

(2) For products distributed by pharmaceutical manufacturers not providing quarterly rebates as listed in subsection (1), the department may require preauthorization.

Obstetrical and prenatal care.

Sec. 1319. (1) An applicant for Medicaid, whose qualifying condition is pregnancy, shall immediately be presumed to be eligible for Medicaid coverage unless the preponderance of evidence in her application indicates otherwise. The applicant who is qualified as described in this subsection shall be allowed to select or remain with the Medicaid participating obstetrician of her choice.

(2) An applicant qualified as described in subsection (1) shall be given a letter of authorization to receive Medicaid covered services related to her pregnancy. All qualifying applicants shall be entitled to receive all medically necessary obstetrical and prenatal care without preauthorization from a health plan. All claims submitted for payment for obstetrical and prenatal care shall be paid at the Medicaid fee-for-service rate in the event a contract does not exist between the Medicaid participation obstetrical or prenatal care provider and the managed care plan. The applicant shall receive a listing of Medicaid physicians and managed care plans in the immediate vicinity of the applicant's residence.

(3) In the event that an applicant, presumed to be eligible pursuant to subsection (1), is subsequently found to be ineligible, a Medicaid physician or managed care plan that has been providing pregnancy services to an applicant under this section is entitled to reimbursement for those services until the time that they are notified by the department that the applicant was found to be ineligible for Medicaid.

(4) If the preponderance of evidence in an application indicates that the applicant is not eligible for Medicaid, the department shall refer that applicant to the nearest public health clinic or similar entity as a potential source for receiving pregnancy-related services.

(5) This section shall apply to Medicaid managed care.

Ventilator care; hospital beds used.

Sec. 1320. In establishing the total number of acute care beds for any hospital licensed in Michigan, the department shall include in that count all hospital beds that are used for ventilator care due to a contract between the department and a hospital for providing ventilator care services.

First class school district; transactions.

Sec. 1321. (1) A first class school district that:

(a) May be eligible to receive payments for administrative services related to Medicaid school-based health service pursuant to section 1692 of 2002 PA 519, and;

(b) Is required to have a portion of those payments placed in escrow, incidental to the settlement agreement in Michigan Department of Community Health v. Centers for Medicare and Medicaid Services, departmental appeals board, United States department of health and human services, docket no. A-01-01 and A-02-01, and;

(c) Meets the conditions of subsection (2); shall be eligible to receive a disbursement from those escrowed funds in an amount not to exceed \$780,000.00.

(2) The department shall only make the disbursement specified in subsection (1) if the first class school district receiving the disbursement:

(a) Certifies that the disbursed funds shall only be used to reimburse vendors that provided Medicaid billing services on the first class school districts' behalf during the period 1998 to 2002, inclusive and;

(b) Agrees that the payments to the vendors described in subsection (2)(a) shall be made no later than December 31, 2002.

(3) The department shall inform the chairpersons of the senate and house appropriations committees as soon as these transactions occur.

Hospital access agreement.

Sec. 1322. (1) It is the intent of the legislature that HMOs shall have contracts with hospitals within a reasonable distance from their enrollees. If a hospital does not contract with the HMO, in its service area, that hospital shall enter into a hospital access agreement as specified in the MSA bulletin Hospital 01-19.

(2) A hospital access agreement specified in subsection (1) shall be considered an affiliated provider contract pursuant to the requirements contained in chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3580.

Medicaid emergency professional services; 2-tier reimbursement methodology.

Sec. 1323. (1) The department shall maintain the 2-tier reimbursement methodology for Medicaid emergency physicians professional services that was in effect on September 30, 2002, subject to the following conditions:

(a) Payments by case and in the aggregate shall not exceed 80 percent of Medicare payment rates.

(b) Total expenditures for these services shall not exceed the level of total payments made during fiscal year 2001-02, after adjusting for Medicare copayments and deductibles and for changes in utilization.

