

# SENATE BILL NO. 1233

November 18, 2020, Introduced by Senators HERTEL, SCHMIDT, VICTORY, DALEY, IRWIN, OUTMAN, LAUWERS, BULLOCK, CHANG, MCMORROW, MCCANN, WOJNO, MACGREGOR, BRINKS, MOSS, ALEXANDER, ZORN, HOLLIER, BAYER and GEISS and referred to the Committee on Insurance and Banking.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 3157 (MCL 500.3157), as amended by 2019 PA 21.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 3157. (1) Subject to subsections (2) to ~~(14)~~, **(15)**, a  
2       physician, hospital, clinic, or other person that lawfully renders  
3       treatment to an injured person for an accidental bodily injury  
4       covered by personal protection insurance, or a person that provides  
5       rehabilitative occupational training following the injury, may  
6       charge a reasonable amount for the treatment or training. The

1 charge must not exceed the amount the person customarily charges  
2 for like treatment or training in cases that do not involve  
3 insurance.

4 (2) Subject to subsections (3) to ~~(14)~~, **(15)**, a physician,  
5 hospital, clinic, or other person that renders treatment or  
6 rehabilitative occupational training to an injured person for an  
7 accidental bodily injury covered by personal protection insurance  
8 is not eligible for payment or reimbursement under this chapter for  
9 more than the following:

10 (a) For treatment or training rendered after July 1, 2021 and  
11 before July 2, 2022, 200% of the amount payable to the person for  
12 the treatment or training under Medicare.

13 (b) For treatment or training rendered after July 1, 2022 and  
14 before July 2, 2023, 195% of the amount payable to the person for  
15 the treatment or training under Medicare.

16 (c) For treatment or training rendered after July 1, 2023,  
17 190% of the amount payable to the person for the treatment or  
18 training under Medicare.

19 (3) Subject to subsections (5) to ~~(14)~~, **(15)**, a physician,  
20 hospital, clinic, or other person identified in subsection (4) that  
21 renders treatment or rehabilitative occupational training to an  
22 injured person for an accidental bodily injury covered by personal  
23 protection insurance is eligible for payment or reimbursement under  
24 this chapter of not more than the following:

25 (a) For treatment or training rendered after July 1, 2021 and  
26 before July 2, 2022, 230% of the amount payable to the person for  
27 the treatment or training under Medicare.

28 (b) For treatment or training rendered after July 1, 2022 and  
29 before July 2, 2023, 225% of the amount payable to the person for

1 the treatment or training under Medicare.

2 (c) For treatment or training rendered after July 1, 2023,  
3 220% of the amount payable to the person for the treatment or  
4 training under Medicare.

5 (4) Subject to subsection (5), subsection (3) only applies to  
6 a physician, hospital, clinic, or other person if either of the  
7 following applies to the person rendering the treatment or  
8 training:

9 (a) On July 1 of the year in which the person renders the  
10 treatment or training, the person has 20% or more, but less than  
11 30%, indigent volume determined pursuant to the methodology used by  
12 the department of health and human services in determining  
13 inpatient medical/surgical factors used in measuring eligibility  
14 for Medicaid disproportionate share payments.

15 (b) The person is a freestanding rehabilitation facility. Each  
16 year the director shall designate not more than 2 freestanding  
17 rehabilitation facilities to qualify for payments under subsection  
18 (3) for that year. As used in this subdivision, "freestanding  
19 rehabilitation facility" means an acute care hospital to which all  
20 of the following apply:

21 (i) The hospital has staff with specialized and demonstrated  
22 rehabilitation medicine expertise.

23 (ii) The hospital possesses sophisticated technology and  
24 specialized facilities.

25 (iii) The hospital participates in rehabilitation research and  
26 clinical education.

27 (iv) The hospital assists patients to achieve excellent  
28 rehabilitation outcomes.

29 (v) The hospital coordinates necessary post-discharge

1 services.

