

SENATE BILL No. 466

May 5, 2005, Introduced by Senators PATTERSON, SWITALSKI, CHERRY, OLSHOVE, JACOBS, HAMMERSTROM, GILBERT, CROSEY, PRUSI, BRATER, BARCIA, SCHAUER and STAMAS and referred to the Committee on Health Policy.

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending section 111b (MCL 400.111b), as amended by 2000 PA 187.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 111b. (1) As a condition of participation, a provider
2 shall meet all of the requirements specified in this section except
3 as provided in subsections (25), (26), and (27).

4 (2) A provider shall comply with all licensing and
5 registration laws of this state applicable to the provider's
6 practice or business. For a facility that is periodically inspected
7 by a licensing authority, maintenance of licensure constitutes
8 compliance.

9 (3) A provider shall be certified, if the provider is of the
10 type for which certification is required by title XVIII or XIX.

11 (4) A provider shall enter into an agreement of enrollment

1 specified by the director.

2 (5) A provider who renders a reimbursable service described in
3 section 109 to a medically indigent individual shall provide the
4 individual with service of the same scope and quality as would be
5 provided to the general public.

6 (6) A provider shall maintain records necessary to document
7 fully the extent and cost of services, supplies, or equipment
8 provided to a medically indigent individual and to substantiate
9 each claim and, in accordance with professionally accepted
10 standards, the medical necessity, appropriateness, and quality of
11 service rendered for which a claim is made.

12 (7) Upon request and at a reasonable time and place, a
13 provider shall make available any record required to be maintained
14 by subsection (6) for examination and photocopying by authorized
15 agents of the director, the department of attorney general, or
16 federal authorities whose duties and functions are related to state
17 programs of medical assistance under title XIX. If a provider
18 releases records in response to a request by the director made
19 ~~pursuant to~~ **UNDER** section 111a(13) or in compliance with this
20 subsection, that provider is not civilly liable in damages to a
21 patient or to another provider to whom, respectively, the records
22 relate solely, on account of the response or compliance.

23 (8) A provider shall retain each record required to be
24 maintained by subsection (6) for a period of ~~6~~ 10 years after the
25 date of service. A provider who no longer personally retains the
26 records due to death, retirement, change in ownership, or other
27 reason, shall ~~insure~~ **ENSURE** that a suitable person retains the

1 records and provides access to the records as required in
2 subsection (7).

3 (9) A provider shall require, as a condition of ~~any~~ **A**
4 contract with a person, sole proprietorship, clinic, group,
5 partnership, corporation, association, or other entity, for the
6 purpose of generating billings in the name of the provider or on
7 behalf of the provider to the ~~state~~ department, that the person,
8 partnership, corporation, or other entity, its representative,
9 successor, or assignee, retain for not less than ~~6~~ **10** years,
10 copies of all documents used in the generation of billings,
11 including the certifications required by subsection (17), and, if
12 applicable, computer billing tapes ~~when~~ **IF** returned by the ~~state~~
13 department.

14 (10) A provider shall submit all claims for services rendered
15 under the program on a form or in a format and with the supporting
16 documentation specified and required by the director under section
17 111a(7)(c) and by the commissioner of insurance under section 111i.
18 Submission of a claim or claims for services rendered under the
19 program does not establish in the provider a right to receive
20 payment from the program.

21 (11) A provider shall submit initial claims for services
22 rendered within 12 months after the date of service, or within a
23 shorter period that the director may establish or that the
24 commissioner of insurance may establish under section 111i. The
25 director shall not delegate the authority to establish a time
26 period for submission of claims under this subsection. Except as
27 otherwise provided in section 111i, the director, with the

1 consultation required by section 111a, may prescribe the conditions
2 under which a provider may qualify for a waiver of the time period
3 established ~~pursuant to~~ **UNDER** this subsection with respect to a
4 particular submission of a claim. Neither this state nor the
5 medically indigent individual is liable for payment of claims
6 submitted after the period established ~~pursuant to~~ **UNDER** this
7 subsection.

8 (12) A provider shall not charge the state more for a service
9 rendered to a medically indigent individual than the provider's
10 customary charge to the general public or another third party payer
11 for the same or similar service.

