

# SENATE BILL No. 1151

March 15, 2006, Introduced by Senators ALLEN and McMANUS and referred to the Committee on Health Policy.

A bill to amend 1980 PA 350, entitled  
"The nonprofit health care corporation reform act,"  
by amending sections 502 and 502a (MCL 550.1502 and 550.1502a),  
section 502 as amended by 2003 PA 59 and section 502a as amended by  
1998 PA 446.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 502. (1) A health care corporation may enter into  
2 participating contracts for reimbursement with professional health  
3 care providers practicing legally in this state for health care  
4 services or with health practitioners practicing legally in any  
5 other jurisdiction for health care services that the professional  
6 health care providers or practitioners may legally perform. A  
7 participating contract may cover all members or may be a separate

1 and individual contract on a per claim basis, as set forth in the  
2 provider class plan, if, in entering into a separate and individual  
3 contract on a per claim basis, the participating provider certifies  
4 to the health care corporation:

5 (a) That the provider will accept payment from the corporation  
6 as payment in full for services rendered for the specified claim  
7 for the member indicated.

8 (b) That the provider will accept payment from the corporation  
9 as payment in full for all cases involving the procedure specified,  
10 for the duration of the calendar year. As used in this subdivision,  
11 provider does not include a person licensed as a dentist under part  
12 166 of the public health code, 1978 PA 368, MCL 333.16601 to  
13 333.16648.

14 (c) That the provider will not determine whether to  
15 participate on a claim on the basis of the race, color, creed,  
16 marital status, sex, national origin, residence, age, disability,  
17 or lawful occupation of the member entitled to health care  
18 benefits.

19 (2) A contract entered into pursuant to subsection (1) shall  
20 provide that the private provider-patient relationship shall be  
21 maintained to the extent provided for by law. A health care  
22 corporation shall continue to offer a reimbursement arrangement to  
23 any class of providers with which it has contracted prior to August  
24 27, 1985 and that continues to meet the standards set by the  
25 corporation for that class of providers.

26 (3) A health care corporation shall not restrict the methods  
27 of diagnosis or treatment of professional health care providers who

1 treat members. Except as otherwise provided in section 502a, each  
2 member of the health care corporation shall at all times have a  
3 choice of professional health care providers. This subsection does  
4 not apply to limitations in benefits contained in certificates, to  
5 the reimbursement provisions of a provider contract or  
6 reimbursement arrangement, or to standards set by the corporation  
7 for all contracting providers. A health care corporation may refuse  
8 to reimburse a health care provider for health care services that  
9 are overutilized, including those services rendered, ordered, or  
10 prescribed to an extent that is greater than reasonably necessary.

11 (4) A health care corporation may provide to a member, upon  
12 request, a list of providers with whom the corporation contracts,  
13 for the purpose of assisting a member in obtaining a type of health  
14 care service. However, except as otherwise provided in section  
15 502a, an employee, agent, or officer of the corporation, or an  
16 individual on the board of directors of the corporation, shall not  
17 make recommendations on behalf of the corporation with respect to  
18 the choice of a specific health care provider. Except as otherwise  
19 provided in section 502a, an employee, agent, or officer of the  
20 corporation, or a person on the board of directors of the  
21 corporation who influences or attempts to influence a person in the  
22 choice or selection of a specific professional health care provider  
23 on behalf of the corporation, is guilty of a misdemeanor.

24 (5) A health care corporation shall provide a symbol of  
25 participation, which can be publicly displayed, to providers who  
26 participate on all claims for covered health care services rendered  
27 to subscribers.

1           (6) This section does not impede the lawful operation of, or  
2     lawful promotion of, a health maintenance organization owned by a  
3     health care corporation.

4           (7) Contracts entered into under this section with  
5     professional health care providers licensed in this state are  
6     subject to the provisions of sections 504 to 518.

7           (8) A health care corporation shall not deny participation to  
8     a freestanding surgical outpatient facility on the basis of  
9     ownership if the facility meets the reasonable standards set by the  
10    health care corporation for similar facilities, is licensed under  
11    part 208 of the public health code, 1978 PA 368, MCL 333.20801 to  
12    333.20821, and complies with part 222 of the public health code,  
13    1978 PA 368, MCL 333.22201 to 333.22260.

14    ~~—— (9) Notwithstanding any other provision of this act, if a~~  
15    ~~certificate provides for benefits for services that are within the~~  
16    ~~scope of practice of optometry, a health care corporation is not~~  
17    ~~required to provide benefits or reimburse for a practice of~~  
18    ~~optometric service unless that service was included in the~~  
19    ~~definition of practice of optometry under section 17401 of the~~  
20    ~~public health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.~~

21           (9) ~~—(10)—~~ Notwithstanding any other provision of this act, a  
22     health care corporation is not required to reimburse for services  
23     otherwise covered under a certificate if the services were  
24     performed by a member of a health care profession, which health  
25     care profession was not licensed or registered by this state on or  
26     before January 1, 1998 but that becomes a health care profession  
27     licensed or registered by this state after January 1, 1998. This

1 subsection does not change the status of a health care profession  
2 that was licensed or registered by this state on or before January  
3 1, 1998.

4       Sec. 502a. (1) For the purpose of doing business as an  
5 organization under the prudent purchaser act, 1984 PA 233, MCL  
6 550.51 to 550.63, a health care corporation may enter into prudent  
7 purchaser agreements with health care providers pursuant to this  
8 section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to  
9 550.63.

10       (2) A health care corporation may offer group contracts under  
11 which subscribers shall be required, as a condition of coverage, to  
12 obtain services exclusively from health care providers who have  
13 entered into prudent purchaser agreements.

