

# HOUSE BILL No. 4438

March 14, 1989, Introduced by Reps. Perry Bullard, Weeks, Webb, Ciaramitaro, Dutko, Wallace, Leland, Berman and DeMars and referred to the Committee on Social Services and Youth.

A bill to amend section 111b of Act No. 280 of the Public Acts of 1939, entitled as amended

"The social welfare act,"

as amended by Act No. 227 of the Public Acts of 1986, being section 400.111b of the Michigan Compiled Laws; and to add section 106b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 111b of Act No. 280 of the Public Acts  
2 of 1939, as amended by Act No. 227 of the Public Acts of 1986,  
3 being section 400.111b of the Michigan Compiled Laws, is amended  
4 and section 106b is added to read as follows:

5 SEC. 106B. (1) FOR A PERIOD OF 90 DAYS AFTER AN INDIVIDUAL  
6 RECEIVES A REFUND UNDER SECTION 21766(11) OF THE PUBLIC HEALTH  
7 CODE, ACT NO. 368 OF THE PUBLIC ACTS OF 1978, BEING  
8 SECTION 333.21766 OF THE MICHIGAN COMPILED LAWS, THE STATE

1 DEPARTMENT SHALL NOT CONSIDER THE AMOUNT OF THE REFUND TO BE  
2 INCOME OR AN ASSET OF THE INDIVIDUAL FOR PURPOSES OF DETERMINING  
3 THE INDIVIDUAL'S FINANCIAL ELIGIBILITY UNDER SECTION 106.

4 (2) THE STATE DEPARTMENT SHALL SEEK ANY WAIVER NECESSARY TO  
5 IMPLEMENT THIS SECTION FROM THE FEDERAL DEPARTMENT OF HEALTH AND  
6 HUMAN SERVICES.

7 Sec. 111b. (1) As a condition of participation, a provider  
8 shall meet all of the requirements specified in this section  
9 except as provided in subsections (25), (26), and (27).

10 (2) A provider shall comply with all licensing and registra-  
11 tion laws of this state applicable to the provider's practice or  
12 business. ~~In the case of~~ FOR a facility that is periodically  
13 inspected by a licensing authority, maintenance of licensure  
14 shall constitute compliance.

15 (3) A provider shall be certified, if the provider is of the  
16 type for which certification is required by titles XVIII or XIX.

17 (4) A provider shall enter into an agreement of enrollment  
18 specified by the director.

19 (5) A provider who renders a reimbursable service described  
20 in section 109 to a medically indigent individual shall provide  
21 the individual WITH service of the same scope and quality as  
22 would be provided to the general public.

23 (6) A provider shall maintain records necessary to document  
24 fully the extent and cost of services, supplies, or equipment  
25 provided to a medically indigent individual and to substantiate  
26 each claim and, in accordance with professionally accepted

1 standards; the medical necessity, appropriateness, and quality of  
2 service rendered for which a claim is made.

3       (7) ~~A provider, upon~~ UPON request and at a reasonable time  
4 and place, A PROVIDER shall make available any record required to  
5 be maintained by subsection (6) for examination and photocopying  
6 by authorized agents of the director, the department of attorney  
7 general, or federal authorities whose duties and functions are  
8 related to state programs of medical assistance under title XIX.  
9 ~~When~~ IF a provider releases records in response to a request by  
10 the director made pursuant to section 111a(13) or in compliance  
11 with this subsection, that provider shall not be civilly liable  
12 in damages to a patient or to another provider to whom, respec-  
13 tively, the records relate solely, on account of the response or  
14 compliance.

15       (8) A provider shall retain each record required to be main-  
16 tained by subsection (6) for a period of 6 years after the date  
17 of service. A provider who no longer personally retains the  
18 records due to death, retirement, change in ownership, or other  
19 reason, shall insure that a suitable person retains the records  
20 and provides access to the records as required in subsection  
21 (7).

22       (9) A provider shall require, as a condition of any contract  
23 with a person, sole proprietorship, clinic, group, partnership,  
24 corporation, association, or other entity, for the purpose of  
25 generating billings in the name of the provider or on behalf of  
26 the provider to the state department, that the person,  
27 partnership, corporation, or other entity, its representative,

1 successor, or assignee, retain for not less than 6 years, copies  
2 of all documents used in the generation of billings, including  
3 the certifications required by subsection (17), and, if applica-  
4 ble, computer billing tapes when returned by the state  
5 department.

