

SENATE BILL No. 494

September 24, 1991, Introduced by Senator DILLINGHAM and referred to the Committee on Health Policy.

A bill to amend section 111b of Act No. 280 of the Public Acts of 1939, entitled as amended

"The social welfare act,"

as amended by Act No. 227 of the Public Acts of 1986, being section 400.111b of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 111b of Act No. 280 of the Public Acts
2 of 1939, as amended by Act No. 227 of the Public Acts of 1986,
3 being section 400.111b of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 111b. (1) As a condition of participation, a provider
6 shall meet all of the requirements specified in this section
7 except as provided in subsections (25), (26), and (27).

8 (2) A provider shall comply with all licensing and
9 registration laws of this state applicable to the provider's

1 practice or business. ~~In the case of~~ FOR a facility that is
2 periodically inspected by a licensing authority, maintenance of
3 licensure shall constitute compliance.

4 (3) A provider shall be certified, if the provider is of the
5 type for which certification is required by titles XVIII or XIX.

6 (4) A provider shall enter into an agreement of enrollment
7 specified by the director.

8 (5) A provider who renders a reimbursable service described
9 in section 109 to a medically indigent individual shall provide
10 the individual WITH service of the same scope and quality as
11 would be provided to the general public.

12 (6) A provider shall maintain records necessary to document
13 fully the extent and cost of services, supplies, or equipment
14 provided to a medically indigent individual and to substantiate
15 each claim and, in accordance with professionally accepted stan-
16 dards, the medical necessity, appropriateness, and quality of
17 service rendered for which a claim is made.

18 (7) ~~A provider, upon~~ UPON request and at a reasonable time
19 and place, A PROVIDER shall make available any record required to
20 be maintained by subsection (6) for examination and photocopying
21 by authorized agents of the director, the department of attorney
22 general, or federal authorities whose duties and functions are
23 related to state programs of medical assistance under title XIX.
24 ~~When~~ IF a provider releases records in response to a request by
25 the director made pursuant to section 111a(13) or in compliance
26 with this subsection, that provider ~~shall not be~~ IS NOT civilly
27 liable in damages to a patient or to another provider to whom,

1 respectively, the records relate solely, on account of the
2 response or compliance.

3 (8) A provider shall retain each record required to be main-
4 tained by subsection (6) for a period of 6 years after the date
5 of service. A provider who no longer personally retains the
6 records due to death, retirement, change in ownership, or other
7 reason, shall insure that a suitable person retains the records
8 and provides access to the records as required in subsection
9 (7).

10 (9) A provider shall require, as a condition of any contract
11 with a person, sole proprietorship, clinic, group, partnership,
12 corporation, association, or other entity, for the purpose of
13 generating billings in the name of the provider or on behalf of
14 the provider to the state department, that the person, partner-
15 ship, corporation, or other entity, its representative, succes-
16 sor, or assignee, retain for not less than 6 years, copies of all
17 documents used in the generation of billings, including the cer-
18 tifications required by subsection (17), and, if applicable, com-
19 puter billing tapes when returned by the state department.

20 (10) A provider shall submit all claims for services
21 rendered under the program on a form or in a format and with the
22 supporting documentation specified and required by the director
23 under section 111a(7)(c). Submission of a claim or claims for
24 services rendered under the program does not establish in the
25 provider a right to receive payment from the program.

26 (11) A provider shall submit initial claims for services
27 rendered within 12 months after the date of service, or within a

1 shorter period that the director may establish. The director
2 shall not delegate the authority to establish a time period for
3 submission of claims under this subsection. The director, with
4 the ~~appropriate~~ consultation required by section 111a, may pre-
5 scribe the conditions under which a provider may qualify for a
6 waiver of the time period established pursuant to this subsection
7 with respect to a particular submission of a claim. Liability
8 shall not be imposed upon this state or the medically indigent
9 individual for payment of claims submitted after the period
10 established pursuant to this subsection.

11 (12) A provider shall not charge the state more for a serv-
12 ice rendered to a medically indigent individual than the
13 provider's customary charge to the general public or another
14 third party payer for the same or similar service.

15 (13) A provider shall submit information on estimated costs
16 and charges on a form or in a format and at times that the direc-
17 tor may specify and require pursuant to section 111a(16).

18 (14) Except for copayment authorized by the state department
19 and in conformance with applicable state and federal law, a pro-
20 vider shall accept payment from the state as payment in full by
21 the medically indigent individual for services received. A pro-
22 vider shall not seek payment from the medically indigent individ-
23 ual, the family, or representative of the individual for either
24 of the following:

25 (a) Authorized services provided and reimbursed under the
26 program.

1 (b) Services determined to be medically unnecessary in
2 accordance with professionally accepted standards.

3 (15) A provider may seek payment from a medically indigent
4 individual for services not covered nor reimbursed by the program
5 if the individual elected to receive the services with the knowl-
6 edge that the services would not be covered nor reimbursed under
7 the program.

