

SENATE BILL No. 399

May 3, 1989, Introduced by Senator GEAKE and referred
to the Committee on Human Resources and Senior
Citizens.

A bill to amend section 106 of Act No. 280 of the Public
Acts of 1939, entitled as amended

"The social welfare act,"

as amended by Act No. 405 of the Public Acts of 1982, being sec-
tion 400.106 of the Michigan Compiled Laws; and to add section
107a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 106 of Act No. 280 of the Public Acts of
2 1939, as amended by Act No. 405 of the Public Acts of 1982, being
3 section 400.106 of the Michigan Compiled Laws, is amended and
4 section 107a is added to read as follows:

5 Sec. 106. (1) A medically indigent individual is defined
6 as:

7 (a) An individual receiving aid to dependent children or an
8 individual receiving supplemental security income under title XVI

1 of the social security act, 42 U.S.C. 1381 to 1385, or state
2 supplementation thereunder subject to limitations imposed by the
3 director pursuant to title XIX, or

4 (b) An individual meeting all of the following conditions:

5 (i) The individual has made application in the manner pre-
6 scribed by the state department.

7 (ii) The individual's need for the type of medical assist-
8 ance available under this act for which application has been made
9 has been professionally established and payment for it is not
10 available through the legal obligation of a contractor, public or
11 private, to pay or provide for the care without regard to the
12 income or resources of the patient. The state department shall
13 be subrogated to any right of recovery which a patient may have
14 for the cost of hospitalization, pharmaceutical services, physi-
15 cian services, nursing services, and other medical services not
16 to exceed the amount of funds expended by the department for the
17 care and treatment of the patient. The patient or other person
18 acting in the patient's behalf shall execute and deliver an
19 assignment of claim or other authorizations as necessary to
20 secure the right of recovery to the department. A payment may be
21 withheld under this act for medical assistance for an injury or
22 disability for which the patient is entitled to medical care or
23 reimbursement for the cost of medical care under sections 3101 to
24 3179 of the insurance code of 1956, Act No. 218 of the Public
25 Acts of 1956, as amended, being sections 500.3101 to 500.3179 of
26 the Michigan Compiled Laws, or under any other policy of
27 insurance providing medical or hospital benefits, or both, for

1 the patient unless the patient's entitlement to that medical care
2 or reimbursement is at issue. If a payment is made, the state
3 department, to enforce its subrogation right, may do either of
4 the following: (a) intervene or join in an action or proceeding
5 brought by the injured, diseased, or disabled person, the
6 person's guardian, personal representative, estate, dependents,
7 or survivors, against the third person who may be liable for the
8 injury, disease, or disability, or against contractors, public or
9 private, who may be liable to pay or provide medical care and
10 services rendered to an injured, diseased, or disabled patient;
11 (b) institute and prosecute a legal proceeding against a third
12 person who may be liable for the injury, disease, or disability,
13 or against contractors, public or private, who may be liable to
14 pay or provide medical care and services rendered to an injured,
15 diseased, or disabled patient, in state or federal court, either
16 alone or in conjunction with the injured, diseased, or disabled
17 person, the person's guardian, personal representative, estate,
18 dependents, or survivors. The state department may institute the
19 proceedings in its own name or in the name of the injured, dis-
20 eased, or disabled person, the person's guardian, personal repre-
21 sentative, estate, dependents, or survivors. As provided in sec-
22 tion 6023 of the revised judicature act of 1961, Act No. 236 of
23 the Public Acts of 1961, as amended, being section 600.6023 of
24 the Michigan Compiled Laws, the state department, in enforcing
25 its subrogation right, shall not satisfy a judgment against the
26 third person's property which is exempt from levy and sale. The
27 injured, diseased, or disabled person may proceed in his or her

