

# HOUSE BILL No. 5106

June 16, 2009, Introduced by Rep. Angerer and referred to the Committee on Insurance.

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

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

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

8 (b) That the provider will accept payment from the corporation  
9 as payment in full for all cases involving the procedure specified,  
10 for the duration of the calendar year. As used in this subdivision,  
11 provider does not include a person licensed as a dentist under part  
12 166 of the public health code, 1978 PA 368, MCL 333.16601 to  
13 333.16648.

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

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

26 (3) A health care corporation shall not restrict the methods  
27 of diagnosis or treatment of professional health care providers who

1 treat members. Except as otherwise provided in section 502a, each  
2 member of the health care corporation shall at all times have a  
3 choice of professional health care providers. This subsection does  
4 not apply to limitations in benefits contained in certificates, to  
5 the reimbursement provisions of a provider contract or  
6 reimbursement arrangement, or to standards set by the corporation  
7 for all contracting providers. A health care corporation may refuse  
8 to reimburse a health care provider for health care services that  
9 are overutilized, including those services rendered, ordered, or  
10 prescribed to an extent that is greater than reasonably necessary.

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

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

1           (6) This section does not impede the lawful operation of, or  
2 lawful promotion of, a health maintenance organization owned by a  
3 health care corporation.

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

7           (8) A health care corporation shall not deny participation to  
8 a freestanding surgical outpatient facility on the basis of  
9 ownership if the facility meets the reasonable standards set by the  
10 health care corporation for similar facilities, is licensed under  
11 part 208 of the public health code, 1978 PA 368, MCL 333.20801 to  
12 333.20821, and complies with part 222 of the public health code,  
13 1978 PA 368, MCL 333.22201 to 333.22260.

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

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

1 subsection does not change the status of a health care profession  
2 that was licensed or registered by this state on or before January  
3 1, 1998.

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

12 Sec. 502a. (1) For the purpose of doing business as an  
13 organization under the prudent purchaser act, 1984 PA 233, MCL  
14 550.51 to 550.63, a health care corporation may enter into prudent  
15 purchaser agreements with health care providers pursuant to this  
16 section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to  
17 550.63.

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

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

1 providing the services under the contract is limited by the  
2 organization to a specific number pursuant to section 3(1) of the  
3 prudent purchaser act, 1984 PA 233, MCL 550.53.

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

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

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

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

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

26 (7) A health care corporation may offer individual contracts  
27 under which subscribers shall be required, as a condition of

1 coverage, to obtain services exclusively from health care providers  
2 who have entered into prudent purchaser agreements. A person to  
3 whom such a contract is offered shall also be offered a contract  
4 that:

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

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

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

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

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

26 (9) The rates charged by a corporation for coverage under  
27 contracts issued under this section shall not be unreasonably lower

1 than what is necessary to meet the expenses of the corporation for  
2 providing this coverage and shall not have an anticompetitive  
3 effect or result in predatory pricing in relation to prudent  
4 purchaser agreement coverages offered by other organizations.

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

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

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

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

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

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

27 (13) Notwithstanding any other provision of this act, if



1 coverage under a prudent purchaser agreement provides for benefits  
2 for services that are within the scope of practice of optometry, a  
3 health care corporation is not required to provide benefits or  
4 reimburse for a practice of optometric service unless that service  
5 was included in the definition of practice of optometry under  
6 section 17401 of the public health code, 1978 PA 368, MCL  
7 333.17401, as of May 20, 1992.

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

18 **(15) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, 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,**  
25 **2009.**