

**SUBSTITUTE FOR  
SENATE BILL NO. 971**

A bill to amend 1980 PA 350, entitled  
"The nonprofit health care corporation reform act,"  
by amending sections 502 and 502a (MCL 550.1502 and 550.1502a),  
section 502 as amended by 2003 PA 59 and section 502a as amended by  
1998 PA 446.

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

1           Sec. 502. (1) A health care corporation may enter into  
2 participating contracts for reimbursement with professional health  
3 care providers practicing legally in this state for health care  
4 services or with health practitioners practicing legally in any  
5 other jurisdiction for health care services that the professional  
6 health care providers or practitioners may legally perform. A  
7 participating contract may cover all members or may be a separate  
8 and individual contract on a per claim basis, as set forth in the

1 provider class plan, if, in entering into a separate and individual  
2 contract on a per claim basis, the participating provider certifies  
3 to the health care corporation:

4 (a) That the provider will accept payment from the corporation  
5 as payment in full for services rendered for the specified claim  
6 for the member indicated.

7 (b) That the provider will accept payment from the corporation  
8 as payment in full for all cases involving the procedure specified,  
9 for the duration of the calendar year. As used in this subdivision,  
10 provider does not include a person licensed as a dentist under part  
11 166 of the public health code, 1978 PA 368, MCL 333.16601 to  
12 333.16648.

13 (c) That the provider will not determine whether to  
14 participate on a claim on the basis of the race, color, creed,  
15 marital status, sex, national origin, residence, age, disability,  
16 or lawful occupation of the member entitled to health care  
17 benefits.

18 (2) A contract entered into pursuant to subsection (1) shall  
19 provide that the private provider-patient relationship shall be  
20 maintained to the extent provided for by law. A health care  
21 corporation shall continue to offer a reimbursement arrangement to  
22 any class of providers with which it has contracted prior to August  
23 27, 1985 and that continues to meet the standards set by the  
24 corporation for that class of providers.

25 (3) A health care corporation shall not restrict the methods  
26 of diagnosis or treatment of professional health care providers who  
27 treat members. Except as otherwise provided in section 502a, each

1 member of the health care corporation shall at all times have a  
2 choice of professional health care providers. This subsection does  
3 not apply to limitations in benefits contained in certificates, to  
4 the reimbursement provisions of a provider contract or  
5 reimbursement arrangement, or to standards set by the corporation  
6 for all contracting providers. A health care corporation may refuse  
7 to reimburse a health care provider for health care services that  
8 are overutilized, including those services rendered, ordered, or  
9 prescribed to an extent that is greater than reasonably necessary.

10 (4) A health care corporation may provide to a member, upon  
11 request, a list of providers with whom the corporation contracts,  
12 for the purpose of assisting a member in obtaining a type of health  
13 care service. However, except as otherwise provided in section  
14 502a, an employee, agent, or officer of the corporation, or an  
15 individual on the board of directors of the corporation, shall not  
16 make recommendations on behalf of the corporation with respect to  
17 the choice of a specific health care provider. Except as otherwise  
18 provided in section 502a, an employee, agent, or officer of the  
19 corporation, or a person on the board of directors of the  
20 corporation who influences or attempts to influence a person in the  
21 choice or selection of a specific professional health care provider  
22 on behalf of the corporation, is guilty of a misdemeanor.

23 (5) A health care corporation shall provide a symbol of  
24 participation, which can be publicly displayed, to providers who  
25 participate on all claims for covered health care services rendered  
26 to subscribers.

27 (6) This section does not impede the lawful operation of, or

1 lawful promotion of, a health maintenance organization owned by a  
2 health care corporation.

3 (7) Contracts entered into under this section with  
4 professional health care providers licensed in this state are  
5 subject to the provisions of sections 504 to 518.

6 (8) A health care corporation shall not deny participation to  
7 a freestanding surgical outpatient facility on the basis of  
8 ownership if the facility meets the reasonable standards set by the  
9 health care corporation for similar facilities, is licensed under  
10 part 208 of the public health code, 1978 PA 368, MCL 333.20801 to  
11 333.20821, and complies with part 222 of the public health code,  
12 1978 PA 368, MCL 333.22201 to 333.22260.

