a) of
4 title XVI, 42 U.S.C. 1382c.

5 (iii) The person is employed.