SENATE BILL No. 1279

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April 29, 2008, Introduced by Senator SANBORN and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1956 PA 218, entitled

"The insurance code of 1956,"

by amending sections 3107 and 3157 (MCL 500.3107 and 500.3157), section 3107 as amended by 1991 PA 191.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 3107. (1) ~~Except as provided in subsection (2), personal~~ **PERSONAL** protection insurance benefits are payable for the following:

(a) Allowable expenses consisting of all reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation. ~~Allowable~~ **ALL OF THE FOLLOWING APPLY TO ALLOWABLE** expenses within personal protection insurance coverage: ~~shall~~

(i) **SHALL** not include charges for a hospital room in excess of

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a reasonable and customary charge for semiprivate accommodations except if the injured person requires special or intensive care. ~~, or~~

(*ii*) **SHALL NOT INCLUDE CHARGES** for funeral and burial expenses in **EXCESS OF** the amount set forth in the policy which shall not be less than $1,750.00 or more than $5,000.00.

(*iii*) FOR ATTENDANT CARE OR NURSING SERVICES PROVIDED IN THE INJURED PERSON'S HOME, ALL OF THE FOLLOWING APPLY:

(A) PAYMENT IS LIMITED TO 56 HOURS PER WEEK FOR SERVICES PERFORMED BY AN INDIVIDUAL WHO IS NOT CERTIFIED, REGISTERED, OR LICENSED TO RENDER ATTENDANT CARE OR NURSING SERVICES.

(B) PAYMENT FOR SERVICES PERFORMED BY AN INDIVIDUAL WHO IS NOT CERTIFIED, REGISTERED, OR LICENSED TO RENDER ATTENDANT CARE OR NURSING SERVICES SHALL NOT BE MADE IN EXCESS OF $11.00 PER HOUR FOR BASIC CARE OR IN EXCESS OF $17.00 PER HOUR FOR SKILLED CARE, AND PAYMENT FOR SERVICES PERFORMED BY AN INDIVIDUAL WHO IS CERTIFIED, REGISTERED, OR LICENSED TO RENDER ATTENDANT CARE OR NURSING SERVICES SHALL NOT BE MADE IN EXCESS OF $17.00 PER HOUR. BEGINNING OCTOBER 1, 2009, THESE MAXIMUMS SHALL BE ADJUSTED ANNUALLY TO REFLECT CHANGES IN THE COST OF LIVING UNDER THE RULES PRESCRIBED BY THE COMMISSIONER UNDER SUBDIVISION (B) FOR ANNUAL INCREASES IN WORK LOSS PAYMENTS. ANY CHANGE IN THE MAXIMUMS SHALL APPLY ONLY TO SERVICES RENDERED AFTER THE EFFECTIVE DATE OF THE CHANGE IN THE MAXIMUM.

(b) ~~Work~~ **EXCEPT AS PROVIDED IN SUBSECTION (2), WORK** loss consisting of loss of income from work an injured person would have performed during the first 3 years after the date of the accident if he or she had not been injured. Work loss does not include any loss after the date on which the injured person dies. Because the benefits received from personal protection insurance for loss of income are not taxable income, the benefits payable for such loss of income shall be reduced 15% unless the claimant presents to the insurer in support of his or her claim reasonable proof of a lower value of the income tax advantage in his or her case, in which case the lower value shall apply. ~~Beginning March 30, 1973~~ **FOR THE PERIOD BEGINNING OCTOBER 1, 2007 THROUGH SEPTEMBER 30, 2008**, the benefits payable for work loss sustained in a single 30-day period and the income earned by an injured person for work during the same period together shall not exceed ~~$1,000.00~~ **$4,713.00**, which maximum shall apply pro rata to any lesser period of work loss. Beginning October 1, ~~1974~~ **2008**, the maximum shall be adjusted annually to reflect changes in the cost of living under rules prescribed by the commissioner but any change in the maximum shall apply only to benefits arising out of accidents occurring subsequent to the date of change in the maximum.

(c) Expenses not exceeding $20.00 per day, reasonably incurred in obtaining ordinary and necessary services in lieu of those that, if he or she had not been injured, an injured person would have performed during the first 3 years after the date of the accident, not for income but for the benefit of himself or herself or of his or her dependent.

(2) A person who is 60 years of age or older and in the event of an accidental bodily injury would not be eligible to receive work loss benefits under subsection (1)(b) may waive coverage for

work loss benefits by signing a waiver on a form provided by the insurer. An insurer shall offer a reduced premium rate to a person who waives coverage under this subsection for work loss benefits. Waiver of coverage for work loss benefits applies only to work loss benefits payable to the person or persons who have signed the waiver form.

