

HOUSE BILL No. 6061

May 6, 2008, Introduced by Rep. McDowell and referred to the Committee on Appropriations.

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 20161 (MCL 333.20161), as amended by 2007 PA
85.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20161. (1) The department shall assess fees and other
2 assessments for health facility and agency licenses and
3 certificates of need on an annual basis as provided in this
4 article. Except as otherwise provided in this article, fees and
5 assessments shall be paid in accordance with the following
6 schedule:

1 (a) Freestanding surgical
2 outpatient facilities.....\$238.00 per facility.
3 (b) Hospitals.....\$8.28 per licensed bed.
4 (c) Nursing homes, county
5 medical care facilities, and
6 hospital long-term care units.....\$2.20 per licensed bed.
7 (d) Homes for the aged.....\$6.27 per licensed bed.
8 (e) Clinical laboratories.....\$475.00 per laboratory.
9 (f) Hospice residences.....\$200.00 per license
10 survey; and \$20.00 per
11 licensed bed.
12 (g) Subject to subsection
13 (13), quality assurance assessment
14 for nursing homes and hospital
15 long-term care units.....an amount resulting
16 in not more than 6%
17 of total industry
18 revenues.
19 (h) Subject to subsection
20 (14), quality assurance assessment
21 for hospitals.....at a fixed or variable
22 rate that generates
23 funds not more than the
24 maximum allowable under
25 the federal matching
26 requirements, after
27 consideration for the
28 amounts in subsection
29 (14)(a) and (i).
30 (2) If a hospital requests the department to conduct a

1 certification survey for purposes of title XVIII or title XIX of
2 the social security act, the hospital shall pay a license fee
3 surcharge of \$23.00 per bed. As used in this subsection, "title
4 XVIII" and "title XIX" mean those terms as defined in section
5 20155.

6 (3) The base fee for a certificate of need is \$1,500.00 for
7 each application. For a project requiring a projected capital
8 expenditure of more than \$500,000.00 but less than \$4,000,000.00,
9 an additional fee of \$4,000.00 shall be added to the base fee.
10 For a project requiring a projected capital expenditure of
11 \$4,000,000.00 or more, an additional fee of \$7,000.00 shall be
12 added to the base fee. The department of community health shall
13 use the fees collected under this subsection only to fund the
14 certificate of need program. Funds remaining in the certificate
15 of need program at the end of the fiscal year shall not lapse to
16 the general fund but shall remain available to fund the
17 certificate of need program in subsequent years.

18 (4) If licensure is for more than 1 year, the fees described
19 in subsection (1) are multiplied by the number of years for which
20 the license is issued, and the total amount of the fees shall be
21 collected in the year in which the license is issued.

22 (5) Fees described in this section are payable to the
23 department at the time an application for a license, permit, or
24 certificate is submitted. If an application for a license,
25 permit, or certificate is denied or if a license, permit, or
26 certificate is revoked before its expiration date, the department
27 shall not refund fees paid to the department.

1 (6) The fee for a provisional license or temporary permit is
2 the same as for a license. A license may be issued at the
3 expiration date of a temporary permit without an additional fee
4 for the balance of the period for which the fee was paid if the
5 requirements for licensure are met.

6 (7) The department may charge a fee to recover the cost of
7 purchase or production and distribution of proficiency evaluation
8 samples that are supplied to clinical laboratories pursuant to
9 section 20521(3).

10 (8) In addition to the fees imposed under subsection (1), a
11 clinical laboratory shall submit a fee of \$25.00 to the
12 department for each reissuance during the licensure period of the
13 clinical laboratory's license.

14 (9) The cost of licensure activities shall be supported by
15 license fees.

16 (10) The application fee for a waiver under section 21564 is
17 \$200.00 plus \$40.00 per hour for the professional services and
18 travel expenses directly related to processing the application.
19 The travel expenses shall be calculated in accordance with the
20 state standardized travel regulations of the department of
21 management and budget in effect at the time of the travel.

22 (11) An applicant for licensure or renewal of licensure
23 under part 209 shall pay the applicable fees set forth in part
24 209.

25 (12) Except as otherwise provided in this section, the fees
26 and assessments collected under this section shall be deposited
27 in the state treasury, to the credit of the general fund. **THE**

1 DEPARTMENT MAY USE THE UNRESERVED FUND BALANCE IN FEES AND
2 ASSESSMENTS FOR THE BACKGROUND CHECK PROGRAM REQUIRED UNDER THIS
3 ARTICLE.

