

# HOUSE BILL NO. 5515

February 20, 2020, Introduced by Rep. Reilly and referred to the Committee on Health Policy.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 55, 66a, 109, and 109e (MCL 400.55, 400.66a, 400.109, and 400.109e), section 55 as amended by 2015 PA 90, section 109 as amended by 2018 PA 315, and section 109e as added by 1996 PA 124.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1       Sec. 55. The county department shall administer a public
- 2 welfare program, as follows:



1 (a) To grant general assistance, including medical care and  
2 care in the county medical care facility, but not including  
3 hospitalization and infirmary care except for care in the county  
4 medical care facility or a county infirmary existing on January 1,  
5 1981, to ~~any person~~**an individual** domiciled in the county who has a  
6 legal settlement in this state. General assistance may also be  
7 granted to a ~~person~~**an individual** who has a legal settlement in  
8 this state but no domicile in the county and a recoupment may be  
9 made ~~when~~**if** appropriate in the manner provided in cases of  
10 emergency hospitalization under this act. In a temporary emergency,  
11 general assistance may be given to indigents without a settlement  
12 in this state as the county department considers necessary,  
13 including, if other ~~funds are~~**money is** not available for the  
14 purpose, all necessary expenses in transporting an indigent to his  
15 or her domicile in this state, or in another state or nation, ~~when~~  
16 **if** information reasonably tends to show that the ~~person~~**individual**  
17 has a home available in his or her place of domicile in this state  
18 or a legal residence in another state or nation. A legal settlement  
19 in this state is acquired by an emancipated ~~person~~**individual** who  
20 has lived continuously in this state for 1 year with the intent to  
21 make it his or her home and who, during the 1-year period has not  
22 received public assistance, other than assistance received during  
23 and as a direct result of a civil defense emergency, or support  
24 from relatives. Time spent in a public institution ~~shall~~**is** not be  
25 counted in determining settlement. A legal settlement ~~shall be~~**is**  
26 lost by remaining away from this state for an uninterrupted period  
27 of 1 year except that absence from this state for labor or other  
28 special or temporary purpose ~~shall~~**does** not occasion loss of  
29 settlement.



1 (b) To administer categorical assistance including medical  
2 care.

3 (c) To supervise and be responsible for the operation of the  
4 county infirmary and county medical care facility. In a county  
5 having a population of 1,000,000 or more that maintains a county  
6 infirmary or county hospital or a joint infirmary and hospital  
7 providing for mental patients, the institution and the admissions  
8 to the institution are subject to the control of a board to be  
9 known as the board of county institutions. The board shall consist  
10 of 5 members appointed by the county board of commissioners, except  
11 that in a county having a board of county auditors, 3 members of  
12 the board of county institutions ~~shall~~**must** be appointed by the  
13 county board of commissioners and 2 members ~~shall~~**must** be appointed  
14 by the board of county auditors. Each member of the board shall  
15 hold office for a term and receive compensation as the county board  
16 of commissioners provides by ordinance. In relation to the  
17 administration of the institutions, the board has and succeeds to  
18 all powers and duties formerly vested by law, general, local or  
19 special, in the superintendents of the poor in the county and the  
20 board of county institutions as constituted on April 13, 1943. The  
21 board of county institutions of the county may also maintain  
22 outpatient facilities for the treatment of needy ~~persons~~  
23 **individuals** suffering from mental disorders. The board also has the  
24 same powers as are given to the county board in section 78.

25 (d) To furnish in all cases, ~~insofar as~~**when** practicable, care  
26 and treatment that will tend to restore needy ~~persons~~**individuals**  
27 to a condition of financial and social independence.

28 (e) To require that each applicant ~~shall~~ furnish proof  
29 satisfactory to the county board that the applicant is entitled to



1 the aid, assistance, or benefit sought.

2 (f) To investigate, in respect to each application for any  
3 form of public aid or assistance, the circumstances of the  
4 applicant, both at the time of application and periodically during  
5 the receipt of aid or assistance.

6 (g) To maintain adequate social and financial records  
7 pertaining to each recipient of aid or assistance and, ~~so far as is~~  
8 **when** practicable, engage in the prevention of social disabilities.

9 (h) Except as otherwise provided in this subdivision, to  
10 investigate, ~~when-if~~ requested by the probate court or the family  
11 division of circuit court, matters pertaining to dependent,  
12 neglected, and delinquent children and wayward minors under the  
13 court's jurisdiction, to provide supervision and foster care as  
14 provided by court order, and to furnish the court, on request,  
15 investigational service in respect to the hospitalization of  
16 children under the program of services for children and youth with  
17 special health care needs established under part 58 of the public  
18 health code, 1978 PA 368, MCL 333.5801 to 333.5879, which services  
19 ~~shall-must~~ include the follow-up investigation and continuing  
20 observations. If the county is a county juvenile agency as defined  
21 in section 2 of the county juvenile agency act, 1998 PA 518, MCL  
22 45.622, the county department's obligations under this subdivision  
23 are limited to public wards within the county's jurisdiction under  
24 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
25 803.309, and county juvenile agency services as **that term is**  
26 defined in section 117a.

