

HOUSE BILL No. 4817

May 24, 2001, Introduced by Reps. Switalski, Raczkowski, Rivet, Jelinek, Wojno, Kooiman, Plakas, Bovin, Gielegem, Ruth Johnson and Pestka and referred to the Committee on Health Policy.

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending section 106 (MCL 400.106), as amended by 1990 PA
145.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 106. (1) A medically indigent individual is defined
2 as:

3 (a) An individual receiving ~~aid to dependent children~~
4 FAMILY INDEPENDENCE PROGRAM BENEFITS or an individual receiving
5 supplemental security income under title XVI ~~of the social~~
6 ~~security act, 42 U.S.C. 1381 to 1385,~~ or state supplementation
7 ~~thereunder~~ UNDER TITLE XVI subject to limitations imposed by
8 the director ~~pursuant~~ ACCORDING to title XIX.

9 (b) An individual ~~meeting~~ WHO MEETS all of the following
10 conditions:

1 (i) The individual has ~~made application~~ APPLIED in the
2 manner ~~prescribed by the state department~~ FAMILY INDEPENDENCE
3 AGENCY PRESCRIBES.

4 (ii) The individual's need for the type of medical assist-
5 ance available under this act for which ~~application has been~~
6 ~~made~~ THE INDIVIDUAL APPLIED has been professionally established
7 and payment for it is not available through the legal obligation
8 of a PUBLIC OR PRIVATE contractor ~~, public or private,~~ to pay
9 or provide for the care without regard to the income or resources
10 of the patient. ~~The state department shall be subrogated to any~~
11 ~~right of recovery which a patient may have for the cost of hospi-~~
12 ~~talization, pharmaceutical services, physician services, nursing~~
13 ~~services, and other medical services not to exceed the amount of~~
14 ~~funds expended by the department for the care and treatment of~~
15 ~~the patient. The patient or other person acting in the patient's~~
16 ~~behalf shall execute and deliver an assignment of claim or other~~
17 ~~authorizations as necessary to secure the right of recovery to~~
18 ~~the department. A payment may be withheld under this act for~~
19 ~~medical assistance for an injury or disability for which the~~
20 ~~patient is entitled to medical care or reimbursement for the cost~~
21 ~~of medical care under sections 3101 to 3179 of the insurance code~~
22 ~~of 1956, Act No. 218 of the Public Acts of 1956, as amended,~~
23 ~~being sections 500.3101 to 500.3179 of the Michigan Compiled~~
24 ~~Laws, or under any other policy of insurance providing medical or~~
25 ~~hospital benefits, or both, for the patient unless the patient's~~
26 ~~entitlement to that medical care or reimbursement is at issue.~~
27 ~~If a payment is made, the state department, to enforce its~~

~~1 subrogation right, may do either of the following: (a) intervene
2 or join in an action or proceeding brought by the injured, dis-
3 eased, or disabled person, the person's guardian, personal repre-
4 sentative, estate, dependents, or survivors, against the third
5 person who may be liable for the injury, disease, or disability,
6 or against contractors, public or private, who may be liable to
7 pay or provide medical care and services rendered to an injured,
8 diseased, or disabled patient; (b) institute and prosecute a
9 legal proceeding against a third person who may be liable for the
10 injury, disease, or disability, or against contractors, public or
11 private, who may be liable to pay or provide medical care and
12 services rendered to an injured, diseased, or disabled patient,
13 in state or federal court, either alone or in conjunction with
14 the injured, diseased, or disabled person, the person's guardian,
15 personal representative, estate, dependents, or survivors. The
16 state department may institute the proceedings in its own name or
17 in the name of the injured, diseased, or disabled person, the
18 person's guardian, personal representative, estate, dependents,
19 or survivors. As provided in section 6023 of the revised judica-
20 ture act of 1961, Act No. 236 of the Public Acts of 1961, as
21 amended, being section 600.6023 of the Michigan Compiled Laws,
22 the state department, in enforcing its subrogation right, shall
23 not satisfy a judgment against the third person's property which
24 is exempt from levy and sale. The injured, diseased, or disabled
25 person may proceed in his or her own name, collecting the costs
26 without the necessity of joining the state department or the
27 state as a named party. The injured, diseased, or disabled~~

~~1 person shall notify the state department of the action or
2 proceeding entered into upon commencement of the action or
3 proceeding. An action taken by the state or the state department
4 in connection with the right of recovery afforded by this section
5 does not operate to deny the injured, diseased, or disabled
6 person any part of the recovery beyond the costs expended on the
7 person's behalf by the state department. The costs of legal
8 action initiated by the state shall be paid by the state. A pay=
9 ment shall not be made under this act for medical assistance for
10 an injury, disease, or disability for which the patient is enti=
11 tled to medical care or the cost of medical care under the
12 worker's disability compensation act of 1969, Act No. 317 of the
13 Public Acts of 1969, as amended, being sections 418.101 to
14 418.941 of the Michigan Compiled Laws; except that payment may be
15 made if an appropriate application for medical care or the cost
16 of the medical care has been made under Act No. 317 of the Public
17 Acts of 1969, as amended, entitlement has not been finally deter=
18 mined, and an arrangement satisfactory to the state department
19 has been made for reimbursement if the claim under Act No. 317 of
20 the Public Acts of 1969, as amended, is finally sustained.~~

