

SENATE BILL No. 772

October 14, 2003, Introduced by Senators STAMAS, PATTERSON, HAMMERSTROM, JOHNSON, JACOBS, CHERRY and GEORGE and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
(MCL 330.1001 to 330.2106) by adding section 709.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 709. (1) The department shall establish a policy
2 directive on local grievance procedures that all community mental
3 health services programs shall be required to follow.

4 (2) The department's policy directive shall require a
5 community mental health services program to reach a decision on a
6 local grievance within 35 calendar days from the date of a
7 grievance filing by an applicant, a recipient, a guardian of an
8 applicant or recipient, or an authorized representative of the
9 applicant, recipient, or guardian.

10 (3) If a mental health professional communicates orally or in
11 writing to a community mental health services program that the

1 applicant or recipient is experiencing an emergency situation as
2 defined in section 100a, the community mental health services
3 program is required to reach a decision within 72 hours from the
4 date of the grievance filing.

5 (4) If the filing applicant, recipient, guardian, or
6 authorized representative is dissatisfied with the decision of
7 the community mental health services program under the local
8 grievance process, he or she may request within 60 calendar days
9 of that decision, or within 10 calendar days if the grievance
10 represented an emergency situation, that the department's office
11 of medical psychiatric affairs arrange for an external review of
12 the grievance if both of the following apply:

13 (a) The grievance involves a community mental health services
14 program determination that an admission, availability of care,
15 continued stay, or other specialty mental health service or
16 support is denied, reduced, suspended, or terminated due to lack
17 of medical necessity.

18 (b) The applicant or recipient does not have the legal
19 recourse to participate in the medicaid fair hearing process
20 regarding the determination of the community mental health
21 services program.

22 (5) Upon receipt of a request for an external review, the
23 office of medical psychiatric affairs shall provide written
24 notification of receipt to the involved community mental health
25 services program.

26 (6) Not later than 5 business days after receiving a request
27 for an external review, or not later than 24 hours if the

1 grievance represented an emergency situation, the office of
2 medical psychiatric affairs shall determine whether external
3 review is warranted. The person filing the grievance and the
4 involved community mental health services program shall receive
5 written notification of the determination according to 1 of the
6 following:

7 (a) If external review is not warranted, the office of
8 medical psychiatric affairs shall attempt to mediate the
9 disagreement between the person filing the grievance and the
10 involved community mental health services program.

11 (b) If external review is warranted and the service or
12 services in question are solely or primarily of a treatment
13 nature, the office of medical psychiatric affairs shall arrange
14 for the review to be conducted by a psychiatrist who has no
15 employment, contractual, or other relationship with the
16 department or any community mental health services program.

17 (c) If external review is warranted and the service or
18 services in question are solely or primarily of a support nature,
19 the office of medical psychiatric affairs shall arrange for the
20 review to be conducted by a mental health professional who has no
21 employment, contractual, or other relationship with the
22 department or any community mental health services program.

23 (7) In arranging for an external review, the office of
24 medical psychiatric affairs shall forward immediately to the
25 external reviewer written material submitted to the office by the
26 person filing the grievance. The external reviewer may request
27 that the person filing the grievance provide additional

1 information within 7 business days, or 1 business day if the
2 grievance represented an emergency situation.

3 (8) Upon receiving notification that an external review is to
4 be conducted, the involved community mental health services
5 program has 7 business days to provide the external reviewer with
6 all documents and information utilized by the community mental
7 health services program in making its local grievance decision.
8 If the grievance represented an emergency situation, the material
9 shall be provided within 1 business day. Initial notification of
10 the 1-day requirement may be verbal. Failure of a community
11 mental health services program to provide the required material
12 within the prescribed time frame shall result in the office of
13 medical psychiatric affairs ordering an immediate reversal of the
14 local grievance decision.

15 (9) An external reviewer shall make a recommendation to the
16 office of medical psychiatric affairs within 10 business days
17 after receipt of information under subsections (7) and (8), or
18 within 48 hours from the receipt of that information if the
19 grievance represented an emergency situation.

20 (10) Upon receipt of a recommendation from an external
21 reviewer, the office of medical psychiatric affairs shall make a
22 binding administrative decision about the case within 7 business
23 days, or 24 hours if the grievance represented an emergency
24 situation. Initial notice of the decision may be provided orally
25 to the person filing the grievance and the involved community
26 mental health services program. In all cases, both parties shall
27 be provided written notification that shall minimally include

1 both of the following:

2 (a) The recommendation made by the external reviewer, and the
3 rationale for that recommendation.

4 (b) If applicable, the rationale for why the office of
5 medical psychiatric affairs did not follow the external
6 reviewer's recommendation.

7 (11) At any time prior to the binding administrative decision
8 from the office of medical psychiatric affairs, the external
9 review process is abrogated if the person filing the grievance
10 makes a written request for withdrawal, or the involved community
11 mental health services program provides written notification that
12 it has elected to authorize the action sought by the person
13 filing the grievance.

14 (12) The department shall provide the legislature annually
15 with a report detailing for each community mental health services
16 program and the state in aggregate all of the following:

17 (a) The number of local grievances filed, categorized
18 according to emergent or nonemergent status and whether or not
19 the person filing the grievance had legal recourse to participate
20 in the medicaid fair hearing process.

21 (b) The number of filed local grievances, categorized
22 according to subdivision (a), in which agreement between the
23 parties negated a need for a local grievance decision by the
24 community mental health services program.

25 (c) The number of local grievance decisions, categorized
26 according to subdivision (a), upholding the initial determination
27 of the community mental health services program.

1 (d) The number of local grievance decisions, categorized
2 according to emergent or nonemergent status, resulting in
3 requests for external review.

4 (e) The number of requests for external review, categorized
5 according to subdivision (d), that were not honored by the office
6 of medical psychiatric affairs, and the outcomes of the office of
7 medical psychiatric affairs' mediation efforts for those cases.

8 (f) The number of requests for external review, categorized
9 according to subdivision (d), honored by the office of medical
10 psychiatric affairs.

11 (g) The number of external review cases, categorized
12 according to subdivision (d), in which community mental health
13 services program failure to provide required material within
14 prescribed time frames resulted in default judgment for the
15 person filing the grievance.

16 (h) The number of external review cases, categorized
17 according to subdivision (d), withdrawn prior to final
18 administrative decision at the request of community mental health
19 services programs.

20 (i) The number of external review cases, categorized
21 according to subdivision (d), withdrawn prior to final
22 administrative decision at the request of a person filing the
23 grievance.

24 (j) The number of external review cases, categorized
25 according to subdivision (d), in which the external review
26 recommendation respectively favored community mental health
27 services programs and parties filing grievances.

1 (k) The number of external review cases, categorized
2 according to subdivision (d), in which the office of medical
3 psychiatric affairs overturned the external reviewer
4 recommendation, and the number of those overturned external
5 reviewer recommendations that respectively favored community
6 mental health services programs and parties filing grievances.