27 (i) To assist other departments, agencies, and institutions of  
28 the federal, state, and county governments, ~~when-if~~ requested, in  
29 performing services in conformity with ~~the purposes of~~ this act.



1 (j) To assist in the development of sound programs and  
 2 standards of child welfare, and promote programs and policies  
 3 ~~looking toward the prevention of~~ **to prevent** dependency, neglect,  
 4 and delinquency and other conditions affecting adversely the  
 5 welfare of families and children.

6 (k) To create within the county department a division of  
 7 medical care. The county board may appoint a properly qualified and  
 8 licensed doctor of medicine as the head of the division and an  
 9 advisory committee. The advisory committee shall consist of 1  
 10 doctor of medicine, nominated by the county medical society; 1  
 11 dentist, nominated by the district dental society; and 1  
 12 pharmacist, nominated by the district pharmaceutical association,  
 13 to assist in formulating policies of medical care and auditing and  
 14 reviewing bills. ~~"Medical~~ **As used in this act, "medical** care" as  
 15 ~~used in this act~~ means medical care rendered under the supervision  
 16 of a licensed physician in an organized ~~out-patient~~ **outpatient**  
 17 department of a hospital licensed by the department of ~~community~~  
 18 ~~health~~ **licensing and regulatory affairs** under article 17 of the  
 19 public health code, 1978 PA 368, MCL 333.20101 to ~~333.22260,~~  
 20 **333.21925**, or home and office attendance by a physician,  
 21 osteopathic physician and surgeon, or podiatrist licensed or  
 22 otherwise authorized to engage in practice under article 15 of the  
 23 public health code, 1978 PA 368, MCL 333.16101 to 333.18838; and  
 24 ~~when~~ **if** prescribed by the physician, osteopathic physician and  
 25 surgeon, or podiatrist, diagnostic services requiring the use of  
 26 equipment not available in his or her offices, if the services do  
 27 not require overnight care, dental service, optometric service,  
 28 bedside nursing service in the home, or pharmaceutical service. The  
 29 private physician-patient relationship ~~shall~~ **must** be maintained.



1 The normal relationships between the recipients of dental,  
 2 optometric, nursing, and pharmaceutical services, and the services  
 3 furnished by a physician, osteopathic physician and surgeon,  
 4 podiatrist, or ~~a~~chiropractor licensed or otherwise authorized to  
 5 engage in practice under article 15 of the public health code, 1978  
 6 PA 368, MCL 333.16101 to 333.18838, and the persons furnishing  
 7 these services ~~shall~~**must** be maintained. This section does not  
 8 affect the office of a city physician or city pharmacist  
 9 established under a city charter, a county health officer, or the  
 10 medical superintendent of a county hospital. This section permits  
 11 the use of a case management system, a patient care management  
 12 system, or other alternative system for providing medical care.

13 (l) To cause to be suitably buried the body of a deceased  
 14 indigent ~~person~~**individual** who has a domicile in the county, ~~when~~  
 15 **if** requested by the ~~person's~~**individual's** relative or friend, or of  
 16 a stranger, ~~when~~**if** requested by a public official following an  
 17 inquest.

18 (m) To administer additional welfare functions as are vested  
 19 in the department, including hospitalization.

20 (n) To act as an agent for the state department in matters  
 21 requested by the state department under the rules of the state  
 22 department.

23 ~~(o) To provide temporary general assistance for each family~~  
 24 ~~found ineligible for family independence assistance by reason of~~  
 25 ~~unsuitable family home as provided in section 56.~~

26 Sec. 66a. The county social welfare boards shall make  
 27 provision for hospitalization ~~which~~**that** is necessary and not more  
 28 advantageously provided to the recipient under other law or  
 29 provided under other sections of this act for every person found in