13 (9) Notwithstanding any other provision of this act, if a  
14 certificate provides for benefits for services that are within the  
15 scope of practice of optometry, a health care corporation is not  
16 required to provide benefits or reimburse for a practice of  
17 optometric service unless that service was included in the  
18 definition of practice of optometry under section 17401 of the  
19 public health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.

20 (10) Notwithstanding any other provision of this act, a health  
21 care corporation is not required to reimburse for services  
22 otherwise covered under a certificate if the services were  
23 performed by a member of a health care profession, which health  
24 care profession was not licensed or registered by this state on or  
25 before January 1, 1998 but that becomes a health care profession  
26 licensed or registered by this state after January 1, 1998. This  
27 subsection does not change the status of a health care profession

1 that was licensed or registered by this state on or before January  
2 1, 1998.

3 (11) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT INCLUDING  
4 SUBSECTIONS (1) TO (10), IF A CERTIFICATE PROVIDES FOR BENEFITS FOR  
5 SERVICES THAT ARE WITHIN THE SCOPE OF PRACTICE OF CHIROPRACTIC, A  
6 HEALTH CARE CORPORATION IS NOT REQUIRED TO PROVIDE BENEFITS OR  
7 REIMBURSE FOR A PRACTICE OF CHIROPRACTIC SERVICE UNLESS THAT  
8 SERVICE WAS INCLUDED IN THE DEFINITION OF PRACTICE OF CHIROPRACTIC  
9 UNDER SECTION 16401 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL  
10 333.16401, AS OF JANUARY 1, 2009.

11 Sec. 502a. (1) For the purpose of doing business as an  
12 organization under the prudent purchaser act, 1984 PA 233, MCL  
13 550.51 to 550.63, a health care corporation may enter into prudent  
14 purchaser agreements with health care providers pursuant to this  
15 section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to  
16 550.63.

17 (2) A health care corporation may offer group contracts under  
18 which subscribers shall be required, as a condition of coverage, to  
19 obtain services exclusively from health care providers who have  
20 entered into prudent purchaser agreements.

21 (3) An individual who is a member of a group who is offered  
22 the option of being a subscriber under a contract pursuant to  
23 subsection (2) shall also be offered the option of being a  
24 subscriber under a contract pursuant to subsection (4). This  
25 subsection applies only if the group in which the individual is a  
26 member has 25 or more members or if the provider panel that is  
27 providing the services under the contract is limited by the

1 organization to a specific number pursuant to section 3(1) of the  
2 prudent purchaser act, 1984 PA 233, MCL 550.53.

3 (4) A health care corporation may offer group contracts under  
4 which subscribers who elect to obtain services from health care  
5 providers who have entered into prudent purchaser agreements shall  
6 realize a financial advantage or other advantage by selecting such  
7 providers. Contracts offered pursuant to this subsection shall not,  
8 as a condition of coverage, require subscribers to obtain services  
9 exclusively from health care providers who have entered into  
10 prudent purchaser agreements.

11 (5) An individual who is a member of a group who is offered  
12 the option of being a subscriber under a contract pursuant to  
13 subsection (2) or (4) shall also be offered the option of being a  
14 subscriber under a contract that:

15 (a) Does not, as a condition of coverage, require subscribers  
16 to obtain services exclusively from health care providers who have  
17 entered into prudent purchaser agreements.

18 (b) Does not give a financial advantage or other advantage to  
19 a subscriber who elects to obtain services from health care  
20 providers who have entered into prudent purchaser agreements.

21 (6) Subsection (5) applies only if the group in which the  
22 individual is a member has 25 or more members and if the group on  
23 December 20, 1984 had health care coverage through the group  
24 sponsor.

25 (7) A health care corporation may offer individual contracts  
26 under which subscribers shall be required, as a condition of  
27 coverage, to obtain services exclusively from health care providers

1 who have entered into prudent purchaser agreements. A person to  
2 whom such a contract is offered shall also be offered a contract  
3 that:

4 (a) Does not, as a condition of coverage, require subscribers  
5 to obtain services exclusively from health care providers who have  
6 entered into prudent purchaser agreements.

7 (b) Does not give a financial advantage or other advantage to  
8 a subscriber who elects to obtain services from health care  
9 providers who have entered into prudent purchaser agreements.