6 (10) A provider shall submit all claims for services  
7 rendered under the program on a form or in a format and with the  
8 supporting documentation specified and required by the director  
9 under section 111a(7)(c). Submission of a claim or claims for  
10 services rendered under the program does not establish in the  
11 provider a right to receive payment from the program.

12 (11) A provider shall submit initial claims for services  
13 rendered within 12 months after the date of service, or within a  
14 shorter period that the director may establish. The director  
15 shall not delegate the authority to establish a time period for  
16 submission of claims under this subsection. The director, with  
17 the appropriate consultation required by section 111a, may pre-  
18 scribe the conditions under which a provider may qualify for a  
19 waiver of the time period established pursuant to this subsection  
20 with respect to a particular submission of a claim. Liability  
21 shall not be imposed upon this state or the medically indigent  
22 individual for payment of claims submitted after the period  
23 established pursuant to this subsection.

24 (12) A provider shall not charge the state more for a serv-  
25 ice rendered to a medically indigent individual than the  
26 provider's customary charge to the general public or another  
27 third party payer for the same or similar service.

1 (13) A provider shall submit information on estimated costs  
2 and charges on a form or in a format and at times that the direc-  
3 tor may specify and require pursuant to section 111a(16)..

4 (14) Except for copayment authorized by the state department  
5 and in conformance with applicable state and federal law, a pro-  
6 vider shall accept payment from the state as payment in full by  
7 the medically indigent individual for services received. A pro-  
8 vider shall not seek payment from the medically indigent individ-  
9 ual, the family, or representative of the individual for either  
10 of the following:

11 (a) Authorized services provided and reimbursed under the  
12 program.

13 (b) Services determined to be medically unnecessary in  
14 accordance with professionally accepted standards.

15 (15) A provider may seek payment from a medically indigent  
16 individual for services not covered nor reimbursed by the program  
17 if the individual elected to receive the services with the knowl-  
18 edge that the services would not be covered nor reimbursed under  
19 the program.

20 (16) A provider promptly shall notify the director of a pay-  
21 ment received by the provider to which the provider is not enti-  
22 tled or which exceeds the amount to which the provider is  
23 entitled. If the provider makes or should have made notification  
24 under this subsection or receives notification of overpayment  
25 under section 111a(17), the provider shall repay, return,  
26 restore, or reimburse, either directly or through adjustment of  
27 payments, the overpayment in the manner required by the

1 director. Failure to repay, return, restore, or reimburse the  
2 overpayment or a consistent pattern of failure to notify the  
3 director shall constitute a conversion of the money by the  
4 provider.

5 (17) As a condition of payment for services rendered to a  
6 medically indigent individual, a provider shall certify that a  
7 claim for payment is true, accurate, prepared with the knowledge  
8 and consent of the provider, and does not contain untrue, mis-  
9 leading, or deceptive information. A provider shall be responsi-  
10 ble for the ongoing supervision of an agent, officer, or employee  
11 who prepares or submits the provider's claims. A provider's cer-  
12 tification required under this subsection shall be prima facie  
13 evidence that the provider knows that the claim or claims are  
14 true, accurate, prepared with his or her knowledge and consent,  
15 do not contain misleading or deceptive information, and are filed  
16 in compliance with the policies, procedures, and instructions,  
17 and on the forms established or developed pursuant to this act.  
18 Certification shall be made in the following manner:

19 (a) For an invoice or other prescribed form submitted  
20 directly to the state department by the provider in claim for  
21 payment for the provision of services, by an indelible mark made  
22 by hand, mechanical or electronic device, stamp, or other means  
23 by the provider, or an agent, officer, or employee of the  
24 provider.

25 (b) For an invoice or other form submitted in claim for pay-  
26 ment for the provision of services submitted indirectly by the  
27 provider to the state department through a person, sole

1 proprietorship, clinic, group, partnership, corporation,  
2 association, or other entity that generates and files claims on a  
3 provider's behalf, by the indelible written name of the provider  
4 on a certification form developed by the director for submission  
5 to the state department with each group of invoices or forms in  
6 claim for payment. The certification form shall indicate the  
7 name of the person, if other than the provider, who signed the  
8 provider's name.