(2) To ensure that total expenditures stay within the spending constraints of subsection (1)(b), the department shall develop a utilization adjustor for the basic 2-tier payment methodology. The adjustor shall be based on a good faith estimate by the department as to what the expected utilization of emergency room services will be during fiscal year 2002-03, given changes in the number and category of Medicaid recipients. If expenditure and utilization data indicate that the amount and/or type of emergency physician professional services are exceeding the department's estimate, the utilization adjustor shall be applied to the 2-tier reimbursement methodology in such a manner as to reduce aggregate expenditures to the fiscal year 2001-02 adjusted expenditure target.

(3) If federal law, regulation, or judicial ruling finds that this 2-tier reimbursement methodology is not Health Insurance Portability and Accountability Act (HIPAA) compliant prior to the end of fiscal year 2002-03, the department shall immediately provide the chairpersons of the senate and house appropriations subcommittees on community health and their respective fiscal agencies, with the proposed modifications necessary to bring this methodology into compliance.

(4) The proposal specified in subsection (3) should be as consistent as possible with the intent of the methodology specified in this section and must be provided to the subcommittee chairpersons and respective fiscal agencies, no less than 30 days before the effective date of the proposal.

FAMILY INDEPENDENCE AGENCY

Wayne-Highland Park Pitkin district office.

Sec. 1401. From the funds appropriated in part 1 of 2002 PA 529, no funds shall be expended for leased space at the Wayne-Highland Park Pitkin district office located at 245 Pitkin Street in the city of Highland Park and the Wayne-Warren/Conner district office located at 4733 Conner in the city of Detroit after March 30, 2003.

DEPARTMENT OF MANAGEMENT AND BUDGET

Sec. 1450. (1) From the funds appropriated in section 103(3) of 2000 PA 291 to the department of management and budget, building demolitions, \$2,400,000.00 is reappropriated as a grant to the city of Detroit.

(2) The funds can only be expended on costs for demolishing tax-reverted properties within the city of Detroit.

(3) Not more than \$5,000.00 may be expended on any 1 demolition project.

DEPARTMENT OF NATURAL RESOURCES**Game and fish protection fund.**

Sec. 1601. Before September 30, 2003, there shall be appropriated \$560,000.00 from the snowmobile registration fund and \$1,340,000.00 from the off-road vehicle trail improvement fund to the game and fish protection fund, in accordance with the draft advisory report dated October 11, 2002 from the United States department of interior. The \$1,900,000.00 appropriated to the game and fish protection fund is not available for expenditure until appropriated by the legislature.

State waterways fund.

Sec. 1602. (1) For the fiscal year ending September 30, 2003, there shall be appropriated \$7,800,000.00 from the Michigan state waterways fund to the state general fund/general purpose.

(2) The department of natural resources may transfer any unspent balances from the harbor development fund to the Michigan state waterways fund, which may be needed to meet the condition of subsection (1) for the fiscal year ending September 30, 2003.

(3) It is the intent of the legislature that in the future the general fund reimburse the state waterways fund.

DEPARTMENT OF STATE POLICE**Construction of upgraded Detroit crime lab; allocation.**

Sec. 1651. It is the intent of the legislature that up to 10% of federal funds received by the state of Michigan for homeland security equipment upgrade grants to local units be allocated for construction of an upgraded Detroit crime lab.

DEPARTMENT OF TREASURY**Appropriation from Michigan merit award trust fund.**

Sec. 1801. For the fiscal year ending September 30, 2003, there is appropriated from the Michigan merit award trust fund to the general fund the amount of \$50,000,000.00.

Compiler's note: The shaded text was vetoed by the Governor, whose veto message appears in this volume under the heading "Vetoed."

REPEALERS**Repeal of section 1101 of 2001 PA 45.**

Sec. 1901. Section 1101 of 2001 PA 45 is repealed.

Repeal of section 705 of 2001 PA 59.

Sec. 1902. Section 705 of 2001 PA 59 is repealed.

Repeal of section 1627 of 2002 PA 519.

Sec. 1903. Section 1627 of 2002 PA 519 is repealed.