2 (vi) The hospital is accredited by 1 or more third-party,  
3 independent organizations focused on quality.

4 (vii) The hospital serves the rehabilitation needs of  
5 catastrophically injured patients in this state.

6 (viii) The hospital was in existence on May 1, 2019.

7 (5) To qualify for a payment under subsection (4)(a), a  
8 physician, hospital, clinic, or other person shall provide the  
9 director with all documents and information requested by the  
10 director that the director determines are necessary to allow the  
11 director to determine whether the person qualifies. The director  
12 shall annually review documents and information provided under this  
13 subsection and, if the person qualifies under subsection (4)(a),  
14 shall certify the person as qualifying and provide a list of  
15 qualifying persons to insurers and other persons that provide the  
16 security required under section ~~3101(1)~~. **3101**. A physician,  
17 hospital, clinic, or other person that provides 30% or more of its  
18 total treatment or training as described under subsection (4)(a) is  
19 entitled to receive, instead of an applicable percentage under  
20 subsection (3), 250% of the amount payable to the person for the  
21 treatment or training under Medicare.

22 (6) Subject to subsections (7) to ~~(14)~~, **(15)**, a hospital that  
23 is a level I or level II trauma center that renders treatment to an  
24 injured person for an accidental bodily injury covered by personal  
25 protection insurance, if the treatment is for an emergency medical  
26 condition and rendered before the patient is stabilized and  
27 transferred, is not eligible for payment or reimbursement under  
28 this chapter of more than the following:

29 (a) For treatment rendered after July 1, 2021 and before July

1 2, 2022, 240% of the amount payable to the hospital for the  
2 treatment under Medicare.

3 (b) For treatment rendered after July 1, 2022 and before July  
4 2, 2023, 235% of the amount payable to the hospital for the  
5 treatment under Medicare.

6 (c) For treatment rendered after July 1, 2023, 230% of the  
7 amount payable to the hospital for the treatment under Medicare.

8 (7) If Medicare does not provide an amount payable for a  
9 treatment or rehabilitative occupational training under subsection  
10 (2), (3), (5), or (6), **and if subsection (12) does not apply**, the  
11 physician, hospital, clinic, or other person that renders the  
12 treatment or training is not eligible for payment or reimbursement  
13 under this chapter of more than the following, as applicable:

14 (a) For a person to which subsection (2) applies, the  
15 applicable following percentage of the amount payable for the  
16 treatment or training under the person's charge description master  
17 in effect on January 1, 2019 or, if the person did not have a  
18 charge description master on that date, the applicable following  
19 percentage of the average amount the person charged for the  
20 treatment on January 1, 2019:

21 (i) For treatment or training rendered after July 1, 2021 and  
22 before July 2, 2022, 55%.

23 (ii) For treatment or training rendered after July 1, 2022 and  
24 before July 2, 2023, 54%.

25 (iii) For treatment or training rendered after July 1, 2023,  
26 52.5%.

27 (b) For a person to which subsection (3) applies, the  
28 applicable following percentage of the amount payable for the  
29 treatment or training under the person's charge description master

1 in effect on January 1, 2019 or, if the person did not have a  
2 charge description master on that date, the applicable following  
3 percentage of the average amount the person charged for the  
4 treatment or training on January 1, 2019:

5 (i) For treatment or training rendered after July 1, 2021 and  
6 before July 2, 2022, 70%.

7 (ii) For treatment or training rendered after July 1, 2022 and  
8 before July 2, 2023, 68%.

9 (iii) For treatment or training rendered after July 1, 2023,  
10 66.5%.

11 (c) For a person to which subsection (5) applies, 78% of the  
12 amount payable for the treatment or training under the person's  
13 charge description master in effect on January 1, 2019 or, if the  
14 person did not have a charge description master on that date, 78%  
15 of the average amount the person charged for the treatment on  
16 January 1, 2019.