1 their respective counties under rules of financial eligibility  
2 established by the boards and shall be reimbursed 100% by ~~the~~**this**  
3 state for the monthly net cost of the hospitalization for  
4 nonresidents of ~~the~~**this** state. The county department, in its  
5 discretion, may direct that the patient be conveyed to the  
6 university hospital at Ann Arbor or any other hospital for  
7 hospitalization. As used in this act, "hospitalization" means  
8 medical, surgical, or obstetrical care in the university hospital  
9 or in a hospital licensed under article 17 of ~~Act No. 368 of the~~  
10 ~~Public Acts of 1978, as amended, being sections 333.20101 to~~  
11 ~~333.22190 of the Michigan Compiled Laws, **the public health code,**~~  
12 **1978 PA 368, MCL 333.20101 to 333.21925,** together with necessary  
13 drugs, x-rays, physical therapy, prosthesis, transportation, and  
14 nursing care incidental to the medical, surgical, or obstetrical  
15 care, but ~~shall~~**does** not include medical care as defined in section  
16 55. Before a patient ~~shall be~~**is** admitted except in an emergency,  
17 to any hospital other than the university hospital, a definite  
18 agreement, statement, or schedule of charges, expenses, and fees to  
19 be received by the hospital and physicians or surgeons performing  
20 necessary services under this act ~~shall~~**must** be filed with the  
21 county department of the county in which the hospital is located  
22 and approved by the county department, except as provided for in  
23 section 66i. The hospital shall, at the conclusion of the  
24 treatment, make a report of the treatment and an itemized statement  
25 of the expenses of the treatment to the county department ~~which~~  
26 **that** issued the order, but charges for special nurses ~~shall~~**must**  
27 not be made without the consent of the county social welfare  
28 director. The expenses for sending the patient home or to other  
29 institutions after being discharged from the hospital may be paid



1 by the hospital and charged in the regular bill for maintenance  
 2 unless different instructions have been received from the county  
 3 department ~~which~~**that** issued the order for admission.

4 Sec. 109. (1) The following medical services may be provided  
 5 under this act:

6 (a) Hospital services that an eligible individual may receive  
 7 consist of medical, surgical, or obstetrical care, together with  
 8 necessary drugs, X-rays, physical therapy, prosthesis,  
 9 transportation, and nursing care incident to the medical, surgical,  
 10 or obstetrical care. The period of inpatient hospital service ~~shall~~  
 11 **must** be the minimum period necessary in this type of facility for  
 12 the proper care and treatment of the individual. Necessary  
 13 hospitalization to provide dental care ~~shall~~**must** be provided if  
 14 certified by the attending dentist with the approval of the  
 15 department. An individual who is receiving medical treatment as an  
 16 inpatient because of a diagnosis of mental disease may receive  
 17 service under this section, notwithstanding the mental health code,  
 18 1974 PA 258, MCL 330.1001 to 330.2106. The department shall pay for  
 19 hospital services according to the state plan for medical  
 20 assistance adopted under section 10 and approved by the United  
 21 States Department of Health and Human Services.

22 (b) An eligible individual may receive physician services  
 23 authorized by the department. The service may be furnished in the  
 24 physician's office, the eligible individual's home, a medical  
 25 institution, or elsewhere in case of emergency. A physician shall  
 26 be paid a reasonable charge for the service rendered. ~~Reasonable~~  
 27 ~~charges shall be determined by the department~~**The department shall**  
 28 **determine reasonable charges** and ~~shall~~**the reasonable charges must**  
 29 not be more than those paid in this state for services rendered





1 under title XVIII.

2 (c) An eligible individual may receive nursing home services  
3 in a state licensed nursing home, a medical care facility, or other  
4 facility or identifiable unit of that facility, certified by the  
5 appropriate authority as meeting established standards for a  
6 nursing home under the laws and rules of this state and the United  
7 States Department of Health and Human Services, to the extent found  
8 necessary by the attending physician, dentist, or certified  
9 Christian Science practitioner. An eligible individual may receive  
10 nursing services in an extended care services program ~~established~~  
11 ~~under section 22210 of the public health code, 1978 PA 368, MCL~~  
12 ~~333.22210,~~ to the extent found necessary by the attending physician  
13 ~~when~~ **if** the combined length of stay in the acute care bed and  
14 short-term nursing care bed exceeds the average length of stay for  
15 Medicaid hospital diagnostic related group reimbursement. **For**  
16 **purposes of this subdivision, "extended care services program"**  
17 **means a program by a hospital to provide extended care services to**  
18 **a patient through the use of swing beds under 42 USC 1395tt.** The  
19 department shall not make a final payment under title XIX for  
20 benefits available under title XVIII without documentation that  
21 title XVIII claims have been filed and denied. The department shall  
22 pay for nursing home services according to the state plan for  
23 medical assistance adopted according to section 10 and approved by  
24 the United States Department of Health and Human Services. A county  
25 shall reimburse a county maintenance of effort rate determined on  
26 an annual basis for each patient day of Medicaid nursing home  
27 services provided to eligible individuals in long-term care  
28 facilities owned by the county and licensed to provide nursing home  
29 services. For purposes of determining rates and costs described in



1 this subdivision, all of the following apply:

2 (i) For county-owned facilities with per patient day updated  
 3 variable costs exceeding the variable cost limit for the county  
 4 facility, county maintenance of effort rate means 45% of the  
 5 difference between per patient day updated variable cost and the  
 6 concomitant nursing home-class variable cost limit, the quantity  
 7 offset by the difference between per patient day updated variable  
 8 cost and the concomitant variable cost limit for the county  
 9 facility. The county rate ~~shall~~**must** not be less than zero.