1 own name, collecting the costs without the necessity of joining
2 the state department or the state as a named party. The injured,
3 diseased, or disabled person shall notify the state department of
4 the action or proceeding entered into upon commencement of the
5 action or proceeding. An action taken by the state or the state
6 department in connection with the right of recovery afforded by
7 this section shall not operate to deny the injured, diseased, or
8 disabled person any part of the recovery beyond the costs
9 expended on the person's behalf by the state department. The
10 costs of legal action initiated by the state shall be paid by the
11 state. A payment shall not be made under this act for medical
12 assistance for an injury, disease, or disability for which the
13 patient is entitled to medical care or the cost of medical care
14 under the worker's disability compensation act of 1969, Act No.
15 317 of the Public Acts of 1969, as amended, being sections
16 418.101 to 418.941 of the Michigan Compiled Laws; except that
17 payment may be made if an appropriate application for medical
18 care or the cost of the medical care has been made under Act No.
19 317 of the Public Acts of 1969, as amended, entitlement thereto
20 has not been finally determined, and an arrangement satisfactory
21 to the state department has been made for reimbursement if the
22 claim under the worker's disability compensation act of 1969, Act
23 No. 317 of the Public Acts of 1969, as amended, is finally
24 sustained.

25 (iii) The individual has an annual income which is below, or
26 because of medical expenses falls below, the protected basic
27 maintenance level. The protected basic maintenance level for

1 1-person and 2-person families shall be at least 100% of the
2 higher of the payment standards generally used to determine eli-
3 gibility in the aid to dependent children program and the supple-
4 mental security income program under title XVI of the social
5 security act, 42 U.S.C. 1381 to 1385, including state
6 supplementation. For families of 3 or more persons, the pro-
7 tected basic maintenance level shall be at least 100% of the pay-
8 ment standard generally used to determine eligibility in the aid
9 to dependent children program. These levels shall recognize
10 regional variations and shall not exceed 133-1/3% of the payment
11 standard generally used to determine eligibility in the aid to
12 dependent children program.

13 (iv) The individual, if an aid to dependent children related
14 individual and living alone, has liquid or marketable assets of
15 not more than \$1,500.00 in value, or, if a 2-person family, the
16 family has liquid or marketable assets of not more than \$2,000.00
17 in value. The state department shall establish comparable liquid
18 or marketable asset amounts for larger family groups. Excluded
19 in making the determination of the value of liquid or marketable
20 assets are the values of: the homestead; clothing; household
21 effects; \$1,000.00 of cash surrender value of life insurance,
22 except if the health of the insured is such as to make continu-
23 ance of the insurance desirable, the entire cash surrender value
24 of life insurance is to be excluded from consideration, up to the
25 maximums provided or allowed by federal regulations and in
26 accordance with the rules of the state department; the fair
27 market value of tangible personal property used in earning

1 income; and a space or plot purchased for the purposes of burial
2 for the person. For individuals related to the title XVI program
3 of the social security act, 42 U.S.C. 1381 to 1385, the appro-
4 priate resource levels and property exemptions specified therein
5 shall be used.

6 (v) The individual is not an inmate of a public institution
7 except as a patient in a medical institution.

8 (vi) The individual meets the eligibility standards for sup-
9 plemental security income under title XVI of the social security
10 act, 42 U.S.C. 1381 to 1385, or for state supplementation under
11 the act, subject to limitations imposed by the director pursuant
12 to title XIX; or meets the eligibility standards for aid to
13 dependent children, except for income or income and resources; or
14 is a child from 18 to 21 years of age and his or her adult care-
15 taker would be eligible for aid to dependent children except for
16 age, income, or income and resources; or is a child under 21
17 years of age and is from a family whose income is below the basic
18 maintenance level.

19 (vii) THE INDIVIDUAL, IF AN INSTITUTIONALIZED INDIVIDUAL AS
20 DEFINED IN SECTION 1917 (c) (3) OF THE SOCIAL SECURITY ACT, 42
21 U.S.C. 1396p, HAS NOT DISPOSED OF RESOURCES FOR LESS THAN FAIR
22 MARKET VALUE UNDER CONDITIONS DESCRIBED IN SECTION 1917 (c) (1)
23 OF THE SOCIAL SECURITY ACT. AN INSTITUTIONALIZED INDIVIDUAL WHO
24 HAS DISPOSED OF RESOURCES UNDER CONDITIONS DESCRIBED IN SECTION
25 1917 (c) (1) SHALL BE INELIGIBLE FOR MEDICAL ASSISTANCE SERVICES
26 IN A NURSING FACILITY OR MEDICAL INSTITUTION TO THE EXTENT AND
27 FOR THE PERIOD DESCRIBED IN SECTION 1917 (c) (1). AN INDIVIDUAL

1 SHALL NOT BE INELIGIBLE TO THE EXTENT THAT THE RESOURCE WAS
2 DISPOSED OF OR TRANSFERRED UNDER CONDITIONS SPECIFIED IN SECTION
3 1917 (c) (2).

