

SENATE BILL No. 673

November 29, 2017, Introduced by Senator HUNE and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 2006, 3407b, and 3476 (MCL 500.2006, 500.3407b, and 500.3476), as amended by 2016 PA 276.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2006. (1) A person must pay on a timely basis to its
2 insured, a person directly entitled to benefits under its insured's
3 insurance contract, or a third party tort claimant the benefits
4 provided under the terms of its policy, or, in the alternative, the
5 person must pay to its insured, a person directly entitled to
6 benefits under its insured's insurance contract, or a third party
7 tort claimant 12% interest, as provided in subsection (4), on
8 claims not paid on a timely basis. Failure to pay claims on a

1 timely basis or to pay interest on claims as provided in subsection
2 (4) is an unfair trade practice unless the claim is reasonably in
3 dispute.

4 (2) A person shall not be found to have committed an unfair
5 trade practice under this section if the person is found liable for
6 a claim pursuant to a judgment rendered by a court of law, and the
7 person pays to its insured, the person directly entitled to
8 benefits under its insured's insurance contract, or the third party
9 tort claimant interest as provided in subsection (4).

10 (3) An insurer shall specify in writing the materials that
11 constitute a satisfactory proof of loss not later than 30 days
12 after receipt of a claim unless the claim is settled within the 30
13 days. If proof of loss is not supplied as to the entire claim, the
14 amount supported by proof of loss is considered paid on a timely
15 basis if paid within 60 days after receipt of proof of loss by the
16 insurer. Any part of the remainder of the claim that is later
17 supported by proof of loss is considered paid on a timely basis if
18 paid within 60 days after receipt of the proof of loss by the
19 insurer. If the proof of loss provided by the claimant contains
20 facts that clearly indicate the need for additional medical
21 information by the insurer in order to determine its liability
22 under a policy of life insurance, the claim is considered paid on a
23 timely basis if paid within 60 days after receipt of necessary
24 medical information by the insurer. Payment of a claim is not
25 untimely during any period in which the insurer is unable to pay
26 the claim if there is no recipient who is legally able to give a
27 valid release for the payment, or if the insurer is unable to

1 determine who is entitled to receive the payment, if the insurer
2 has promptly notified the claimant of that inability and has
3 offered in good faith to promptly pay the claim ~~upon~~ **ON**
4 determination of who is entitled to receive the payment.

5 (4) If benefits are not paid on a timely basis, the benefits
6 paid bear simple interest from a date 60 days after satisfactory
7 proof of loss was received by the insurer at the rate of 12% per
8 annum, if the claimant is the insured or a person directly entitled
9 to benefits under the insured's insurance contract. If the claimant
10 is a third party tort claimant, the benefits paid bear interest
11 from a date 60 days after satisfactory proof of loss was received
12 by the insurer at the rate of 12% per annum if the liability of the
13 insurer for the claim is not reasonably in dispute, the insurer has
14 refused payment in bad faith, and the bad faith was determined by a
15 court of law. The interest must be paid in addition to and at the
16 time of payment of the loss. If the loss exceeds the limits of
17 insurance coverage available, interest is payable based on the
18 limits of insurance coverage rather than the amount of the loss. If
19 payment is offered by the insurer but is rejected by the claimant,
20 and the claimant does not subsequently recover an amount in excess
21 of the amount offered, interest is not due. Interest paid as
22 provided in this section must be offset by any award of interest
23 that is payable by the insurer as provided in the award.

24 (5) If a person contracts to provide benefits and reinsures
25 all or a portion of the risk, the person contracting to provide
26 benefits is liable for interest due to an insured, a person
27 directly entitled to benefits under its insured's insurance

1 contract, or a third party tort claimant under this section if a
2 reinsurer fails to pay benefits on a timely basis.

3 (6) If there is any specific inconsistency between this
4 section and chapter 31 or the worker's disability compensation act
5 of 1969, 1969 PA 317, MCL 418.101 to 418.941, the provisions of
6 this section do not apply. Subsections (7) to (14) do not apply to
7 a person regulated under the worker's disability compensation act
8 of 1969, 1969 PA 317, MCL 418.101 to 418.941. Subsections (7) to
9 (14) do not apply to the processing and paying of Medicaid claims
10 that are covered under section 111i of the social welfare act, 1939
11 PA 280, MCL 400.111i.

12 (7) Subsections (1) to (6) do not apply and subsections (8) to
13 (14) do apply to health plans when paying claims to health
14 professionals, health facilities, home health care providers, and
15 durable medical equipment providers, that are not pharmacies and
16 that do not involve claims arising out of chapter 31 or the
17 worker's disability compensation act of 1969, 1969 PA 317, MCL
18 418.101 to 418.941. This section does not affect a health plan's
19 ability to prescribe the terms and conditions of its contracts,
20 other than as provided in this section for timely payment.