17 (d) For a person to which subsection (6) applies, the  
18 applicable following percentage of the amount payable for the  
19 treatment under the person's charge description master in effect on  
20 January 1, 2019 or, if the person did not have a charge description  
21 master on that date, the applicable following percentage of the  
22 average amount the person charged for the treatment on January 1,  
23 2019:

24 (i) For treatment or training rendered after July 1, 2021 and  
25 before July 2, 2022, 75%.

26 (ii) For treatment or training rendered after July 1, 2022 and  
27 before July 2, 2023, 73%.

28 (iii) For treatment or training rendered after July 1, 2023,  
29 71%.

(8) For any change to an amount payable under Medicare as provided in subsection (2), (3), (5), or (6) that occurs after ~~the effective date of the amendatory act that added this subsection,~~ **June 11, 2019**, the change must be applied to the amount allowed for payment or reimbursement under that subsection. However, an amount allowed for payment or reimbursement under subsection (2), (3), (5), or (6) must not exceed the average amount charged by the physician, hospital, clinic, or other person for the treatment or training on January 1, 2019.

(9) An amount that is to be applied under subsection (7) or (8), that was in effect on January 1, 2019, **or an amount that is to be applied under subsection (12) or (13)**, including any prior adjustments to the amount made under this subsection, must be adjusted annually by the percentage change in the medical care component of the Consumer Price Index for the year preceding the adjustment.

(10) For attendant care rendered in the injured person's home, an insurer is only required to pay benefits for attendant care up to the hourly limitation in section 315 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.315. This subsection only applies if the attendant care is provided directly, or indirectly through another person, by any of the following:

(a) An individual who is related to the injured person.

(b) An individual who is domiciled in the household of the injured person.

(c) An individual with whom the injured person had a business or social relationship before the injury.

(11) An insurer may contract to pay benefits for attendant care for more than the hourly limitation under subsection (10).

1           (12) If Medicare does not provide an amount payable for a  
 2 treatment or rehabilitative occupational training under subsection  
 3 (2), (3), (5), or (6), and if the person is a rehabilitation  
 4 clinic, this subsection applies. An amount allowed for payment or  
 5 reimbursement under this subsection and subsection (13) must not  
 6 exceed the lesser of the amount payable under the Michigan auto no-  
 7 fault rehabilitation clinic fee schedule or the average amount  
 8 charged by the rehabilitation clinic for the treatment or training  
 9 on January 1, 2019, unless the treatment or training was not  
 10 provided by the rehabilitation clinic on January 1, 2019, in which  
 11 case the Michigan auto no-fault rehabilitation clinic fee schedule  
 12 must be used to determine the maximum amount payable. A  
 13 ~~neurological~~-rehabilitation clinic is not entitled to payment or  
 14 reimbursement for a treatment ~~, training, product, service, or~~  
 15 ~~accommodation for residential services, day treatment, or therapy~~  
 16 **services for individuals with a brain injury or spinal cord injury**  
 17 unless the ~~neurological~~-rehabilitation clinic is accredited by the  
 18 Commission on Accreditation of Rehabilitation Facilities or a  
 19 ~~similar~~~~an~~ organization recognized by the director for purposes of  
 20 accreditation, **certification, or licensure** under this subsection.  
 21 This ~~subsection~~**accreditation requirement** does not apply to a  
 22 ~~neurological~~-rehabilitation clinic that is in the process of  
 23 becoming accredited as required under this subsection on July 1,  
 24 2021, unless 3 years have passed since the beginning of that  
 25 process and the ~~neurological~~-rehabilitation clinic is still not  
 26 accredited. **The director may determine that accreditation,**  
 27 **certification, or licensure is not required or appropriate for**  
 28 **certain treatments or types of rehabilitation clinics. The director**  
 29 **may consider relevant factors including, but not limited to, the**



1 nature of treatment rendered, geographic location of treatment  
2 rendered, and the size of the clinic.

