

# HOUSE BILL NO. 5146

October 17, 2023, Introduced by Reps. Schmaltz, Jaime Greene, Thompson, Smit, Mueller, Roth, Aragona, St. Germaine, Bruck, Beson, Markkanen, Cavitt, Bierlein, Hoadley, Outman, BeGole, Bezotte, Neyer, Zorn and DeBoer and referred to the Committee on Elections.

A bill to create a hyperbaric oxygen therapy treatment grant program and pilot program for providing treatment to veterans with traumatic brain injuries or post-traumatic stress disorder; to provide for the powers and duties of certain state governmental officers and entities; to require the promulgation of rules; and to create certain funds.

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

- 1           Sec. 1. As used in this act:
- 2           (a) "Department" means the department of health and human
- 3 services.

1 (b) "Eligible veteran" means an individual who meets both of  
2 the following criteria:

3 (i) Is a veteran as that term is defined in section 1 of 1965  
4 PA 190, MCL 35.61.

5 (ii) Is diagnosed with a traumatic brain injury or post-  
6 traumatic stress disorder.

7 (c) "Fund" means the hyperbaric oxygen therapy treatment fund  
8 created in section 7.

9 (d) "Grant program" means the hyperbaric oxygen therapy  
10 treatment grant program created in section 3.

11 (e) "Hyperbaric oxygen therapy treatment" means treatment for  
12 traumatic brain injury or post-traumatic stress disorder that is  
13 prescribed by a physician licensed in this state and delivered in a  
14 medical-grade hyperbaric chamber.

15 (f) "Pilot program" means the hyperbaric oxygen therapy  
16 treatment pilot program established under section 5.

17 (g) "Provider" means a provider of hyperbaric oxygen therapy  
18 treatment.

19 (h) "Treatment plan" means a hyperbaric oxygen therapy  
20 treatment plan.

21 Sec. 3. (1) As part of the pilot program, the department shall  
22 create and operate a hyperbaric oxygen therapy treatment grant  
23 program. The department may make grants under this section only to  
24 a provider chosen by the department under section 5 to assist the  
25 provider in providing hyperbaric oxygen therapy treatment and  
26 related diagnostic testing to eligible veterans under the pilot  
27 program. All providers that receive a grant under this section must  
28 offer hyperbaric oxygen therapy treatment at no cost to eligible  
29 veterans as provided in section 5.

1 (2) The department shall not make a grant under this section  
2 until after the department has established the pilot program and  
3 promulgated the rules required by section 5.

4 (3) The department shall not make a grant under this section  
5 after the pilot program ends.

6 (4) The department shall promulgate rules to implement this  
7 section under the administrative procedures act of 1969, 1969 PA  
8 306, MCL 24.201 to 24.328, that must address all of the following  
9 for grants under this section:

10 (a) Application procedures.

11 (b) Eligibility criteria subject to section 5.

12 (c) Selection procedures subject to section 5.

13 (d) A consideration of the extent to which a provider has used  
14 assistance available from other assistance programs before the  
15 department makes a grant under this section to the provider.

16 However, a grant must not be denied or delayed solely on the basis  
17 that assistance available from other programs has not been used.

18 (e) Department oversight and verification of the use of grant  
19 money.

20 Sec. 5. (1) The department, in consultation with the  
21 department of military and veterans affairs, shall establish a  
22 hyperbaric oxygen therapy treatment pilot program to assist each  
23 provider that the department approves to provide hyperbaric oxygen  
24 therapy treatment and related diagnostic testing to eligible  
25 veterans. The pilot program must end on January 1, 2027.

26 (2) The department shall issue a request for proposals within  
27 this state to provide hyperbaric oxygen therapy treatment to  
28 eligible veterans. In determining the providers that will  
29 participate in the pilot program, the department shall prioritize

1 existing providers in this state that meet 1 or more of the  
2 following criteria:

3 (a) Have a medical director who is a physician licensed in  
4 this state.

5 (b) Are staffed with hyperbaric oxygen therapy chamber  
6 technicians that have relevant training and certifications as  
7 determined by the department.

8 (c) Follow treatment protocols for using hyperbaric oxygen  
9 therapy treatment to treat traumatic brain injuries and post-  
10 traumatic stress disorder as determined by the department.