4 (2) As used in this act, "medical institution" means a state
5 licensed or approved hospital, nursing home, medical care facili-
6 ty, psychiatric hospital, or other facility or identifiable unit
7 thereof certified as meeting established standards for a nursing
8 home or hospital in accordance with the laws and rules of this
9 state.

10 SEC. 107A. (1) THE STATE DEPARTMENT MAY FILE A CLAIM
11 AGAINST THE ESTATE OF A DECEASED INDIVIDUAL WHO HAS RECEIVED MED-
12 ICAL ASSISTANCE UNDER TITLE XIX OF THE SOCIAL SECURITY ACT, 42
13 U.S.C. 1396 TO 1396d, 1396f TO 1396g, AND 1396i TO 1396s, FOR
14 RECOUPMENT OF MEDICAL ASSISTANCE PAYMENTS MADE BY THE STATE
15 DEPARTMENT ON BEHALF OF THE INDIVIDUAL TO ANY PROVIDER OF MEDICAL
16 SERVICES OR EQUIPMENT COVERED BY THE MEDICAL ASSISTANCE PROGRAM
17 UNDER BOTH OF THE FOLLOWING CONDITIONS:

18 (A) THE PAYMENTS WERE FOR SERVICES OR EQUIPMENT PROVIDED
19 AFTER THE EFFECTIVE DATE OF THIS ACT.

20 (B) THE PAYMENTS WERE FOR SERVICES OR EQUIPMENT PROVIDED TO
21 AN INDIVIDUAL 65 YEARS OF AGE OR OLDER WHILE THE INDIVIDUAL WAS A
22 PATIENT OR RESIDENT IN A MEDICAL INSTITUTION, REGARDLESS OF
23 WHETHER THE SERVICES OR EQUIPMENT WERE PROVIDED IN THE MEDICAL
24 INSTITUTION OR AT ANOTHER LOCATION.

25 (2) SUBSECTION (1) SHALL NOT APPLY TO THE ESTATE OF A
26 DECEASED INDIVIDUAL IF THE INDIVIDUAL IS SURVIVED BY ANY OF THE
27 FOLLOWING:

1 (A) A SPOUSE.

2 (B) A CHILD WHO IS UNDER THE AGE OF 21.

3 (C) A CHILD OF ANY AGE WHO IS BLIND OR DISABLED AS THOSE
4 TERMS ARE USED IN TITLE XIX OF THE SOCIAL SECURITY ACT.

5 (D) A SIBLING WHO HAS AN EQUITY INTEREST IN THE HOME OF THE
6 DECEASED INDIVIDUAL AND WAS RESIDING IN THE HOME FOR A PERIOD OF
7 AT LEAST 1 YEAR IMMEDIATELY BEFORE THE DATE OF THE DECEASED
8 INDIVIDUAL'S ADMISSION TO A MEDICAL INSTITUTION OR NURSING
9 FACILITY.

10 (E) A CHILD OR SIBLING OF THE DECEASED WHO WAS RESIDING IN
11 THE HOME OF THE DECEASED INDIVIDUAL FOR A PERIOD OF AT LEAST 2
12 YEARS IMMEDIATELY BEFORE THE DATE OF THE DECEASED INDIVIDUAL'S
13 ADMISSION TO A MEDICAL INSTITUTION OR NURSING FACILITY, AND WHO,
14 AS DETERMINED BY THE STATE DEPARTMENT, PROVIDED CARE TO THE
15 DECEASED INDIVIDUAL THAT PERMITTED THE INDIVIDUAL TO RESIDE AT
16 HOME RATHER THAN IN THE INSTITUTION OR FACILITY.