

HOUSE BILL NO. 6458

October 11, 2022, Introduced by Reps. Rabhi, Kuppa, Aiyash, Brabec, Cynthia Johnson, Rogers, Cherry and Stone and referred to the Committee on Commerce and Tourism.

A bill to require certain entities to provide for certain benefits for workers; to regulate the conduct of the provider of the benefits; to prescribe the powers and duties of certain state agencies; to require the promulgation of rules; and to provide for sanctions and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Contracting agent" means a business, organization,
3 corporation, limited liability company, partnership, sole
4 proprietorship, or other legal entity that meets both of the
5 following conditions:

1 (i) The entity provides services that do both of the following:

2 (A) Facilitate a consumer acquiring the provision of services
3 by a worker.

4 (B) Make payments to a worker from a consumer.

5 (ii) According to the internal revenue code of 1986, the entity
6 is obligated to provide a form 1099-MISC to its workers.

7 (b) "Department" means the department of labor and economic
8 opportunity.

9 (c) "Qualified benefit provider" means a benefit provider that
10 is eligible to provide benefits to a worker of a contracting agent
11 under section 4.

12 (d) "Worker" means an individual who provides services to
13 consumers through a contracting agent.

14 Sec. 2. (1) A contracting agent that facilitates the provision
15 of services by 50 or more workers in a consecutive 12-month period
16 shall contribute funds to qualified benefit providers to provide
17 benefits to the workers of the contracting agent. The contribution
18 amount must be the lesser of 25% of the total fee collected from
19 the consumer for each transaction of services provided or \$6.00 for
20 every hour that the worker provided services to the consumer. The
21 contracting agent shall not deduct the contribution amount from the
22 wages that the worker earned for the services provided. If the
23 contribution is determined per hour, the contribution must be
24 prorated per minute. The contribution amount required under this
25 section may be added to the invoice or billing submitted to the
26 consumer for the services.

27 (2) Contributions must be made to the qualified benefit
28 provider on not less than a monthly basis and not later than 15
29 days after the end of the month in which the services were

1 provided. Contributions must indicate the assigned amount per
2 worker per transaction as follows:

3 (a) If a single worker provided services for a transaction,
4 the entire contribution is assigned to that worker.

5 (b) If multiple workers provided services for a transaction,
6 the contribution is assigned proportionately to those workers.

7 Sec. 3. (1) Qualified benefit providers shall secure the
8 payment of compensation under the worker's disability compensation
9 act of 1969, 1969 PA 317, MCL 418.101 to 418.941, for those workers
10 entitled to benefits based on contributions made under section 2.

11 (2) A qualified benefit provider shall provide to its
12 employees some or all of the benefits listed in this subsection. A
13 qualified benefit provider shall solicit input from workers
14 regarding the workers' choice of benefits or allocate the
15 contributions among the following benefits:

16 (a) Health insurance, including, but not limited to, subsidies
17 to purchase health insurance on the exchange.

18 (b) Paid time off.

19 (c) Retirement benefits.

20 (d) Other benefits determined by the qualified benefit
21 provider.

22 (3) Qualified benefit providers shall not use more than 5% of
23 contribution funds for the administration of benefits.

24 Sec. 4. The department shall promulgate rules that govern
25 qualified benefit providers. The rules must, at a minimum, require
26 that a qualified benefit provider meets all of the following
27 criteria:

28 (a) The entity must be exempt from federal taxation under
29 section 501(c)(3) of the internal revenue code, 26 USC 501(c)(3).

1 (b) At least 1/2 of the entity's board of directors must be
2 composed of workers performing work for customers of contracting
3 agents or representatives of bona fide independent organizations of
4 those workers.

5 (c) The entity must be independent from all business entities,
6 organizations, corporations, or individuals that would pursue any
7 financial interest in conflict with that of the workers.

8 (d) All action of the entity regarding providing benefits must
9 be for the sole purpose of maximizing benefits to the covered
10 workers.

11 (e) The board of directors of the entity must hold a fiduciary
12 duty to the workers with respect to provision of the benefits.

13 (f) The entity must demonstrate adequate viability and
14 financial sufficiency as determined by the department. At a
15 minimum, the entity must have all of the following:

16 (i) Cash reserves in a sufficient amount, as determined by the
17 department.

18 (ii) Liability coverage for an amount determined by the
19 department.

20 (iii) Access to bonding.

21 (iv) Other requirements as determined by the department.

22 Sec. 5. (1) A worker entitled to benefits under this act shall
23 select a qualified benefit provider and must be given the option to
24 change his or her selected qualified benefit provider 1 time each
25 calendar year.

26 (2) The department and the contracting agent that a worker
27 provides services through shall provide the worker with information
28 regarding available qualified benefit providers.

29 (3) A worker must be able to easily select the worker's chosen

1 qualified benefit provider.

2 Sec. 6. The department shall promulgate rules to implement
3 this act under the administrative procedures act of 1969, 1969 PA
4 306, MCL 24.201 to 24.328, including rules that do all of the
5 following:

6 (a) Monitor a contracting agent's compliance with this act.

7 (b) Monitor qualified benefit providers, including the ability
8 to remove providers that are not in compliance with this act from
9 being qualified to provide benefits to a worker of a contracting
10 agent under this act.

11 (c) Establish a fee for contracting agents to fund the
12 department's duties established under this act.

13 (d) Provide procedures for workers to select qualified benefit
14 providers, change their selections, and receive notices of the
15 right to select different qualified benefit providers.

16 Sec. 7. In addition to any remedies provided by the department
17 to a worker for a contracting agent's noncompliance, a worker may
18 bring an action against a contracting agent if the contracting
19 agent does not comply with the contribution requirements under
20 section 2 of this act.

21 Enacting section 1. This act takes effect 90 days after the
22 date it is enacted into law.