21 (8) Each health professional, health facility, home health
22 care provider, and durable medical equipment provider in billing
23 for services rendered and each health plan in processing and paying
24 claims for services rendered shall use the following timely
25 processing and payment procedures:

26 (a) A clean claim must be paid within 45 days after receipt of
27 the claim by the health plan. A clean claim that is not paid within

1 45 days bears simple interest at a rate of 12% per annum.

2 (b) A health plan shall notify the health professional, health
3 facility, home health care provider, or durable medical equipment
4 provider within 30 days after receipt of the claim by the health
5 plan of all known reasons that prevent the claim from being a clean
6 claim.

7 (c) A health professional, health facility, home health care
8 provider, or durable medical equipment provider has 45 days, and
9 any additional time the health plan permits, after receipt of a
10 notice under subdivision (b) to correct all known defects. The 45-
11 day time period in subdivision (a) is tolled from the date of
12 receipt of a notice to a health professional, health facility, home
13 health care provider, or durable medical equipment provider under
14 subdivision (b) to the date of the health plan's receipt of a
15 response from the health professional, health facility, home health
16 care provider, or durable medical equipment provider.

17 (d) If a health professional's, health facility's, home health
18 care provider's, or durable medical equipment provider's response
19 under subdivision (c) makes the claim a clean claim, the health
20 plan shall pay the health professional, health facility, home
21 health care provider, or durable medical equipment provider within
22 the 45-day time period under subdivision (a), excluding any time
23 period tolled under subdivision (c).

24 (e) If a health professional's, health facility's, home health
25 care provider's, or durable medical equipment provider's response
26 under subdivision (c) does not make the claim a clean claim, the
27 health plan shall notify the health professional, health facility,

1 home health care provider, or durable medical equipment provider of
2 an adverse claim determination and of the reasons for the adverse
3 claim determination within the 45-day time period under subdivision
4 (a), excluding any time period tolled under subdivision (c).

5 (f) A health professional, health facility, home health care
6 provider, or durable medical equipment provider must bill a health
7 plan within 1 year after the date of service or the date of
8 discharge from the health facility in order for a claim to be a
9 clean claim.

10 (g) A health professional, health facility, home health care
11 provider, or durable medical equipment provider shall not resubmit
12 the same claim to the health plan unless the time period under
13 subdivision (a) has passed or as provided in subdivision (c).

14 (h) A health plan that is a qualified health plan for the
15 purposes of 45 CFR 156.270 and that, as required in 45 CFR
16 156.270(d), provides a 3-month grace period to an enrollee who is
17 receiving advance payments of the premium tax credit and who has
18 paid 1 full month's premium may pend claims for services rendered
19 to the enrollee in the second and third months of the grace period.
20 A claim during the second and third months of the grace period is
21 not a clean claim under this section, and interest is not payable
22 under subdivision (a) on that claim if the health plan has complied
23 with the notice requirements of 45 CFR 155.430 and 45 CFR 156.270.

24 (9) Notices required under subsection (8) must be made in
25 writing or electronically.

26 (10) If a health plan determines that 1 or more services
27 listed on a claim are payable, the health plan shall pay for those

1 services and shall not deny the entire claim because 1 or more
2 other services listed on the claim are defective. This subsection
3 does not apply if a health plan and health professional, health
4 facility, home health care provider, or durable medical equipment
5 provider have an overriding contractual reimbursement arrangement.

6 (11) A health plan shall not terminate the affiliation status
7 or the participation of a health professional, health facility,
8 home health care provider, or durable medical equipment provider
9 with a health maintenance organization provider panel or otherwise
10 discriminate against a health professional, health facility, home
11 health care provider, or durable medical equipment provider because
12 the health professional, health facility, home health care
13 provider, or durable medical equipment provider claims that a
14 health plan has violated subsections (7) to (10).

15 (12) A health professional, health facility, home health care
16 provider, durable medical equipment provider, or health plan
17 alleging that a timely processing or payment procedure under
18 subsections (7) to (11) has been violated may file a complaint with
19 the director on a form approved by the director and has a right to
20 a determination of the matter by the director or his or her
21 designee. This subsection does not prohibit a health professional,
22 health facility, home health care provider, durable medical
23 equipment provider, or health plan from seeking court action.

24 (13) In addition to any other penalty provided for by law, the
25 director may impose a civil fine of not more than \$1,000.00 for
26 each violation of subsections (7) to (11) not to exceed \$10,000.00
27 in the aggregate for multiple violations.

1 (14) As used in subsections (7) to (13):

2 (a) "Clean claim" means a claim that does all of the
3 following:

4 (i) Identifies the health professional, health facility, home
5 health care provider, or durable medical equipment provider that
6 provided service sufficiently to verify, if necessary, affiliation
7 status and includes any identifying numbers.

8 (ii) Sufficiently identifies the patient and health plan
9 subscriber.

10 (iii) Lists the date and place of service.

11 (iv) Is a claim for covered services for an eligible
12 individual.

13 (v) If necessary, substantiates the medical necessity and
14 appropriateness of the service provided.