11 (3) An eligible veteran is eligible for hyperbaric oxygen  
12 therapy treatment under the pilot program if the service-related  
13 event that caused the traumatic brain injury or post-traumatic  
14 stress disorder is documented by a physician licensed in this  
15 state.

16 (4) The department, after consulting with the department of  
17 military and veterans affairs, shall promulgate rules to implement  
18 this section under the administrative procedures act of 1969, 1969  
19 PA 306, MCL 24.201 to 24.328, that must include standards for all  
20 of the following:

21 (a) Determination by a provider that an eligible veteran is  
22 eligible for participation in the pilot program by showing 1 of the  
23 following forms as applicable:

24 (i) DD214.

25 (ii) NGB-22.

26 (iii) DD256.

27 (b) Determination by the department that a provider is  
28 eligible to participate in the pilot program, including a  
29 requirement that the provider must maintain compliance with

1 applicable state safety regulations and licensing requirements.

2 (c) Treatment plan requirements, including all of the  
3 following:

4 (i) That a provider must submit to the department, before  
5 providing hyperbaric oxygen therapy treatment to an eligible  
6 veteran, a treatment plan that includes all of the following:

7 (A) A prescription from a physician licensed in this state for  
8 hyperbaric oxygen therapy treatment.

9 (B) Verification by the provider that the eligible veteran is  
10 eligible under subdivision (a) for participation in the pilot  
11 program and voluntarily accepts treatment through the pilot  
12 program.

13 (C) An estimate of the cost of the eligible veteran's  
14 hyperbaric oxygen therapy treatment.

15 (D) Any other information required by the department.

16 (ii) A requirement that both of the following must occur after  
17 the department receives a proposed treatment plan from a provider:

18 (A) Approval or disapproval by the department of the treatment  
19 plan within 10 business days.

20 (B) Notice to the provider of approval or disapproval of the  
21 treatment plan within 15 business days.

22 (iii) Contingent on sufficient funding available in the fund,  
23 approval of each treatment plan that meets the requirements  
24 established by the department under this section.

25 (iv) The sources of funding for the estimated cost of  
26 hyperbaric oxygen therapy treatment for each eligible veteran whose  
27 treatment plan is approved under this section.

28 (d) Criteria for approval of payment for hyperbaric oxygen  
29 therapy treatment that has been verified by the department to have

1 been provided under a treatment plan approved under subdivision  
2 (c), including both of the following:

3 (i) Whether a drug or device used in the treatment plan has  
4 been approved for any purpose by the United States Food and Drug  
5 Administration.

6 (ii) A verification that an eligible veteran received the  
7 treatment, as demonstrated through billing documentation from the  
8 provider, or attendance documentation signed by the provider and  
9 the eligible veteran attesting to the receipt of the treatments.

10 (e) Confidentiality of all individually identifiable patient  
11 information of an eligible veteran.

12 (5) A provider shall bill only the pilot program and be paid  
13 at cost out of a grant made to the provider under the grant program  
14 at a rate agreed to between the provider and the department, which  
15 may be the current state or federal Centers for Medicare and  
16 Medicaid Services rates. A provider shall not bill an eligible  
17 veteran for any service provided under the pilot program.

18 (6) Each provider shall file a quarterly status report  
19 concerning the services performed by the provider under the pilot  
20 program with the department and the department of military and  
21 veterans affairs.

22 (7) By not later than 1 year after the pilot program ends, the  
23 department, in consultation with the department of military and  
24 veterans affairs, shall prepare a report and submit it to the  
25 governor and the chairpersons of the senate and the house of  
26 representatives standing committees on military and veterans  
27 affairs. The report required under this subsection must be made  
28 available on the department's website and contain, at a minimum,  
29 all of the following for the pilot program:

1 (a) An evaluation of the effectiveness of the pilot program.

2 (b) The number of eligible veterans participating.

3 (c) The number of providers participating.

4 Sec. 7. (1) The hyperbaric oxygen therapy treatment fund is  
5 created in the state treasury.

6 (2) The state treasurer shall deposit money and other assets  
7 received from any source in the fund. The state treasurer shall  
8 direct the investment of money in the fund and credit interest and  
9 earnings from the investments to the fund.

10 (3) The department is the administrator of the fund for audits  
11 of the fund.

12 (4) The department shall expend money from the fund on  
13 appropriation, only for 1 or more of the following purposes:

14 (a) Providing grants under the grant program.

15 (b) Establishing and operating the pilot program.