

Act No. 88
Public Acts of 2007
Approved by the Governor
September 30, 2007
Filed with the Secretary of State
September 30, 2007
EFFECTIVE DATE: September 30, 2007

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2007**

Introduced by Senator Kahn

ENROLLED SENATE BILL No. 796

AN ACT to amend 1956 PA 218, entitled "An act to revise, consolidate, and classify the laws relating to the insurance and surety business; to regulate the incorporation or formation of domestic insurance and surety companies and associations and the admission of foreign and alien companies and associations; to provide their rights, powers, and immunities and to prescribe the conditions on which companies and associations organized, existing, or authorized under this act may exercise their powers; to provide the rights, powers, and immunities and to prescribe the conditions on which other persons, firms, corporations, associations, risk retention groups, and purchasing groups engaged in an insurance or surety business may exercise their powers; to provide for the imposition of a privilege fee on domestic insurance companies and associations and the state accident fund; to provide for the imposition of a tax on the business of foreign and alien companies and associations; to provide for the imposition of a tax on risk retention groups and purchasing groups; to provide for the imposition of a tax on the business of surplus line agents; to provide for the imposition of regulatory fees on certain insurers; to provide for assessment fees on certain health maintenance organizations; to modify tort liability arising out of certain accidents; to provide for limited actions with respect to that modified tort liability and to prescribe certain procedures for maintaining those actions; to require security for losses arising out of certain accidents; to provide for the continued availability and affordability of automobile insurance and homeowners insurance in this state and to facilitate the purchase of that insurance by all residents of this state at fair and reasonable rates; to provide for certain reporting with respect to insurance and with respect to certain claims against uninsured or self-insured persons; to prescribe duties for certain state departments and officers with respect to that reporting; to provide for certain assessments; to establish and continue certain state insurance funds; to modify and clarify the status, rights, powers, duties, and operations of the nonprofit malpractice insurance fund; to provide for the departmental supervision and regulation of the insurance and surety business within this state; to provide for regulation over worker's compensation self-insurers; to provide for the conservation, rehabilitation, or liquidation of unsound or insolvent insurers; to provide for the protection of policyholders, claimants, and creditors of unsound or insolvent insurers; to provide for associations of insurers to protect policyholders and claimants in the event of insurer insolvencies; to prescribe educational requirements for insurance agents and solicitors; to provide for the regulation of multiple employer welfare arrangements; to create an automobile theft prevention authority to reduce the number of automobile thefts in this state; to prescribe the powers and duties of the automobile theft prevention authority; to provide certain powers and duties upon certain officials, departments, and authorities of this state; to provide for an appropriation; to repeal acts and parts of acts; and to provide penalties for the violation of this act," by amending section 224b (MCL 500.224b), as amended by 2005 PA 83.

The People of the State of Michigan enact:

Sec. 224b. (1) The department of community health shall assess a quality assurance assessment fee as follows:

(a) On each health maintenance organization that has a medicaid managed care contract awarded by the state and administered by the department of community health, a quality assurance assessment fee that equals 6% of non-medicare premiums collected by that health maintenance organization.

(b) On each medicaid managed care organization that is a specialty prepaid health plan under section 109f of the social welfare act, 1939 PA 280, MCL 400.109f, and that has a medicaid managed care contract awarded by the state and administered by the department of community health, a quality assurance assessment fee that equals 6% of non-medicare capitation payments collected by that medicaid managed care organization.

(2) The quality assurance assessment fee collected under subsection (1) and all federal matching funds attributed to that fee shall be used for the following purposes and under the following specific circumstances:

(a) The quality assurance assessment fee shall be implemented on May 10, 2002 for health maintenance organizations described in subsection (1)(a) and on August 1, 2005 for medicaid managed care organizations described in subsection (1)(b).

(b) The quality assurance assessment fee shall be assessed on the non-medicare premiums collected by each health maintenance organization described in subsection (1)(a) based on the health maintenance organization's most recent statement filed with the commissioner pursuant to sections 438 and 438a. Except as otherwise provided, the quality assurance assessment fee shall be payable on a quarterly basis with the first payment due 90 days after the date the fee is assessed. If a health maintenance organization does not have non-medicare premium revenue listed in a filing under section 438 or 438a, the assessment shall be based on an estimate by the department of community health of the health maintenance organization's non-medicare premiums for the quarter and shall be payable upon receipt.

(c) The quality assurance assessment fee shall be assessed on the non-medicare capitation payments collected by each medicaid managed care organization described in subsection (1)(b) based on the medicaid managed care organization's most recent financial status report filed with the department of community health. Except as otherwise provided, the quality assurance assessment fee shall be payable on a quarterly basis with the first payment due 90 days after the date the fee is assessed.

(d) The quality assurance assessment fee shall only be assessed on an organization described in subsection (1)(a) or (b) that has in effect a medicaid managed care contract awarded by the state and administered by the department of community health at the time of the assessment.

(e) Beginning October 1, 2008, the quality assurance assessment fee shall no longer be assessed or collected.

(f) The department of community health shall implement this section in a manner that complies with federal requirements. If the department of community health is unable to comply with the federal requirements for federal matching funds under this section for organizations described in subsection (1)(a) or is unable to use the fiscal year 2001-2002 level of support for federal matching dollars other than for a change in covered benefits or covered population required under the state's medicaid contract with health maintenance organizations, the quality assurance assessment fee under subsection (1)(a) shall no longer be assessed or collected.

(g) If the department of community health is unable to comply with the federal requirements for federal matching funds under this section for organizations described in subsection (1)(b) or is unable to use the centers for medicare and medicaid services approved fiscal year 2004-2005 level of support for federal matching dollars other than for a change in covered benefits or covered population required under the state's medicaid contract with the managed care organization, the quality assurance assessment fee under subsection (1)(b) shall no longer be assessed or collected.

(h) If an organization fails to pay the quality assurance assessment fee required under subsection (1), the department of community health may assess the organization a penalty of 5% of the assessment for each month that the assessment and penalty are not paid up to a maximum of 50% of the assessment. The department of community health may also refer for collection to the department of treasury past due amounts consistent with section 13 of 1941 PA 122, MCL 205.13.

(i) The medicaid health maintenance organization quality assurance assessment fund is established as a separate fund in the state treasury. The designated medicaid managed care organization quality assurance assessment fund is established as a separate fund in the state treasury. The department of community health shall deposit the revenue raised through the quality assurance assessment fee under subsection (1)(a) with the state treasurer for deposit in the medicaid health maintenance organization quality assurance assessment fund. The department of community health shall deposit the revenue raised through the quality assurance assessment fee under subsection (1)(b) with the state treasurer for deposit in the designated medicaid managed care organization quality assurance assessment fund.

(j) In all fiscal years governed by this section, medicaid reimbursement rates shall not be reduced below the medicaid payment rates in effect on April 1, 2002 for organizations described in subsection (1)(a) or below the medicaid payment rates in effect on July 1, 2005 for organizations described in subsection (1)(b) as a direct result of the quality assurance assessment fee assessed under this section. This subdivision does not apply to a change in medicaid reimbursement rates caused by a change in covered benefits or change in covered populations required under the state's medicaid contract with organizations described in subsection (1)(a) or (b).

(3) As used in this section:

(a) "Medicaid" means title XIX of the social security act, 42 USC 1396 to 1396v.

(b) "Medicare" means title XVIII of the social security act, 42 USC 1395 to 1395hhh.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Richard J. Brown

Clerk of the House of Representatives

Approved _____

Governor