

HOUSE BILL NO. 5970

September 26, 2024, Introduced by Reps. Steckloff, Arbit, Price and Conlin and referred to the Committee on Insurance and Financial Services.

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending section 109 (MCL 400.109), as amended by 2022 PA 98.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 109. (1) The following medical services may be provided
2 under this act:

3 (a) Hospital services that an eligible individual may receive
4 consist of medical, surgical, or obstetrical care, together with
5 necessary drugs, X-rays, physical therapy, prosthesis,

1 transportation, and nursing care incident to the medical, surgical,
2 or obstetrical care. The period of inpatient hospital service ~~shall~~
3 **must** be the minimum period necessary in this type of facility for
4 the proper care and treatment of the individual. Necessary
5 hospitalization to provide dental care must be provided if
6 certified by the attending dentist with the approval of the
7 department. An individual who is receiving medical treatment as an
8 inpatient because of a diagnosis of mental disease may receive
9 service under this section, notwithstanding the mental health code,
10 1974 PA 258, MCL 330.1001 to 330.2106. The department ~~must~~**shall**
11 pay for hospital services according to the state plan for medical
12 assistance adopted under section 10 and approved by the United
13 States Department of Health and Human Services.

14 (b) An eligible individual may receive physician services
15 authorized by the department. The ~~service~~**services** may be furnished
16 in the physician's office, the eligible individual's home, a
17 medical institution, or elsewhere in case of emergency. A physician
18 must be paid a reasonable charge for the ~~service~~**services** rendered.
19 The department ~~must~~**shall** determine reasonable charges. Reasonable
20 charges must not be more than those paid in this state for services
21 rendered under title XVIII.

22 (c) An eligible individual may receive nursing home services
23 in a state licensed nursing home, a medical care facility, or other
24 facility or identifiable unit of that facility, certified by the
25 appropriate authority as meeting established standards for a
26 nursing home under the laws and rules of this state and the United
27 States Department of Health and Human Services, to the extent found
28 necessary by the attending physician, dentist, or certified
29 Christian Science practitioner. An eligible individual may receive

1 nursing services in an extended care services program established
 2 under section 22210 of the public health code, 1978 PA 368, MCL
 3 333.22210, to the extent found necessary by the attending physician
 4 when the combined length of stay in the acute care bed and short-
 5 term nursing care bed exceeds the average length of stay for
 6 Medicaid hospital diagnostic related group reimbursement. The
 7 department shall not make a final payment under title XIX for
 8 benefits available under title XVIII without documentation that
 9 title XVIII claims have been filed and denied. The department ~~must~~
 10 **shall** pay for nursing home services according to the state plan for
 11 medical assistance adopted ~~according to~~ **under** section 10 and
 12 approved by the United States Department of Health and Human
 13 Services. A county ~~must~~ **shall** reimburse a county maintenance of
 14 effort rate determined on an annual basis for each patient day of
 15 Medicaid nursing home services provided to eligible individuals in
 16 long-term care facilities owned by the county and licensed to
 17 provide nursing home services. ~~For purposes of determining~~ **To**
 18 **determine** rates and costs described in this subdivision, all of the
 19 following apply:

20 (i) For county-owned facilities with per patient day updated
 21 variable costs exceeding the variable cost limit for the county
 22 facility, county maintenance of effort rate means 45% of the
 23 difference between per patient day updated variable cost and the
 24 concomitant nursing ~~home-class~~ **home class** variable cost limit, the
 25 quantity offset by the difference between per patient day updated
 26 variable cost and the concomitant variable cost limit for the
 27 county facility. The county rate must not be less than zero.

28 (ii) For county-owned facilities with per patient day updated
 29 variable costs not exceeding the variable cost limit for the county

1 facility, county maintenance of effort rate means 45% of the
2 difference between per patient day updated variable cost and the
3 concomitant nursing home class variable cost limit.

4 (iii) For county-owned facilities with per patient day updated
5 variable costs not exceeding the concomitant nursing home class
6 variable cost limit, the county maintenance of effort rate must
7 equal zero.

8 (iv) For the purposes of this section: "per patient day updated
9 variable costs and the variable cost limit for the county facility"
10 must be determined according to the state plan for medical
11 assistance; for freestanding county facilities, the "nursing home
12 class variable cost limit" must be determined according to the
13 state plan for medical assistance; ~~and~~ for hospital attached county
14 facilities, the "nursing class variable cost limit" must be
15 determined according to the state plan for medical assistance plus
16 \$5.00 per patient day; and "freestanding" and "hospital attached"
17 must be determined according to ~~the~~ federal regulations.

18 (v) If the county maintenance of effort rate computed under
19 this section exceeds the county maintenance of effort rate in
20 effect as of September 30, 1984, the rate in effect as of September
21 30, 1984 must remain in effect until a time that the rate computed
22 under this section is less than the September 30, 1984 rate. This
23 limitation remains in effect until December 31, 2025 or until a new
24 reimbursement system determined by the department replaces the
25 current system, whichever is sooner. For each subsequent county
26 fiscal year, the maintenance of effort rate may not increase by
27 more than \$1.00 per patient day each year.