8 (16) A provider promptly shall notify the director of a pay-
9 ment received by the provider to which the provider is not enti-
10 tled or which exceeds the amount to which the provider is
11 entitled. If the provider makes or should have made notification
12 under this subsection or receives notification of overpayment
13 under section 111a(17), the provider shall repay, return,
14 restore, or reimburse, either directly or through adjustment of
15 payments, the overpayment in the manner required by the
16 director. Failure to repay, return, restore, or reimburse the
17 overpayment or a consistent pattern of failure to notify the
18 director shall constitute a conversion of the money by the
19 provider.

20 (17) As a condition of payment for services rendered to a
21 medically indigent individual, a provider shall certify that a
22 claim for payment is true, accurate, prepared with the knowledge
23 and consent of the provider, and does not contain untrue, mis-
24 leading, or deceptive information. A provider shall be responsi-
25 ble for the ongoing supervision of an agent, officer, or employee
26 who prepares or submits the provider's claims. A provider's
27 certification required under this subsection shall be prima facie

1 evidence that the provider knows that the claim or claims are
2 true, accurate, prepared with his or her knowledge and consent,
3 do not contain misleading or deceptive information, and are filed
4 in compliance with the policies, procedures, and instructions,
5 and on the forms established or developed pursuant to this act.
6 Certification shall be made in the following manner:

7 (a) For an invoice or other prescribed form submitted
8 directly to the state department by the provider in claim for
9 payment for the provision of services, by an indelible mark made
10 by hand, mechanical or electronic device, stamp, or other means
11 by the provider, or an agent, officer, or employee of the
12 provider.

13 (b) For an invoice or other form submitted in claim for pay-
14 ment for the provision of services submitted indirectly by the
15 provider to the state department through a person, sole proprie-
16 torship, clinic, group, partnership, corporation, association, or
17 other entity that generates and files claims on a provider's
18 behalf, by the indelible written name of the provider on a certi-
19 fication form developed by the director for submission to the
20 state department with each group of invoices or forms in claim
21 for payment. The certification form shall indicate the name of
22 the person, if other than the provider, who signed the provider's
23 name.

24 (c) For a warrant issued in payment of a claim submitted by
25 a provider, by the handwritten indelible signature of the payee,
26 if the payee is a natural person; by the handwritten indelible
27 signature of an officer, if the payee is a corporation; or by

1 handwritten indelible signature of a partner, if the payee is a
2 partnership.

3 (18) A provider shall comply with all requirements estab-
4 lished under section 111a(1), (2), and (3).

5 (19) A provider shall file with the state department, on
6 disclosure forms provided by the director, a complete and truth-
7 ful statement of all of the following:

8 (a) The identity of each individual having, directly or
9 indirectly, an ownership or beneficial interest in a partnership,
10 corporation, organization, or other legal entity, except a com-
11 pany registered pursuant to the securities exchange act of 1934,
12 ~~15 U.S.C. 78a to 78kk~~ CHAPTER 404, 48 STAT. 881, through which
13 the provider engages in practice or does business related to
14 claims or charges against the program. This subdivision does not
15 apply to a health facility or agency that is required to comply
16 with and has complied with the disclosure requirements of section
17 20142(3) of the public health code, Act No. 368 of the Public
18 Acts of 1978, being section 333.20142 of the Michigan Compiled
19 Laws. With respect to a company registered pursuant to the
20 securities exchange act of 1934, ~~15 U.S.C. 78a to 78kk~~, a pro-
21 vider shall disclose the identity of each individual having,
22 directly or indirectly, separately or in combination, a 5% or
23 greater ownership or beneficial interest.

24 (b) The identity of each partnership, corporation, organi-
25 zation, legal entity, or other affiliate whose practice or busi-
26 ness is related to a claim or charge against the program in which
27 the provider has, directly or indirectly, an ownership or

1 beneficial interest, trust agreement, or a general or perfected
2 security interest. This subdivision does not apply to a health
3 facility or agency that is required to comply with and has com-
4 plied with the disclosure requirements of section 20142(4) of the
5 public health code, Act No. 368 of the Public Acts of 1978, being
6 section 333.20142 of the Michigan Compiled Laws.

7 (c) If applicable to the provider, a copy of a disclosure
8 form identifying ownership and controlling interests submitted to
9 the United States department of health and human services in ful-
10 fillment of a condition of participation in programs established
11 pursuant to titles V, XVIII, XIX, and XX. To the extent that
12 information disclosed on this form duplicates information
13 required to be filed under subdivision (a) or (b), filing a copy
14 of the form shall satisfy the requirements under those
15 subdivisions.

16 (20) ~~A provider, when~~ IF requested by the director, A
17 PROVIDER shall ~~provide~~ SUPPLY complete and truthful information
18 as to his or her professional qualifications and training, and
19 his or her licensure in each jurisdiction in which the provider
20 is licensed or authorized to practice.

21 (21) In the interest of review and control of utilization of
22 services, a provider shall identify each attending, referring, or
23 prescribing physician, dentist, or other practitioner by means of
24 a program identification number on each claim or adjustment of a
25 claim submitted to the state department.