Repeal of section 1607 of 2002 PA 519.

Sec. 1904. Section 1607 of 2002 PA 519 is repealed.

This act is ordered to take immediate effect.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

[No. 747]**(SB 28)**

AN ACT to amend 1976 PA 295, entitled “An act to improve and maintain transportation services in this state; to provide for the acquisition and use of funds; to provide for the acquisition of certain railroad facilities and certain property; to provide for the disposition and use of facilities and property acquired under this act; to provide for financial assistance to certain private transportation services; to prescribe the powers and duties of certain state departments and agencies; to provide for the transfer of certain funds; to provide for the creation of certain funds; and to provide for appropriations,” (MCL 474.51 to 474.70) by adding section 15a.

The People of the State of Michigan enact:

474.65a Rail infrastructure loan fund.

Sec. 15a. (1) The rail infrastructure loan fund is created to implement the rail infrastructure loan program in the state transportation department. Subject to the maximum established by this section, the legislature shall appropriate an amount not to exceed \$3,000,000.00 each year to the rail infrastructure loan fund until the maximum in subsection (5) is met. Interest earned and repayments received and any penalties assessed and received for failure to repay loans on time shall be credited to the fund. The rail infrastructure loan fund is a self-sustaining revolving loan fund to finance construction and improvements that are designed for improvements to freight railroad infrastructure for the purposes of preserving, rebuilding, rehabilitating, or constructing facilities or improvements on railroad operating property or property adjacent to railroad operating property, in this state. Construction is limited to those facilities or improvements required to continue rail service on a particular line or to improve the efficiency and safety of existing rail service. If the department determines that the public interest requires, a loan may be made to eligible applicants provided by subsection (2) to acquire rail property for the purpose of preserving freight rail service or improving the efficiency of existing freight rail service. An eligible applicant described in subsection (2) may apply for a loan from the

fund for the purposes described in this section or for use as nonfederal match for any federal rail infrastructure loan program.

(2) The fund shall provide noninterest bearing loans for the purposes described in this section. The department shall evaluate loan applications according to the relative merit of the project in conjunction with program goals and make recommendations to the state transportation commission regarding each loan application. The state transportation commission shall approve or deny the loans and establish loan disbursement and payment schedules based on the needs of the work in progress. A loan shall fund not more than 90% of the rail portion of project costs, and the loan repayment period shall not exceed 10 years. A county, city, township, village, economic development corporation, and railroad and current or potential users of freight railroad services are eligible applicants.

(3) At the end of each fiscal year, unexpended funds shall remain in the rail infrastructure loan fund and shall be available for the purposes of the program in the succeeding fiscal year. Amounts in the fund may be combined by the state treasurer with other amounts in the state treasury for purposes of cash management. The earnings from the investment of the fund shall accrue to the fund. The fund shall be accounted for separately from other funds of the state. The fund may receive gifts or grants for the purposes of the fund. Any penalties assessed and received for failure to repay a loan on time and money that is received by this state as repayment for rail infrastructure loans made pursuant to this program shall remain within the rail infrastructure loan fund and shall only be used for the purposes of rail infrastructure loans as provided in this section.

(4) By December 31 each year, the department shall report to the house and senate appropriations subcommittees on transportation and the house and senate fiscal agencies the following information, as appropriate, regarding this section and on a separate report the rail freight fund under section 17:

(a) The beginning fund balance of each fund, revenues received, expenditures and encumbrances incurred, and the ending fund balance for each fund for the preceding fiscal year.

(b) The projects funded during the preceding fiscal year.

(c) The status of projects funded in the preceding fiscal years including the degree to which the projects funded have achieved the objectives of this act.

(d) Status of all outstanding loans.

(e) Any other information considered necessary by the department.

(5) The state's total contribution to the rail infrastructure loan fund shall not exceed \$15,000,000.00 exclusive of interest and any penalties assessed, received, and credited to the fund.

This act is ordered to take immediate effect.

Approved December 30, 2002.

Filed with Secretary of State December 30, 2002.