9 (c) For a warrant issued in payment of a claim submitted by  
10 a provider, by the handwritten indelible signature of the payee,  
11 if the payee is a natural person; by the handwritten indelible  
12 signature of an officer, if the payee is a corporation; or by  
13 handwritten indelible signature of a partner, if the payee is a  
14 partnership.

15 (18) A provider shall comply with all requirements estab-  
16 lished under section 111a(1), (2), and (3).

17 (19) A provider shall file with the state department, on  
18 disclosure forms provided by the director, a complete and truth-  
19 ful statement of all of the following:

20 (a) The identity of each individual having, directly or  
21 indirectly, an ownership or beneficial interest in a partnership,  
22 corporation, organization, or other legal entity, except a com-  
23 pany registered pursuant to the securities exchange act of 1934,  
24 ~~15 U.S.C. 78a to 78kk~~ CHAPTER 404, 48 STAT. 881, through which  
25 the provider engages in practice or does business related to  
26 claims or charges against the program. This subdivision does not  
27 apply to a health facility or agency that is required to comply

1 with and has complied with the disclosure requirements of section  
2 20142(3) of the public health code, Act No. 368 of the Public  
3 Acts of 1978, being section 333.20142 of the Michigan Compiled  
4 Laws. With respect to a company registered pursuant to the  
5 securities exchange act of 1934, ~~15 U.S.C. 78a to 78kk,~~ a pro-  
6 vider shall disclose the identity of each individual having,  
7 directly or indirectly, separately or in combination, a 5% or  
8 greater ownership or beneficial interest.

9 (b) The identity of each partnership, corporation, organi-  
10 zation, legal entity, or other affiliate whose practice or busi-  
11 ness is related to a claim or charge against the program in which  
12 the provider has, directly or indirectly, an ownership or benefi-  
13 cial interest, trust agreement, or a general or perfected secur-  
14 ity interest. This subdivision does not apply to a health facil-  
15 ity or agency that is required to comply with and has complied  
16 with the disclosure requirements of section 20142(4) of the  
17 public health code, Act No. 368 of the Public Acts of 1978, being  
18 section 333.20142 of the Michigan Compiled Laws.

19 (c) If applicable to the provider, a copy of a disclosure  
20 form identifying ownership and controlling interests submitted to  
21 the United States department of health and human services in ful-  
22 fillment of a condition of participation in programs established  
23 pursuant to titles V, XVIII, XIX, and XX. To the extent that  
24 information disclosed on this form duplicates information  
25 required to be filed under subdivision (a) or (b), filing a copy  
26 of the form shall satisfy the requirements under those  
27 subdivisions.



1 (20) ~~A provider, when~~ IF requested by the director, A  
2 PROVIDER shall ~~provide~~ SUPPLY complete and truthful information  
3 as to his or her professional qualifications and training, and  
4 his or her licensure in each jurisdiction in which the provider  
5 is licensed or authorized to practice.

6 (21) In the interest of review and control of utilization of  
7 services, a provider shall identify each attending, referring, or  
8 prescribing physician, dentist, or other practitioner by means of  
9 a program identification number on each claim or adjustment of a  
10 claim submitted to the state department.

11 (22) It ~~shall be~~ IS the obligation of a provider to assure  
12 that services, supplies, or equipment provided to, ordered, or  
13 prescribed on behalf of a medically indigent individual by that  
14 provider will meet professionally accepted standards for the med-  
15 ical necessity, appropriateness, and quality of health care.

16 (23) If any service, supply, or equipment provided directly  
17 by a provider, or any service, supply, or equipment prescribed or  
18 ordered by a provider and delivered by someone other than that  
19 provider, is determined not to be medically necessary, not appro-  
20 priate, or not otherwise in accordance with medical assistance  
21 program coverages, the provider who directly provided, ordered,  
22 or prescribed the service, supply, or equipment shall be respon-  
23 sible for direct and complete repayment of any program payment  
24 made to the provider or to any other person for that service,  
25 supply, or equipment. Services, supplies, or equipment provided  
26 by a consulting provider based upon his or her independent  
27 evaluation or assessment of the recipient's needs ~~shall be~~ IS

1 the responsibility of the consulting provider. This subsection  
2 ~~shall~~ DOES not apply ~~for~~ TO the repayment by a provider who  
3 has ordered a nursing home or hospital admission of the service  
4 billed by and reimbursed to a nursing home or hospital. ~~Nor~~  
5 ~~does it~~ THIS SECTION ALSO DOES NOT apply to a nursing home or  
6 hospital unless the nursing home or hospital acted on its own  
7 initiative in providing the service, supply, or equipment as  
8 opposed to following the order or prescription of another.