12 (13) A provider shall submit information on estimated costs
13 and charges on a form or in a format and at times that the director
14 may specify and require ~~pursuant~~ **ACCORDING** to section 111a(16).

15 (14) Except for copayment authorized by the ~~state~~ department
16 and in conformance with applicable state and federal law, a
17 provider shall accept payment from the state as payment in full by
18 the medically indigent individual for services received. A provider
19 shall not seek payment from the medically indigent individual, the
20 family, or representative of the individual for either of the
21 following:

22 (a) Authorized services provided and reimbursed under the
23 program.

24 (b) Services determined to be medically unnecessary in
25 accordance with professionally accepted standards.

26 (15) A provider may seek payment from a medically indigent
27 individual for services not covered nor reimbursed by the program

1 if the individual elected to receive the services with the
2 knowledge that the services would not be covered nor reimbursed
3 under the program.

4 (16) A provider promptly shall notify the director of a
5 payment received by the provider to which the provider is not
6 entitled or that exceeds the amount to which the provider is
7 entitled. If the provider makes or should have made notification
8 under this subsection or receives notification of overpayment under
9 section 111a(17), the provider shall repay, return, restore, or
10 reimburse, either directly or through adjustment of payments, the
11 overpayment in the manner required by the director. Failure to
12 repay, return, restore, or reimburse the overpayment or a
13 consistent pattern of failure to notify the director shall
14 constitute a conversion of the money by the provider.

15 (17) As a condition of payment for services rendered to a
16 medically indigent individual, a provider shall certify that a
17 claim for payment is true, accurate, prepared with the knowledge
18 and consent of the provider, and does not contain untrue,
19 misleading, or deceptive information. A provider is responsible for
20 the ongoing supervision of an agent, officer, or employee who
21 prepares or submits the provider's claims. A provider's
22 certification required under this subsection shall be prima facie
23 evidence that the provider knows that the claim or claims are true,
24 accurate, prepared with his or her knowledge and consent, do not
25 contain misleading or deceptive information, and are filed in
26 compliance with the policies, procedures, and instructions, and on
27 the forms established or developed ~~pursuant to~~ **UNDER** this act.

1 Certification shall be made in the following manner:

2 (a) For an invoice or other prescribed form submitted directly
3 to the ~~state~~ department by the provider in claim for payment for
4 the provision of services, by an indelible mark made by hand,
5 mechanical or electronic device, stamp, or other means by the
6 provider, or an agent, officer, or employee of the provider.

7 (b) For an invoice or other form submitted in claim for
8 payment for the provision of services submitted indirectly by the
9 provider to the ~~state~~ department through a person, sole
10 proprietorship, clinic, group, partnership, corporation,
11 association, or other entity that generates and files claims on a
12 provider's behalf, by the indelible written name of the provider on
13 a certification form developed by the director for submission to
14 the ~~state~~ department with each group of invoices or forms in
15 claim for payment. The certification form shall indicate the name
16 of the person, if other than the provider, who signed the
17 provider's name.

18 (c) For a warrant issued in payment of a claim submitted by a
19 provider, by the handwritten indelible signature of the payee, if
20 the payee is a natural person; by the handwritten indelible
21 signature of an officer, if the payee is a corporation; or by
22 handwritten indelible signature of a partner, if the payee is a
23 partnership.

24 (18) A provider shall comply with all requirements established
25 under section 111a(1), (2), and (3).

26 (19) A provider shall file with the ~~state~~ department, on
27 disclosure forms provided by the director, a complete and truthful

1 statement of all of the following:

2 (a) The identity of each individual having, directly or
3 indirectly, an ownership or beneficial interest in a partnership,
4 corporation, organization, or other legal entity, except a company
5 registered ~~pursuant~~ **ACCORDING** to the securities exchange act of
6 1934, ~~chapter 404, 48 Stat. 881~~ **15 USC 78A TO 78NN**, through which
7 the provider engages in practice or does business related to claims
8 or charges against the program. This subdivision does not apply to
9 a health facility or agency that is required to comply with and has
10 complied with the disclosure requirements of section 20142(3) of
11 the public health code, 1978 PA 368, MCL 333.20142. With respect to
12 a company registered ~~pursuant to~~ **UNDER** the securities exchange
13 act of 1934, ~~chapter 404, 48 Stat. 881~~ **15 USC 78A TO 78NN**, a
14 provider shall disclose the identity of each individual having,
15 directly or indirectly, separately or in combination, a 5% or
16 greater ownership or beneficial interest.