15 (vi) If prior authorization is required for certain patient
16 services, contains information sufficient to establish that prior
17 authorization was obtained.

18 (vii) Identifies the service rendered using a generally
19 accepted system of procedure or service coding.

20 (viii) Includes additional documentation based on services
21 rendered as reasonably required by the health plan.

22 (b) "Health facility" means a health facility or agency
23 licensed under article 17 of the public health code, 1978 PA 368,
24 MCL 333.20101 to 333.22260.

25 (c) "Health plan" means all of the following:

26 (i) An insurer providing benefits under a health insurance
27 policy, including a policy, certificate, or contract that provides

1 coverage for specific diseases or accidents only, an expense-
2 incurred vision or dental policy, or a hospital indemnity, Medicare
3 supplement, long-term care, or 1-time limited duration policy or
4 certificate, but not to payments made to an administrative services
5 only or cost-plus arrangement.

6 (ii) A MEWA regulated under chapter 70 that provides hospital,
7 medical, surgical, vision, dental, and sick care benefits.

8 (d) "Health professional" means an individual licensed,
9 registered, or otherwise authorized to engage in a health
10 profession under article 15 of the public health code, 1978 PA 368,
11 MCL 333.16101 to 333.18838.

12 ~~—— (15) This section does not apply to a nonprofit dental care~~
13 ~~corporation operating under 1963 PA 125, MCL 550.351 to 550.373.~~

14 Sec. 3407b. (1) An insurer that delivers, issues for delivery,
15 or renews in this state a health insurance policy shall not require
16 an insured or his or her dependent or an asymptomatic applicant for
17 insurance or his or her asymptomatic dependent to do either of the
18 following:

19 (a) Undergo genetic testing before issuing, renewing, or
20 continuing the policy in this state.

21 (b) Disclose whether genetic testing has been conducted or the
22 results of genetic testing or genetic information.

23 (2) As used in this section:

24 (a) "Clinical purposes" includes all of the following:

25 (i) Predicting risk of diseases.

26 (ii) Identifying carriers for single-gene disorders.

27 (iii) Establishing prenatal and clinical diagnosis or

1 prognosis.

2 (iv) Prenatal, newborn, and other carrier screening, as well
3 as testing in high-risk families.

4 (v) Testing for metabolites if undertaken with high
5 probability that an excess or deficiency of the metabolite
6 indicates or suggests the presence of heritable mutations in single
7 genes.

8 (vi) Other testing if the intended purpose is diagnosis of a
9 presymptomatic genetic condition.

10 (b) "Genetic information" means information about a gene, gene
11 product, or inherited characteristic derived from a genetic test.

12 (c) "Genetic test" means the analysis of human DNA, RNA,
13 chromosomes, and those proteins and metabolites used to detect
14 heritable or somatic disease-related genotypes or karyotypes for
15 clinical purposes. A genetic test must be generally accepted in the
16 scientific and medical communities as being specifically
17 determinative for the presence, absence, or mutation of a gene or
18 chromosome to qualify under this definition. Genetic test does not
19 include a routine physical examination or a routine analysis,
20 including, but not limited to, a chemical analysis, of body fluids,
21 unless conducted specifically to determine the presence, absence,
22 or mutation of a gene or chromosome.

23 (D) AFTER DECEMBER 31, 2017, "INSURER" INCLUDES A NONPROFIT
24 DENTAL CARE CORPORATION OPERATING UNDER 1963 PA 125, MCL 550.351 TO
25 550.373.

26 Sec. 3476. (1) An insurer that delivers, issues for delivery,
27 or renews in this state a health insurance policy shall not require

1 face-to-face contact between a health care professional and a
2 patient for services appropriately provided through telemedicine,
3 as determined by the insurer. Telemedicine services must be
4 provided by a health care professional who is licensed, registered,
5 or otherwise authorized to engage in his or her health care
6 profession in the state where the patient is located. Telemedicine
7 services are subject to all terms and conditions of the health
8 insurance policy agreed upon between the policy holder and the
9 insurer, including, but not limited to, required copayments,
10 coinsurances, deductibles, and approved amounts.

11 (2) As used in this section: ~~,"telemedicine"~~

12 (A) **AFTER DECEMBER 31, 2017, "INSURER" INCLUDES A NONPROFIT**
13 **DENTAL CARE CORPORATION OPERATING UNDER 1963 PA 125, MCL 550.351 TO**
14 **550.373.**

15 (B) **"TELEMEDICINE"** means the use of an electronic media to
16 link patients with health care professionals in different
17 locations. To be considered telemedicine under this section, the
18 health care professional must be able to examine the patient via a
19 real-time, interactive audio or video, or both, telecommunications
20 system and the patient must be able to interact with the off-site
21 health care professional at the time the services are provided.

22 Enacting section 1. This amendatory act does not take effect
23 unless Senate Bill No. 631 of the 99th Legislature is enacted into
24 law.