28 (vi) For county-owned facilities, reimbursement for plant costs
29 must continue to be based on interest expense and depreciation

1 allowance unless otherwise provided by law.

2 (d) An eligible individual may receive pharmaceutical services
3 from a licensed pharmacist of the individual's choice as prescribed
4 by a licensed physician or dentist and approved by the department.
5 In an emergency, but not routinely, the individual may receive
6 pharmaceutical services rendered personally by a licensed physician
7 or dentist on the same basis as approved for pharmacists.

8 (e) An eligible individual may receive other medical and
9 health services as authorized by the department.

10 (f) Psychiatric care may also be provided according to the
11 guidelines established by the department to the extent of
12 appropriations made available by the legislature for the fiscal
13 year.

14 (g) An eligible individual may receive screening, laboratory
15 services, diagnostic services, early intervention services, and
16 treatment for chronic kidney disease under guidelines established
17 by the department. A clinical laboratory performing a creatinine
18 test on an eligible individual under this subdivision ~~must~~**shall**
19 include in the lab report the glomerular filtration rate (eGFR) of
20 the individual and ~~must~~ report it as a percentage of kidney
21 function remaining.

22 (h) An eligible individual may receive medically necessary
23 acute medical detoxification for opioid use disorder, medically
24 necessary inpatient care at an approved facility, or care in an
25 appropriately licensed substance use disorder residential treatment
26 facility.

27 **(i) An eligible individual may receive pharmacogenomic**
28 **testing, under standards of coverage established by the department**
29 **in accordance with coverage guidance established by the Centers for**

1 Medicare and Medicaid Services, for treatment or medication
 2 management optimization, if the pharmacogenomic testing is ordered
 3 by a treating prescriber and supported by medical and scientific
 4 evidence, which includes, but is not limited to, 1 or more of the
 5 following:

6 (i) A local coverage determination by a Medicare administrative
 7 contractor.

8 (ii) A national coverage determination by the Centers for
 9 Medicare and Medicaid Services.

10 (iii) Nationally recognized clinical practice guidelines.

11 (iv) A precaution or warning on a drug label approved by the
 12 United States Food and Drug Administration.

13 (v) A test indicated for a drug approved by the United States
 14 Food and Drug Administration.

15 (2) The director ~~must~~**shall** provide notice to the public,
 16 according to applicable federal regulations, and ~~must~~ obtain the
 17 approval of the committees on appropriations of **the senate and** the
 18 house of representatives ~~and senate of the state~~**this state's**
 19 legislature, of a proposed change in the statewide method or level
 20 of reimbursement for a service, if the proposed change is expected
 21 to increase or decrease payments for that service by 1% or more
 22 during the 12 months after the effective date of the change.

23 (3) As used in this act:

24 (a) "Pharmacogenomic testing" means laboratorial genetic
 25 testing to identify how an individual's genetics might impact the
 26 efficacy, safety, and toxicity of medication, including, but not
 27 limited to, medication prescribed for 1 or more of the following:

28 (i) Behavioral or mental health.

29 (ii) Cardiovascular, gastrointestinal, hematologic, infectious,

1 neurological, oncological, or urological disease.

2 (iii) Pain management.

3 (b) ~~(a)~~—"Title XVIII" means title XVIII of the social security
4 act, 42 USC 1395 to 1395lll.

5 (c) ~~(b)~~—"Title XIX" means title XIX of the social security
6 act, 42 USC 1396 to ~~1396w-6~~.1396w-8.

7 (d) ~~(e)~~—"Title XX" means title XX of the social security act,
8 42 USC 1397 to 1397n-13.

9 (e) "Treating prescriber" means an individual that meets all
10 of the following requirements:

11 (i) Is any of the following:

12 (A) A physician as that term is defined in section 17001 or
13 17501 of the public health code, 1978 PA 368, MCL 333.17001 and
14 333.17501.

15 (B) Licensed to practice as a physician's assistant under part
16 170 or part 175 of the public health code, 1978 PA 368, MCL
17 333.17001 to 333.17097 and 333.17501 to 333.17556.

18 (C) An advanced practice registered nurse as that term is
19 defined in section 17201 of the public health code, 1978 PA 368,
20 MCL 333.17201.

21 (D) An individual that is licensed, registered, certified, or
22 otherwise authorized to engage in a health profession under article
23 15 of the public health code, 1978 PA 368, MCL 333.16101 to
24 333.18838, and acts under the delegation of a physician described
25 in sub-subparagraph (A).

26 (ii) Has prescriptive authority.

27 (iii) Intends to use pharmacogenomic testing results for another
28 individual's treatment or medication management optimization.