17 (b) The identity of each partnership, corporation,
18 organization, legal entity, or other affiliate whose practice or
19 business is related to a claim or charge against the program in
20 which the provider has, directly or indirectly, an ownership or
21 beneficial interest, trust agreement, or a general or perfected
22 security interest. This subdivision does not apply to a health
23 facility or agency that is required to comply with and has complied
24 with the disclosure requirements of section 20142(4) of the public
25 health code, 1978 PA 368, MCL 333.20142.

26 (c) If applicable to the provider, a copy of a disclosure form
27 identifying ownership and controlling interests submitted to the

1 United States department of health and human services in
2 fulfillment of a condition of participation in programs established
3 ~~pursuant~~ **ACCORDING** to title V, XVIII, XIX, and XX. To the extent
4 that information disclosed on this form duplicates information
5 required to be filed under subdivision (a) or (b), filing a copy of
6 the form shall satisfy the requirements under those subdivisions.

7 (20) If requested by the director, a provider shall supply
8 complete and truthful information as to his or her professional
9 qualifications and training, and his or her licensure in each
10 jurisdiction in which the provider is licensed or authorized to
11 practice.

12 (21) In the interest of review and control of utilization of
13 services, a provider shall identify each attending, referring, or
14 prescribing physician, dentist, or other practitioner by means of a
15 program identification number on each claim or adjustment of a
16 claim submitted to the ~~state~~ department.

17 (22) It is the obligation of a provider to assure that
18 services, supplies, or equipment provided to, ordered, or
19 prescribed on behalf of a medically indigent individual by that
20 provider will meet professionally accepted standards for the
21 medical necessity, appropriateness, and quality of health care.

22 (23) If any service, supply, or equipment provided directly by
23 a provider, or any service, supply, or equipment prescribed or
24 ordered by a provider and delivered by someone other than that
25 provider, is determined not to be medically necessary, not
26 appropriate, or not otherwise in accordance with medical assistance
27 program coverages, the provider who directly provided, ordered, or

1 prescribed the service, supply, or equipment ~~shall be~~ **IS**
2 responsible for direct and complete repayment of any program
3 payment made to the provider or to any other person for that
4 service, supply, or equipment. Services, supplies, or equipment
5 provided by a consulting provider based upon his or her independent
6 evaluation or assessment of the recipient's needs is the
7 responsibility of the consulting provider. This subsection does not
8 apply to ~~the~~ repayment by a provider who has ordered a nursing
9 home or hospital admission of the service billed by and reimbursed
10 to a nursing home or hospital. This section also does not apply to
11 a nursing home or hospital unless the nursing home or hospital
12 acted on its own initiative in providing the service, supply, or
13 equipment as opposed to following the order or prescription of
14 another.

15 (24) A provider shall satisfy or make acceptable arrangement
16 to satisfy all previous adjudicated program liabilities including
17 those adjudicated ~~pursuant~~ **ACCORDING** to section 111c or
18 established by agreement between the department and the provider,
19 and restitution ordered by a court. As used in this subsection,
20 provider includes, but is not limited to, the provider, the
21 provider's corporation, partnership, business associates,
22 employees, clinic, laboratory, provider group, or successors and
23 assignees. For a nursing home or hospital, "business associates",
24 as used in this subsection, means those persons whose identity is
25 required to be disclosed ~~pursuant to~~ **UNDER** section 20142(3) of
26 the public health code, 1978 PA 368, MCL 333.20142.

27 (25) A provider who is a physician, dentist, or other

1 individual practitioner shall file with the ~~state~~ department a
2 complete and factual disclosure of the identity of each employer or
3 contractor to whom the provider is required to submit, in whole or
4 in part, payment for services provided to a medically indigent
5 individual as a condition of the provider's agreement of employment
6 or other agreement. A provider who has properly disclosed the
7 required information by filing a form or forms has 30 business days
8 in which to report changes in the list of identified individuals
9 and entities. The disclosure required by this subsection may serve
10 as the provider's authorization for the department to make direct
11 payments to the employer.