14       (3) An individual who is a member of a group who is offered  
15 the option of being a subscriber under a contract pursuant to  
16 subsection (2) shall also be offered the option of being a  
17 subscriber under a contract pursuant to subsection (4). This  
18 subsection applies only if the group in which the individual is a  
19 member has 25 or more members or if the provider panel that is  
20 providing the services under the contract is limited by the  
21 organization to a specific number pursuant to section 3(1) of the  
22 prudent purchaser act, 1984 PA 233, MCL 550.53.

23       (4) A health care corporation may offer group contracts under  
24 which subscribers who elect to obtain services from health care  
25 providers who have entered into prudent purchaser agreements shall  
26 realize a financial advantage or other advantage by selecting such  
27 providers. Contracts offered pursuant to this subsection shall not,

1 as a condition of coverage, require subscribers to obtain services  
2 exclusively from health care providers who have entered into  
3 prudent purchaser agreements.

4 (5) An individual who is a member of a group who is offered  
5 the option of being a subscriber under a contract pursuant to  
6 subsection (2) or (4) shall also be offered the option of being a  
7 subscriber under a contract that:

8 (a) Does not, as a condition of coverage, require subscribers  
9 to obtain services exclusively from health care providers who have  
10 entered into prudent purchaser agreements.

11 (b) Does not give a financial advantage or other advantage to  
12 a subscriber who elects to obtain services from health care  
13 providers who have entered into prudent purchaser agreements.

14 (6) Subsection (5) applies only if the group in which the  
15 individual is a member has 25 or more members and if the group on  
16 December 20, 1984 had health care coverage through the group  
17 sponsor.

18 (7) A health care corporation may offer individual contracts  
19 under which subscribers shall be required, as a condition of  
20 coverage, to obtain services exclusively from health care providers  
21 who have entered into prudent purchaser agreements. A person to  
22 whom such a contract is offered shall also be offered a contract  
23 that:

24 (a) Does not, as a condition of coverage, require subscribers  
25 to obtain services exclusively from health care providers who have  
26 entered into prudent purchaser agreements.

27 (b) Does not give a financial advantage or other advantage to

1 a subscriber who elects to obtain services from health care  
2 providers who have entered into prudent purchaser agreements.

3 (8) A health care corporation may offer individual contracts  
4 under which subscribers who elect to obtain services from health  
5 care providers who have entered into prudent purchaser agreements  
6 shall realize a financial advantage or other advantage by selecting  
7 such providers. Contracts offered pursuant to this subsection shall  
8 not, as a condition of coverage, require subscribers to obtain  
9 services exclusively from health care providers who have entered  
10 into prudent purchaser agreements. A person to whom such a contract  
11 is offered shall also be offered a contract that:

12 (a) Does not, as a condition of coverage, require subscribers  
13 to obtain services exclusively from health care providers who have  
14 entered into prudent purchaser agreements.

15 (b) Does not give a financial advantage or other advantage to  
16 a subscriber who elects to obtain services from health care  
17 providers who have entered into prudent purchaser agreements.

18 (9) The rates charged by a corporation for coverage under  
19 contracts issued under this section shall not be unreasonably lower  
20 than what is necessary to meet the expenses of the corporation for  
21 providing this coverage and shall not have an anticompetitive  
22 effect or result in predatory pricing in relation to prudent  
23 purchaser agreement coverages offered by other organizations.

24 (10) Contracts entered into under this section are not subject  
25 to the provisions of sections 504 to 518.

26 (11) A corporation shall not discriminate against a class of  
27 health care providers when entering into prudent purchaser

1 agreements with health care providers for its provider panel. This  
2 subsection does not:

3 (a) Prohibit the formation of a provider panel consisting of a  
4 single class of providers when a service provided for in the  
5 specifications of a purchaser may be legally provided only by a  
6 single class of providers.

7 (b) Prohibit the formation of a provider panel that conforms  
8 to the specifications of a purchaser of the coverage authorized by  
9 this section so long as the specifications do not exclude any class  
10 of health care providers who may legally perform the services  
11 included in the coverage.

12 (c) Require an organization that has uniformly applied the  
13 standards filed pursuant to section 3(3) of the prudent purchaser  
14 act, 1984 PA 233, MCL 550.53, to contract with any individual  
15 provider.

16 (12) Nothing in the 1984 amendatory act that added this  
17 section applies to any contract that was in existence before  
18 December 20, 1984, or the renewal of such contract.

19 ~~— (13) Notwithstanding any other provision of this act, if~~  
20 ~~coverage under a prudent purchaser agreement provides for benefits~~  
21 ~~for services that are within the scope of practice of optometry, a~~  
22 ~~health care corporation is not required to provide benefits or~~  
23 ~~reimburse for a practice of optometric service unless that service~~  
24 ~~was included in the definition of practice of optometry under~~  
25 ~~section 17401 of the public health code, 1978 PA 368, MCL~~  
26 ~~333.17401, as of May 20, 1992.~~

27 (13) ~~—(14)—~~ Notwithstanding any other provision of this act, a



1 health care corporation offering coverage under a prudent purchaser  
2 agreement is not required to reimburse for services otherwise  
3 covered if the services were performed by a member of a health care  
4 profession, which health care profession was not licensed or  
5 registered by this state on or before January 1, 1998 but that  
6 becomes a health care profession licensed or registered by this  
7 state after January 1, 1998. This subsection does not change the  
8 status of a health care profession that was licensed or registered  
9 by this state on or before January 1, 1998.