9 (24) A provider shall satisfy or make acceptable arrangement  
10 to satisfy all previous adjudicated program liabilities including  
11 those adjudicated pursuant to section 111c or established by  
12 agreement between the department and the provider, and restitu-  
13 tion ordered by a court. As used in this subsection, provider  
14 includes, but is not limited to, the provider, the provider's  
15 corporation, partnership, business associates, employees, clinic,  
16 laboratory, provider group, or successors and assignees. For a  
17 nursing home or hospital, "business associates", as used in this  
18 subsection, means those persons whose identity is required to be  
19 disclosed pursuant to section 20142(3) of the public health code,  
20 Act No. 368 of the Public Acts of 1978, being section 333.20142  
21 of the Michigan Compiled Laws.

22 (25) A provider who is a physician, dentist, or other indi-  
23 vidual practitioner shall file with the state department a com-  
24 plete and factual disclosure of the identity of each employer or  
25 contractor to whom the provider is required to submit, in whole  
26 or in part, payment for services provided to a medically indigent  
27 individual as a condition of the provider's agreement of

1 employment or other agreement. A provider who has properly  
2 disclosed the required information by filing a form or forms  
3 shall have 30 business days in which to report changes in the  
4 list of identified individuals and entities. The disclosure  
5 required by this subsection may serve as the provider's authori-  
6 zation for the department to make direct payments to the  
7 employer.

8 (26) As a condition of receiving payment for services  
9 rendered to a medically indigent individual, a provider may  
10 enter, as an employee, into agreements of employment of the type  
11 described in subsection (25) only with an employer who has  
12 entered into an agreement as described in subsection (27).

13 (27) An employer described in subsection (25) shall enter  
14 into an agreement on a form prescribed by the department, in  
15 which, ~~the employer,~~ as a condition of directly receiving pay-  
16 ment for services provided by its employee provider to a medi-  
17 cally indigent individual, THE EMPLOYER agrees to all of the  
18 following:

19 (a) ~~The employer, as~~ AS a condition of employment, ~~shall~~  
20 require the employee provider to submit, in whole or in part,  
21 payments received for services provided to medically indigent  
22 individuals.

23 (b) ~~The employer shall advise~~ ADVISE the department within  
24 30 days after any changes in the employment relationship.

25 (c) ~~The employer shall comply~~ COMPLY with the conditions  
26 of participation established by subsections (6) to (19), (21),  
27 and (27).

1 (d) ~~The employer shall agree~~ AGREE to be jointly and  
2 severally responsible with the employee provider for any overpay-  
3 ments resulting from the department's direct payment under this  
4 section.

5 (e) ~~The employer shall agree~~ AGREE that disputed claims  
6 relative to overpayments shall be adjudicated in administrative  
7 proceedings convened pursuant to section 111c.

8 (28) IF A PROVIDER WHO IS A NURSING HOME INTENDS TO WITHDRAW  
9 FROM PARTICIPATION IN THE TITLE XIX PROGRAM OF THE SOCIAL SECUR-  
10 ITY ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396d,  
11 1396f TO 1396g, AND 1396i TO 1396s, THE PROVIDER SHALL NOTIFY THE  
12 DEPARTMENT IN WRITING. AFTER NOTIFYING THE DEPARTMENT, THE PRO-  
13 VIDER MAY REFUSE TO ADMIT NEW PATIENTS WHO RECEIVE MEDICAL  
14 ASSISTANCE UNDER THIS ACT. HOWEVER, THE PROVIDER SHALL CONTINUE  
15 TO PARTICIPATE IN THE TITLE XIX PROGRAM FOR EACH PATIENT WHO WAS  
16 ADMITTED TO THE NURSING HOME BEFORE THE DATE NOTICE IS GIVEN  
17 UNDER THIS SUBSECTION AND WHO IS OR MAY BECOME ELIGIBLE TO  
18 RECEIVE MEDICAL ASSISTANCE UNDER THIS ACT.