21 (iii) The individual has an annual income ~~which~~ THAT is
22 below, or because of medical expenses falls below, the protected
23 basic maintenance level. The protected basic maintenance level
24 for 1-person and 2-person families shall be at least 100% of the
25 higher of the payment standards generally used to determine eli=
26 gibility in the ~~aid to dependent children~~ FAMILY INDEPENDENCE
27 program and the supplemental security income program under title

1 XVI, ~~of the social security act, 42 U.S.C. 1381 to 1385,~~
2 including state supplementation. For families of 3 or more per-
3 sons, the protected basic maintenance level shall be at least
4 100% of the payment standard generally used to determine eligi-
5 bility in the ~~aid to dependent children~~ FAMILY INDEPENDENCE
6 program. These levels shall recognize regional variations and
7 shall not exceed 133-1/3% of the payment standard generally used
8 to determine eligibility in the ~~aid to dependent children~~
9 FAMILY INDEPENDENCE program.

10 (iv) The individual, if ~~an aid to dependent children~~ A
11 FAMILY INDEPENDENCE PROGRAM related individual and living alone,
12 has liquid or marketable assets of not more than \$1,500.00 in
13 value, or, if a 2-person family, the family has liquid or market-
14 able assets of not more than \$2,000.00 in value. The ~~state~~
15 ~~department~~ FAMILY INDEPENDENCE AGENCY shall establish comparable
16 liquid or marketable asset amounts for larger family groups.
17 Excluded in making the determination of the value of liquid or
18 marketable assets are the values of: the homestead; clothing;
19 household effects; ~~\$1,000.00~~ \$10,000.00 of cash surrender value
20 of life insurance, except that if the health of the insured ~~is~~
21 ~~such as to make~~ MAKES continuance of the insurance desirable,
22 the entire cash surrender value of life insurance is ~~to be~~
23 excluded from consideration, up to the ~~maximums~~ MAXIMUM pro-
24 vided or allowed by federal regulations and in accordance with
25 the rules of the ~~state department~~ FAMILY INDEPENDENCE AGENCY;
26 the fair market value of tangible personal property used in
27 earning income; an amount paid as judgment or settlement for

1 damages suffered as a result of exposure to agent orange, as
 2 defined in section 5701 of the public health code, ~~Act No. 368~~
 3 ~~of the Public Acts of 1978, being section 333.5701 of the~~
 4 ~~Michigan Compiled Laws~~ 1978 PA 368, MCL 333.5701; and a space or
 5 plot purchased for the purposes of burial for the person. For
 6 individuals related to the title XVI program, ~~of the social~~
 7 ~~security act, 42 U.S.C. 1381 to 1385,~~ the appropriate resource
 8 levels and property exemptions specified in title XVI shall be
 9 used.

10 (v) The individual is not an inmate of a public institution
 11 except as a patient in a medical institution.

12 (vi) The individual meets the eligibility standards for sup-
 13 plemental security income under title XVI ~~of the social security~~
 14 ~~act, 42 U.S.C. 1381 to 1385,~~ or for state supplementation under
 15 the act, subject to limitations imposed by the director pursuant
 16 to title XIX; or meets the eligibility standards for ~~aid to~~
 17 ~~dependent children~~ THE FAMILY INDEPENDENCE PROGRAM BENEFITS,
 18 except for income or income and resources; or is a child from 18
 19 to 21 years of age and his or her adult caretaker would be eligi-
 20 ble for ~~aid to dependent children~~ FAMILY INDEPENDENCE PROGRAM
 21 BENEFITS except for age, income, or income and resources; or is a
 22 child under 21 years of age and is from a family whose income is
 23 below the basic maintenance level.

24 (2) As used in this act: ~~,"medical~~

25 (A) "MEDICAL institution" means a state licensed or approved
 26 hospital, nursing home, medical care facility, psychiatric
 27 hospital, or other facility or identifiable unit ~~thereof~~ OF A

1 LISTED INSTITUTION certified as meeting established standards for
2 a nursing home or hospital in accordance with the laws of this
3 state.

4 (B) "TITLE XVI" MEANS TITLE XVI OF THE SOCIAL SECURITY ACT,
5 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1381 TO 1382j AND 1383 TO
6 1383f.

7 Enacting section 1. This amendatory act does not take
8 effect unless all of the following bills of the 91st Legislature
9 are enacted into law:

10 (a) Senate Bill No. _____ or House Bill No. 4815 (request
11 no. 03546'01).

12 (b) Senate Bill No. _____ or House Bill No. 4816 (request
13 no. 03547'01).