12 (26) As a condition of receiving payment for services rendered
13 to a medically indigent individual, a provider may enter, as an
14 employee, into agreements of employment of the type described in
15 subsection (25) only with an employer who has entered into an
16 agreement as described in subsection (27).

17 (27) An employer described in subsection (25) shall enter into
18 an agreement on a form prescribed by the department, in which, as a
19 condition of directly receiving payment for services provided by
20 its employee provider to a medically indigent individual, the
21 employer agrees to all of the following:

22 (a) To require as a condition of employment that the employee
23 provider submit, in whole or in part, payments received for
24 services provided to medically indigent individuals.

25 (b) To advise the department within 30 days after any changes
26 in the employment relationship.

27 (c) To comply with the conditions of participation established

1 by this subsection and subsections (6) to (19) ~~—~~ and (21).

2 (d) To agree to be jointly and severally responsible with the
3 employee provider for any overpayments resulting from the
4 department's direct payment under this section.

5 (e) To agree that disputed claims relative to overpayments
6 shall be adjudicated in administrative proceedings convened
7 ~~pursuant to~~ **UNDER** section 111c.

8 (28) If a provider who is a nursing home intends to withdraw
9 from participation in the title XIX program, the provider shall
10 notify the department in writing. ~~However, the~~ **THE** provider shall
11 continue to participate in the title XIX program for each patient
12 who was admitted to the nursing home before the date notice is
13 given under this subsection and who is or may become eligible to
14 receive medical assistance under this act.

15 (29) **A PROVIDER SHALL PROTECT, MAINTAIN, RETAIN, AND DISPOSE**
16 **OF PATIENT MEDICAL RECORDS AND OTHER INDIVIDUALLY IDENTIFYING**
17 **INFORMATION IN ACCORDANCE WITH SUBSECTION (6), ANY OTHER APPLICABLE**
18 **STATE OR FEDERAL LAW, AND THE MOST RECENT PROVIDER AGREEMENT.**

19 (30) **AT A MINIMUM, IF A PROVIDER IS AUTHORIZED TO DISPOSE OF**
20 **PATIENT RECORDS OR OTHER PATIENT IDENTIFYING INFORMATION, INCLUDING**
21 **RECORDS REQUIRED BY SUBSECTION (6), THE PROVIDER SHALL ENSURE THAT**
22 **MEDICAL RECORDS THAT IDENTIFY A PATIENT AND OTHER INDIVIDUALLY**
23 **IDENTIFYING INFORMATION ARE SUFFICIENTLY DELETED, SHREDDED,**
24 **INCINERATED, OR DISPOSED OF IN A FASHION THAT WILL PROTECT THE**
25 **CONFIDENTIALITY OF THE PATIENT'S HEALTH CARE INFORMATION AND**
26 **PERSONAL INFORMATION. THE DEPARTMENT MAY TAKE ACTION TO ENFORCE**
27 **THIS SUBSECTION. IF THE DEPARTMENT CANNOT ENFORCE COMPLIANCE WITH**

1 THIS SUBSECTION, THE DEPARTMENT MAY ENTER INTO A CONTRACT OR MAKE
2 OTHER ARRANGEMENTS TO ENSURE THAT PATIENT RECORDS AND OTHER
3 INDIVIDUALLY IDENTIFYING INFORMATION ARE DISPOSED OF IN A FASHION
4 THAT WILL PROTECT THE CONFIDENTIALITY OF THE PATIENT'S HEALTH CARE
5 INFORMATION AND PERSONAL INFORMATION AND ASSESS COSTS ASSOCIATED
6 WITH THAT DISPOSAL AGAINST THE PROVIDER. THE PROVIDER'S
7 RESPONSIBILITIES WITH REGARD TO MAINTENANCE, RETENTION, AND
8 DISPOSAL OF PATIENT MEDICAL RECORDS AND OTHER INDIVIDUALLY
9 IDENTIFYING INFORMATION CONTINUE AFTER THE PROVIDER CEASES TO
10 PARTICIPATE IN THE MEDICAL ASSISTANCE PROGRAM FOR THE TIME PERIOD
11 SPECIFIED UNDER THIS SECTION.