10 (8) A health care corporation may offer individual contracts  
11 under which subscribers who elect to obtain services from health  
12 care providers who have entered into prudent purchaser agreements  
13 shall realize a financial advantage or other advantage by selecting  
14 such providers. Contracts offered pursuant to this subsection shall  
15 not, as a condition of coverage, require subscribers to obtain  
16 services exclusively from health care providers who have entered  
17 into prudent purchaser agreements. A person to whom such a contract  
18 is offered shall also be offered a contract that:

19 (a) Does not, as a condition of coverage, require subscribers  
20 to obtain services exclusively from health care providers who have  
21 entered into prudent purchaser agreements.

22 (b) Does not give a financial advantage or other advantage to  
23 a subscriber who elects to obtain services from health care  
24 providers who have entered into prudent purchaser agreements.

25 (9) The rates charged by a corporation for coverage under  
26 contracts issued under this section shall not be unreasonably lower  
27 than what is necessary to meet the expenses of the corporation for

1 providing this coverage and shall not have an anticompetitive  
2 effect or result in predatory pricing in relation to prudent  
3 purchaser agreement coverages offered by other organizations.

4 (10) Contracts entered into under this section are not subject  
5 to the provisions of sections 504 to 518.

6 (11) A corporation shall not discriminate against a class of  
7 health care providers when entering into prudent purchaser  
8 agreements with health care providers for its provider panel. This  
9 subsection does not:

10 (a) Prohibit the formation of a provider panel consisting of a  
11 single class of providers when a service provided for in the  
12 specifications of a purchaser may be legally provided only by a  
13 single class of providers.

14 (b) Prohibit the formation of a provider panel that conforms  
15 to the specifications of a purchaser of the coverage authorized by  
16 this section so long as the specifications do not exclude any class  
17 of health care providers who may legally perform the services  
18 included in the coverage.

19 (c) Require an organization that has uniformly applied the  
20 standards filed pursuant to section 3(3) of the prudent purchaser  
21 act, 1984 PA 233, MCL 550.53, to contract with any individual  
22 provider.

23 (12) Nothing in the 1984 amendatory act that added this  
24 section applies to any contract that was in existence before  
25 December 20, 1984, or the renewal of such contract.

26 (13) Notwithstanding any other provision of this act, if  
27 coverage under a prudent purchaser agreement provides for benefits



Senate Bill No. 971 as amended December 3, 2009  
as amended December 9, 2009

1 for services that are within the scope of practice of optometry, a  
2 health care corporation is not required to provide benefits or  
3 reimburse for a practice of optometric service unless that service  
4 was included in the definition of practice of optometry under  
5 section 17401 of the public health code, 1978 PA 368, MCL  
6 333.17401, as of May 20, 1992.

7 (14) Notwithstanding any other provision of this act, a health  
8 care corporation offering coverage under a prudent purchaser  
9 agreement is not required to reimburse for services otherwise  
10 covered if the services were performed by a member of a health care  
11 profession, which health care profession was not licensed or  
12 registered by this state on or before January 1, 1998 but that  
13 becomes a health care profession licensed or registered by this  
14 state after January 1, 1998. This subsection does not change the  
15 status of a health care profession that was licensed or registered  
16 by this state on or before January 1, 1998.

17 (15) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT <<INCLUDING  
18 SUBSECTIONS (1) TO (14)>>, IF A  
19 CERTIFICATE PROVIDES FOR BENEFITS FOR SERVICES THAT ARE WITHIN THE  
20 SCOPE OF PRACTICE OF CHIROPRACTIC, A HEALTH CARE CORPORATION IS NOT  
21 REQUIRED TO PROVIDE BENEFITS OR REIMBURSE FOR A PRACTICE OF  
22 CHIROPRACTIC SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE  
23 DEFINITION OF PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE  
24 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16401, AS OF JANUARY 1,  
2009.

[Enacting section 1. This amendatory act does not take effect  
unless all of the following bills of the 95th Legislature are enacted  
into law:

- (a) Senate Bill No. 968.
- (b) Senate Bill No. 970.
- (c) Senate Bill No. 972.
- (d) Senate Bill No. 973.
- (e) House Bill No. 5091.
- (f) House Bill No. 5105.]