(3) AS USED IN THIS SECTION:

(A) "BASIC CARE" MEANS ANY OF THE FOLLOWING:

(*i*) PROVIDING PERSONAL CARE SERVICES, INCLUDING, BUT NOT LIMITED TO, BATHING, SHAMPOOING, SKIN CARE, ORAL HYGIENE, SHAVING MALE PATIENTS, CATHETER CARE, AND TOILETING ASSISTANCE, INCLUDING URINAL AND BEDPAN ASSISTANCE.

(*ii*) MEASURING AND DOCUMENTING VITAL SIGNS.

(*iii*) PROVIDING OR ASSISTING WITH EXERCISE, AMBULATION, OR POSITIONING AS DIRECTED BY A NURSE OR THERAPIST, INCLUDING AMBULATION WITH OR WITHOUT ASSISTIVE DEVICES, BASIC RANGE OF MOTION BOTH PASSIVE AND ACTIVE, LIGHT PIVOT TRANSFERS, AND ASSISTING FROM BED, CHAIR, OR COMMODE.

(*iv*) PROVIDING ENVIRONMENTAL AND HOMEMAKING SERVICES, INCLUDING BED-MAKING WHETHER OCCUPIED OR UNOCCUPIED, LIGHT HOUSEKEEPING TO MAINTAIN A HEALTHY ENVIRONMENT, LAUNDERING OF BEDDING AND CLOTHING, SHOPPING FOR GROCERIES, AND TRANSPORTATION AS NECESSARY.

(*v*) ASSISTING WITH SELF-ADMINISTERED MEDICATIONS.

(B) "SKILLED CARE" MEANS PROVIDING BASIC CARE SERVICES AND ANY OF THE FOLLOWING:

(*i*) PERFORMING INTERMITTENT STRAIGHT CATHETERIZATION, CATHETER PERINEAL CARE, AND COLOSTOMY CARE AS DIRECTED.

(*ii*) PERFORMING A BOWEL PROGRAM UNDER THE DIRECTION OF A REGISTERED NURSE.

(*iii*) PERFORMING TUBE FEEDINGS AND SIMPLE WOUND CARE UNDER THE DIRECTION OF A REGISTERED NURSE.

(*iv*) PERFORMING FULL 1-PERSON TRANSFERS AND TRANSFERS USING A HOYER LIFT.

Sec. 3157. **(1)** ~~A~~ **SUBJECT TO SUBSECTION (2), A** physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for an accidental bodily injury covered by personal protection insurance, and a person or institution providing rehabilitative occupational training following the injury, may charge a reasonable amount for the products, services, and accommodations rendered. The charge shall not exceed the amount the person or institution customarily charges for like products, services, and accommodations in cases not involving **PERSONAL PROTECTION** insurance.

(2) A PHYSICIAN, HOSPITAL, CLINIC, OR OTHER PERSON OR INSTITUTION LAWFULLY RENDERING TREATMENT TO AN INJURED PERSON FOR AN ACCIDENTAL BODILY INJURY COVERED BY PERSONAL PROTECTION INSURANCE, OR A PERSON OR INSTITUTION PROVIDING REHABILITATIVE OCCUPATIONAL TRAINING FOLLOWING THE INJURY, IS LIMITED TO, AND SHALL BE PAID BY THE AUTOMOBILE INSURER AT, AN AMOUNT THAT DOES NOT EXCEED THE AMOUNT PAID FOR TREATMENT, SERVICE, ACCOMMODATION, AND MEDICINE PURSUANT TO PAYMENT UNDER, OR SCHEDULES OF MAXIMUM FEES FOR WORKER'S COMPENSATION DEVELOPED PURSUANT TO, R 418.10101 TO R 418.101504 OF THE MICHIGAN ADMINISTRATIVE CODE. THE COMMISSIONER SHALL EXAMINE CHANGES TO R 418.10101 TO R 418.101504 OF THE

MICHIGAN ADMINISTRATIVE CODE MADE AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION. IF THE COMMISSIONER FINDS THAT THOSE CHANGES FURTHER THE GOAL OF PROVIDING AFFORDABLE AUTOMOBILE INSURANCE RATES, THOSE CHANGES SHALL APPLY TO THIS SECTION AND THE COMMISSIONER SHALL ISSUE AN ORDER TO THIS EFFECT. AN INSURER PROVIDING PERSONAL PROTECTION INSURANCE BENEFITS SHALL PROVIDE AN APPROPRIATE PREMIUM THAT REFLECTS THE SAVINGS OBTAINED BY THE INSURER BY THE AMENDATORY ACT THAT ADDED THIS SUBSECTION.

Enacting section 1. This amendatory act applies to products, services, and accommodations that are provided on and after 90 days after the effective date of this amendatory act, but does not affect any obligation under a written agreement or consent judgment entered into before the effective date of this amendatory act.