26 (22) It ~~shall be~~ IS the obligation of a provider to assure
27 that services, supplies, or equipment provided to, ordered, or

1 prescribed on behalf of a medically indigent individual by that
2 provider will meet professionally accepted standards for the med-
3 ical necessity, appropriateness, and quality of health care.

4 (23) If any service, supply, or equipment provided directly
5 by a provider, or any service, supply, or equipment prescribed or
6 ordered by a provider and delivered by someone other than that
7 provider, is determined not to be medically necessary, not appro-
8 priate, or not otherwise in accordance with medical assistance
9 program coverages, the provider who directly provided, ordered,
10 or prescribed the service, supply, or equipment shall be respon-
11 sible for direct and complete repayment of any program payment
12 made to the provider or to any other person for that service,
13 supply, or equipment. Services, supplies, or equipment provided
14 by a consulting provider based upon his or her independent evalu-
15 ation or assessment of the recipient's needs ~~shall be~~ IS the
16 responsibility of the consulting provider. This subsection
17 ~~shall~~ DOES not apply ~~for~~ TO the repayment by a provider who
18 has ordered a nursing home or hospital admission of the service
19 billed by and reimbursed to a nursing home or hospital. ~~Not~~
20 ~~does it~~ THIS SECTION ALSO DOES NOT apply to a nursing home or
21 hospital unless the nursing home or hospital acted on its own
22 initiative in providing the service, supply, or equipment as
23 opposed to following the order or prescription of another.

24 (24) A provider shall satisfy or make acceptable arrangement
25 to satisfy all previous adjudicated program liabilities including
26 those adjudicated pursuant to section 111c or established by
27 agreement between the department and the provider, and

1 restitution ordered by a court. As used in this subsection,
2 provider includes, but is not limited to, the provider, the
3 provider's corporation, partnership, business associates, employ-
4 ees, clinic, laboratory, provider group, or successors and
5 assignees. For a nursing home or hospital, "business
6 associates", as used in this subsection, means those persons
7 whose identity is required to be disclosed pursuant to section
8 20142(3) of the public health code, Act No. 368 of the Public
9 Acts of 1978, being section 333.20142 of the Michigan Compiled
10 Laws.

11 (25) A provider who is a physician, dentist, or other indi-
12 vidual practitioner shall file with the state department a com-
13 plete and factual disclosure of the identity of each employer or
14 contractor to whom the provider is required to submit, in whole
15 or in part, payment for services provided to a medically indigent
16 individual as a condition of the provider's agreement of employ-
17 ment or other agreement. A provider who has properly disclosed
18 the required information by filing a form or forms ~~shall have~~
19 HAS 30 business days in which to report changes in the list of
20 identified individuals and entities. The disclosure required by
21 this subsection may serve as the provider's authorization for the
22 department to make direct payments to the employer.

23 (26) As a condition of receiving payment for services
24 rendered to a medically indigent individual, a provider may
25 enter, as an employee, into agreements of employment of the type
26 described in subsection (25) only with an employer who has
27 entered into an agreement as described in subsection (27).

1 (27) An employer described in subsection (25) shall enter
2 into an agreement on a form prescribed by the department, in
3 which, ~~the employer,~~ as a condition of directly receiving pay-
4 ment for services provided by its employee provider to a medi-
5 cally indigent individual, THE EMPLOYER agrees to all of the
6 following:

7 (a) ~~The employer, as~~ AS a condition of employment, ~~shall~~
8 TO require the employee provider to submit, in whole or in part,
9 payments received for services provided to medically indigent
10 individuals.

11 (b) ~~The employer shall~~ TO advise the department within 30
12 days after any changes in the employment relationship.

13 (c) ~~The employer shall~~ TO comply with the conditions of
14 participation established by THIS SUBSECTION AND subsections (6)
15 to (19), AND (21). ~~, and (27).~~

16 (d) ~~The employer shall~~ TO agree to be jointly and sever-
17 ally responsible with the employee provider for any overpayments
18 resulting from the department's direct payment under this
19 section.

20 (e) ~~The employer shall~~ TO agree that disputed claims rela-
21 tive to overpayments shall be adjudicated in administrative pro-
22 ceedings convened pursuant to section 111c.

23 (28) IF A PROVIDER WHO IS A NURSING HOME INTENDS TO WITHDRAW
24 FROM PARTICIPATION IN THE TITLE XIX PROGRAM, THE PROVIDER SHALL
25 NOTIFY THE DEPARTMENT IN WRITING. HOWEVER, THE PROVIDER SHALL
26 CONTINUE TO PARTICIPATE IN THE TITLE XIX PROGRAM FOR EACH PATIENT
27 WHO WAS ADMITTED TO THE NURSING HOME BEFORE THE DATE NOTICE IS

1 GIVEN UNDER THIS SUBSECTION AND WHO IS OR MAY BECOME ELIGIBLE TO
2 RECEIVE MEDICAL ASSISTANCE UNDER THIS ACT.