4 (13) The quality assurance assessment collected under
5 subsection (1)(g) and all federal matching funds attributed to
6 that assessment shall be used only for the following purposes and
7 under the following specific circumstances:

8 (a) The quality assurance assessment and all federal
9 matching funds attributed to that assessment shall be used to
10 finance medicaid nursing home reimbursement payments. Only
11 licensed nursing homes and hospital long-term care units that are
12 assessed the quality assurance assessment and participate in the
13 medicaid program are eligible for increased per diem medicaid
14 reimbursement rates under this subdivision. A nursing home or
15 long-term care unit that is assessed the quality assurance
16 assessment and that does not pay the assessment required under
17 subsection (1)(g) in accordance with subdivision (c)(i) or in
18 accordance with a written payment agreement with the state shall
19 not receive the increased per diem medicaid reimbursement rates
20 under this subdivision until all of its outstanding quality
21 assurance assessments and any penalties assessed pursuant to
22 subdivision (g) have been paid in full. Nothing in this
23 subdivision shall be construed to authorize or require the
24 department to overspend tax revenue in violation of the
25 management and budget act, 1984 PA 431, MCL 18.1101 to 18.1594.

26 (b) Except as otherwise provided under subdivision (c),
27 beginning October 1, 2005, the quality assurance assessment is

1 based on the total number of patient days of care each nursing
2 home and hospital long-term care unit provided to nonmedicare
3 patients within the immediately preceding year and shall be
4 assessed at a uniform rate on October 1, 2005 and subsequently on
5 October 1 of each following year, and is payable on a quarterly
6 basis, the first payment due 90 days after the date the
7 assessment is assessed.

8 (c) Within 30 days after September 30, 2005, the department
9 shall submit an application to the federal centers for medicare
10 and medicaid services to request a waiver pursuant to 42 CFR
11 433.68(e) to implement this subdivision as follows:

12 (i) If the waiver is approved, the quality assurance
13 assessment rate for a nursing home or hospital long-term care
14 unit with less than 40 licensed beds or with the maximum number,
15 or more than the maximum number, of licensed beds necessary to
16 secure federal approval of the application is \$2.00 per
17 nonmedicare patient day of care provided within the immediately
18 preceding year or a rate as otherwise altered on the application
19 for the waiver to obtain federal approval. If the waiver is
20 approved, for all other nursing homes and long-term care units
21 the quality assurance assessment rate is to be calculated by
22 dividing the total statewide maximum allowable assessment
23 permitted under subsection (1)(g) less the total amount to be
24 paid by the nursing homes and long-term care units with less than
25 40 or with the maximum number, or more than the maximum number,
26 of licensed beds necessary to secure federal approval of the
27 application by the total number of nonmedicare patient days of

1 care provided within the immediately preceding year by those
2 nursing homes and long-term care units with more than 39, but
3 less than the maximum number of licensed beds necessary to secure
4 federal approval. The quality assurance assessment, as provided
5 under this subparagraph, shall be assessed in the first quarter
6 after federal approval of the waiver and shall be subsequently
7 assessed on October 1 of each following year, and is payable on a
8 quarterly basis, the first payment due 90 days after the date the
9 assessment is assessed.

10 (ii) If the waiver is approved, continuing care retirement
11 centers are exempt from the quality assurance assessment if the
12 continuing care retirement center requires each center resident
13 to provide an initial life interest payment of \$150,000.00, on
14 average, per resident to ensure payment for that resident's
15 residency and services and the continuing care retirement center
16 utilizes all of the initial life interest payment before the
17 resident becomes eligible for medical assistance under the
18 state's medicaid plan. As used in this subparagraph, "continuing
19 care retirement center" means a nursing care facility that
20 provides independent living services, assisted living services,
21 and nursing care and medical treatment services, in a campus-like
22 setting that has shared facilities or common areas, or both.

23 (d) Beginning October 1, 2011, the department shall no
24 longer assess or collect the quality assurance assessment or
25 apply for federal matching funds.

26 (e) Beginning May 10, 2002, the department of community
27 health shall increase the per diem nursing home medicaid

1 reimbursement rates for the balance of that year. For each
2 subsequent year in which the quality assurance assessment is
3 assessed and collected, the department of community health shall
4 maintain the medicaid nursing home reimbursement payment increase
5 financed by the quality assurance assessment.

6 (f) The department of community health shall implement this
7 section in a manner that complies with federal requirements
8 necessary to assure that the quality assurance assessment
9 qualifies for federal matching funds.

10 (g) If a nursing home or a hospital long-term care unit
11 fails to pay the assessment required by subsection (1)(g), the
12 department of community health may assess the nursing home or
13 hospital long-term care unit a penalty of 5% of the assessment
14 for each month that the assessment and penalty are not paid up to
15 a maximum of 50% of the assessment. The department of community
16 health may also refer for collection to the department of
17 treasury past due amounts consistent with section 13 of 1941 PA
18 122, MCL 205.13.

19 (h) The medicaid nursing home quality assurance assessment
20 fund is established in the state treasury. The department of
21 community health shall deposit the revenue raised through the
22 quality assurance assessment with the state treasurer for deposit
23 in the medicaid nursing home quality assurance assessment fund.

24 (i) The department of community health shall not implement
25 this subsection in a manner that conflicts with 42 USC 1396b(w).

