

Act No. 193  
Public Acts of 1990  
Approved by the Governor  
July 23, 1990  
Filed with the Secretary of State  
July 24, 1990

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1990**

Introduced by Reps. Ostling, Gagliardi, Sofio, Van Singel, Stacey, Nye, Allen, Knight, Crandall, London, Trim, Krause, Berman, Pridnia, Martin, Spaniola, Giese, Bender, Middaugh, Randall, Hoffman, Sikkema, Joe Young, Sr., DeMars, Harrison, Jacobetti, Profit, Stupak, Hickner, Mathieu, Fitzgerald, Camp, Power, Strand, Walberg, Johnson, DeLange, Gilmer, Bandstra, Hollister, Gnodtke, Griffin, Niederstadt, Muxlow, Willis Bullard and Leland

## **ENROLLED HOUSE BILL No. 5092**

AN ACT to amend section 109 of Act No. 280 of the Public Acts of 1939, entitled as amended "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," as amended by Act No. 408 of the Public Acts of 1984, being section 400.109 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Section 109 of Act No. 280 of the Public Acts of 1939, as amended by Act No. 408 of the Public Acts of 1984, being section 400.109 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 109. (1) The following medical services may be provided under this act:

(a) Hospital services that an eligible person may receive consist of medical, surgical, or obstetrical care, together with necessary drugs, x-rays, physical therapy, prosthesis, transportation, and nursing care incident to the medical, surgical, or obstetrical care. The period of inpatient hospital service shall be the minimum period necessary in this type of facility for the proper care and treatment of the individual. Necessary hospitalization to provide dental care shall be provided if certified by the attending dentist with the approval of the state department. A person who is receiving medical treatment as an inpatient because of a diagnosis of tuberculosis or mental disease may receive service under this section, notwithstanding the mental health code, Act No. 258 of the Public Acts of 1974, as amended, being sections 330.1001 to 330.2106 of the Michigan Compiled Laws, and Act No. 177 of the Public Acts of 1925, as amended, being sections 332.151 to 332.164 of the Michigan Compiled Laws. The state department shall pay for hospital services in accordance with the state plan for medical assistance adopted pursuant to section 10 and approved by the United States department of health and human services.

(b) An eligible person may receive physician services authorized by the state department. The service may be furnished in the office of the physician, the eligible person's home, a medical institution, or elsewhere in case of emergency. A physician shall be paid a reasonable charge for the service rendered. Reasonable charges shall be determined by the state department and shall not be more than those paid in this state for services rendered under title XVIII.

(c) An eligible person may receive nursing home services in a state licensed nursing home, a medical care facility, or other facility or identifiable unit of that facility, certified by the appropriate authority as meeting established standards for a nursing home under the laws and rules of this state and the United States department of health and human services, to the extent found necessary by the attending physician, dentist, or certified Christian Science practitioner. The state department shall not make a final payment pursuant to title XIX for benefits available under title XVIII without documentation that title XVIII claims have been filed and denied. The state department shall pay for nursing home services in accordance with the state plan for medical assistance adopted pursuant to section 10 and approved by the United States department of health and human services. A county shall reimburse a county maintenance of effort rate determined on an annual basis for each patient day of medicaid nursing home services provided to eligible persons in long term care facilities owned by the county and licensed to provide nursing home services.

(i) For county owned facilities with per patient day updated variable costs exceeding the variable cost limit for the county facility, county maintenance of effort rate means 45% of the difference between per patient day updated variable cost and the concomitant nursing home-class variable cost limit, the quantity offset by the difference between per patient day updated variable cost and the concomitant variable cost limit for the county facility. The county rate shall not be less than zero.

(ii) For county owned facilities with per patient day updated variable costs not exceeding the variable cost limit for the county facility, county maintenance of effort rate means 45% of the difference between per patient day updated variable cost and the concomitant nursing home class variable cost limit.

(iii) For county owned facilities with per patient day updated variable costs not exceeding the concomitant nursing home class variable cost limit, the county maintenance of effort rate shall equal zero.

(iv) For the purposes of this section: "per patient day updated variable costs and the variable cost limit for the county facility" shall be determined pursuant to the state plan for medical assistance; for freestanding county facilities the "nursing home class variable cost limit" shall be determined pursuant to the state plan for medical assistance and for hospital attached county facilities the "nursing class variable cost limit" shall be determined pursuant to the state plan for medical assistance plus \$5.00 per patient day; and "freestanding" and "hospital attached" shall be determined in accordance with the federal regulations.

(v) If the county maintenance of effort rate computed in accordance with this section exceeds the county maintenance of effort rate in effect as of September 30, 1984, the rate in effect as of September 30, 1984 shall remain in effect until such time as the rate computed in accordance with this section is less than the September 30, 1984 rate. This limitation shall be retroactive to December 29, 1989 and shall remain in effect until December 31, 1994. For each subsequent county fiscal year the maintenance of effort may not increase by more than \$1.00 per patient day each year.

(vi) For county owned facilities, reimbursement for plant costs will continue to be based on interest expense and depreciation allowance unless otherwise provided by law.

(d) An eligible person may receive pharmaceutical services from a licensed pharmacist of the person's choice as prescribed by a licensed physician or dentist and approved by the state department. In an emergency, but not routinely, the person may receive pharmaceutical services rendered personally by a licensed physician or dentist on the same basis as approved for pharmacists.

(e) An eligible person may receive other medical and health services as authorized by the state department.

(f) Psychiatric care may also be provided pursuant to the guidelines established by the state department to the extent of appropriations made available by the legislature for the fiscal year.

(2) The director shall provide notice to the public, in accordance with applicable federal regulations, and shall obtain the approval of the committees on appropriations of the house of representatives and senate of the legislature of this state, of any proposed change in the statewide method or level of reimbursement for a service, if the proposed change is expected to increase or decrease payments for that service by 1% or more during the 12 months after the effective date of the change.

(3) As used in this act:

(a) "Title V" means title V of the social security act, Chapter 531, 49 Stat. 620, 42 U.S.C. 701 to 703, 704, and 705 to 709.

(b) "Title XVIII" means title XVIII of the social security act, Chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2 to 1395i, 1395i-1a to 1395i-2, 1395j to 1395dd, 1395ff to 1395mm, and 1395oo to 1395ccc.

(c) "Title XIX" means title XIX of the social security act, Chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396d, 1396f to 1396g, and 1396i to 1396s.

(d) "Title XX" means title XX of the social security act, Chapter 531, 49 Stat. 620, 42 U.S.C. 1397 to 1397e.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.