3 (13) If the rehabilitation clinic fee schedule adopted under  
4 this subsection is modified and if the director determines the  
5 modified rehabilitation clinic fee schedule meets the standards in  
6 this subsection, the director shall by order adopt the modified  
7 rehabilitation clinic fee schedule. The rehabilitation clinic fee  
8 schedule must meet all of the following requirements:

9 (a) Be a reasonable approximation to the fee schedule set  
10 forth in subsection (2)(a) on January 1, 2019.

11 (b) Be established based on a survey of rates of  
12 rehabilitation clinics including members of the Michigan Brain  
13 Injury Provider Council and a majority of this state's  
14 rehabilitation clinics accredited in interdisciplinary outpatient  
15 medical rehabilitation by the Commission on Accreditation of  
16 Rehabilitation Facilities and, from that survey, determine a  
17 reasonable approximation by comparing, as of January 1, 2019, the  
18 amount payable under Medicare to the average amount rehabilitation  
19 clinics charge for the same treatments payable under Medicare,  
20 resulting in an equivalency factor, and applying that equivalency  
21 factor to average rates for treatments for which Medicare does not  
22 provide an amount payable.

23 (c) Establish the maximum amount payable to rehabilitation  
24 clinics for treatment or training rendered after July 1, 2021.

25 (14) ~~(13)~~ Subsections (2) to ~~(12)~~ (13) do not apply to  
26 emergency medical services rendered by an ambulance operation. As  
27 used in this subsection:

28 (a) "Ambulance operation" means that term as defined in  
29 section 20902 of the public health code, 1978 PA 368, MCL

1 333.20902.

2 (b) "Emergency medical services" means that term as defined in  
3 section 20904 of the public health code, 1978 PA 368, MCL

4 333.20904.

5 ~~(15)~~ ~~(14)~~ Subsections (2) to ~~(13)~~ ~~(14)~~ apply to treatment or  
6 rehabilitative occupational training rendered after July 1, 2021.

7 ~~(16)~~ ~~(15)~~ As used in this section:

8 (a) "Charge description master" means a uniform schedule of  
9 charges represented by the person as its gross billed charge for a  
10 given service or item, regardless of payer type.

11 (b) "Consumer Price Index" means the most comprehensive index  
12 of consumer prices available for this state from the United States  
13 Department of Labor, Bureau of Labor Statistics.

14 (c) "Emergency medical condition" means that term as defined  
15 in section 1395dd of the social security act, 42 USC 1395dd.

16 (d) "Level I or level II trauma center" means a hospital that  
17 is verified as a level I or level II trauma center by the American  
18 College of Surgeons Committee on Trauma.

19 (e) "Medicaid" means a program for medical assistance  
20 established under subchapter XIX of the social security act, 42 USC  
21 1396 to 1396w-5.

22 (f) "Medicare" means fee for service payments under part A, B,  
23 or D of the federal Medicare program established under subchapter  
24 XVIII of the social security act, 42 USC 1395 to 1395lll, without  
25 regard to the limitations unrelated to the rates in the fee  
26 schedule such as limitation or supplemental payments related to  
27 utilization, readmissions, recaptures, bad debt adjustments, or  
28 sequestration.

29 ~~(g) "Neurological rehabilitation clinic" means a person that~~

~~provides post-acute brain and spinal rehabilitation care.~~ **"Michigan auto no-fault rehabilitation clinic fee schedule" or "rehabilitation clinic fee schedule" means the Michigan auto no-fault rehabilitation clinic fee schedule copyrighted in 2020 by William R. Buccalo and Margaret J. Kroese.**

(h) "Person", as provided in section 114, includes, but is not limited to, an institution.

(i) **"Rehabilitation clinic" means a person that provides treatment and is not a hospital.**

(j) ~~(i)~~ "Stabilized" means that term as defined in section 1395dd of the social security act, 42 USC 1395dd.

(k) ~~(j)~~ "Transfer" means that term as defined in section 1395dd of the social security act, 42 USC 1395dd.

(l) ~~(k)~~ "Treatment" includes, but is not limited to, products, services, and accommodations.