26 (j) The quality assurance assessment collected under
27 subsection (1)(g) shall be prorated on a quarterly basis for any

1 licensed beds added to or subtracted from a nursing home or
2 hospital long-term care unit since the immediately preceding July
3 1. Any adjustments in payments are due on the next quarterly
4 installment due date.

5 (k) In each fiscal year governed by this subsection,
6 medicaid reimbursement rates shall not be reduced below the
7 medicaid reimbursement rates in effect on April 1, 2002 as a
8 direct result of the quality assurance assessment collected under
9 subsection (1)(g).

10 (l) In each fiscal year, \$39,900,000.00 of the quality
11 assurance assessment collected pursuant to subsection (1)(g)
12 shall be appropriated to the department of community health to
13 support medicaid expenditures for long-term care services. These
14 funds shall offset an identical amount of general fund/general
15 purpose revenue originally appropriated for that purpose.

16 (14) The quality assurance dedication is an earmarked
17 assessment collected under subsection (1)(h). That assessment and
18 all federal matching funds attributed to that assessment shall be
19 used only for the following purpose and under the following
20 specific circumstances:

21 (a) To maintain the increased medicaid reimbursement rate
22 increases as provided for in subdivision (c).

23 (b) The quality assurance assessment shall be assessed on
24 all net patient revenue, before deduction of expenses, less
25 medicare net revenue, as reported in the most recently available
26 medicare cost report and is payable on a quarterly basis, the
27 first payment due 90 days after the date the assessment is

1 assessed. As used in this subdivision, "medicare net revenue"
2 includes medicare payments and amounts collected for coinsurance
3 and deductibles.

4 (c) Beginning October 1, 2002, the department of community
5 health shall increase the hospital medicaid reimbursement rates
6 for the balance of that year. For each subsequent year in which
7 the quality assurance assessment is assessed and collected, the
8 department of community health shall maintain the hospital
9 medicaid reimbursement rate increase financed by the quality
10 assurance assessments.

11 (d) The department of community health shall implement this
12 section in a manner that complies with federal requirements
13 necessary to assure that the quality assurance assessment
14 qualifies for federal matching funds.

15 (e) If a hospital fails to pay the assessment required by
16 subsection (1)(h), the department of community health may assess
17 the hospital a penalty of 5% of the assessment for each month
18 that the assessment and penalty are not paid up to a maximum of
19 50% of the assessment. The department of community health may
20 also refer for collection to the department of treasury past due
21 amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

22 (f) The hospital quality assurance assessment fund is
23 established in the state treasury. The department of community
24 health shall deposit the revenue raised through the quality
25 assurance assessment with the state treasurer for deposit in the
26 hospital quality assurance assessment fund.

27 (g) In each fiscal year governed by this subsection, the

1 quality assurance assessment shall only be collected and expended
2 if medicaid hospital inpatient DRG and outpatient reimbursement
3 rates and disproportionate share hospital and graduate medical
4 education payments are not below the level of rates and payments
5 in effect on April 1, 2002 as a direct result of the quality
6 assurance assessment collected under subsection (1)(h), except as
7 provided in subdivision (h).

8 (h) The quality assurance assessment collected under
9 subsection (1)(h) shall no longer be assessed or collected after
10 September 30, 2008, or in the event that the quality assurance
11 assessment is not eligible for federal matching funds. Any
12 portion of the quality assurance assessment collected from a
13 hospital that is not eligible for federal matching funds shall be
14 returned to the hospital.

15 (i) In fiscal year 2005-2006, \$46,400,000.00 of the quality
16 assurance assessment collected pursuant to subsection (1)(h)
17 shall be appropriated to the department of community health to
18 support medicaid expenditures for hospital services and therapy.
19 In fiscal year 2006-2007, \$66,400,000.00 of the quality assurance
20 assessment collected pursuant to subsection (1)(h) shall be
21 appropriated to the department of community health to support
22 medicaid expenditures for hospital services and therapy. Except
23 as otherwise provided in this subdivision, in fiscal year 2007-
24 2008, \$66,400,000.00 of the quality assurance assessment
25 collected pursuant to subsection (1)(h) shall be appropriated to
26 the department of community health to support medicaid
27 expenditures for hospital services and therapy. However, if the

1 state receives approval from the centers for medicare and
2 medicaid services to increase medicaid health maintenance
3 organization hospital payment rates that increase medicaid
4 payments to hospitals by \$120,000,000.00 or more in fiscal year
5 2007-2008, then in fiscal year 2007-2008, \$81,400,000.00, instead
6 of \$66,400,000.00, of the quality assurance assessment collected
7 pursuant to subsection (1)(h) shall be appropriated to the
8 department of community health to support medicaid expenditures
9 for hospital services and therapy. These funds shall offset an
10 identical amount of general fund/general purpose revenue
11 originally appropriated for that purpose.

12 (15) The quality assurance assessment provided for under
13 this section is a tax that is levied on a health facility or
14 agency.

15 (16) As used in this section, "medicaid" means that term as
16 defined in section 22207.