10 (ii) For county-owned facilities with per patient day updated  
 11 variable costs not exceeding the variable cost limit for the county  
 12 facility, county maintenance of effort rate means 45% of the  
 13 difference between per patient day updated variable cost and the  
 14 concomitant nursing home class variable cost limit.

15 (iii) For county-owned facilities with per patient day updated  
 16 variable costs not exceeding the concomitant nursing home class  
 17 variable cost limit, the county maintenance of effort rate ~~shall~~  
 18 ~~equal~~**is** zero.

19 (iv) For the purposes of this section: "per patient day updated  
 20 variable costs and the variable cost limit for the county facility"  
 21 ~~shall be~~**is** determined according to the state plan for medical  
 22 assistance; for freestanding county facilities the "nursing home  
 23 class variable cost limit" ~~shall be~~**is** determined according to the  
 24 state plan for medical assistance and for hospital attached county  
 25 facilities the "nursing class variable cost limit" ~~shall be~~**is**  
 26 determined according to the state plan for medical assistance plus  
 27 \$5.00 per patient day; and "freestanding" and "hospital attached"  
 28 ~~shall be~~**is** determined according to the federal regulations.

29 (v) If the county maintenance of effort rate computed under



1 this section exceeds the county maintenance of effort rate in  
2 effect as of September 30, 1984, the rate in effect as of September  
3 30, 1984 ~~shall remain~~ **remains** in effect until ~~a time that~~ the rate  
4 computed under this section is less than the September 30, 1984  
5 rate. This limitation remains in effect until December 31, 2022.  
6 For each subsequent county fiscal year, the maintenance of effort  
7 rate ~~may~~ **must** not increase by more than \$1.00 per patient day each  
8 year.

9 (vi) For county-owned facilities, reimbursement for plant costs  
10 ~~will~~ **must** continue to be based on interest expense and depreciation  
11 allowance unless otherwise provided by law.

12 (d) An eligible individual may receive pharmaceutical services  
13 from a licensed pharmacist of the ~~person's~~ **individual's** choice as  
14 prescribed by a licensed physician or dentist and approved by the  
15 department. In an emergency, but not routinely, the individual may  
16 receive pharmaceutical services rendered personally by a licensed  
17 physician or dentist on the same basis as approved for pharmacists.

18 (e) An eligible individual may receive other medical and  
19 health services as authorized by the department.

20 (f) Psychiatric care may also be provided according to the  
21 guidelines established by the department to the extent of  
22 appropriations made available by the legislature for the fiscal  
23 year.

24 (g) An eligible individual may receive screening, laboratory  
25 services, diagnostic services, early intervention services, and  
26 treatment for chronic kidney disease under guidelines established  
27 by the department. A clinical laboratory performing a creatinine  
28 test on an eligible individual under this subdivision shall include  
29 in the lab report the glomerular filtration rate (eGFR) of the



1 individual and shall report it as a percentage of kidney function  
2 remaining.

3 (h) An eligible individual may receive medically necessary  
4 acute medical detoxification for opioid use disorder, medically  
5 necessary inpatient care at an approved facility, or care in an  
6 appropriately licensed substance use disorder residential treatment  
7 facility.

8 (2) The director shall provide notice to the public, according  
9 to applicable federal regulations, and shall obtain the approval of  
10 the committees on appropriations of the house of representatives  
11 and senate of the legislature of this state, of a proposed change  
12 in the statewide method or level of reimbursement for a service, if  
13 the proposed change is expected to increase or decrease payments  
14 for that service by 1% or more during the 12 months after the  
15 effective date of the change.

16 (3) As used in this act:

17 (a) "Title XVIII" means title XVIII of the social security  
18 act, 42 USC 1395 to 1395III.

19 (b) "Title XIX" means title XIX of the social security act, 42  
20 USC 1396 to 1396w-5.

21 (c) "Title XX" means title XX of the social security act, 42  
22 USC 1397 to 1397n-13.

23 Sec. 109e. (1) As used in this section:

24 (a) "Abortion" means the intentional use of an instrument,  
25 drug, or other substance or device to terminate a woman's pregnancy  
26 for a purpose other than to increase the probability of a live  
27 birth, to preserve the life or health of the child after live  
28 birth, or to remove a dead fetus. Abortion does not include the use  
29 or prescription of a drug or device intended as a contraceptive.



1 (b) "Health care professional" means an individual licensed or  
 2 registered under article 15 of the public health code, ~~Act No. 368~~  
 3 ~~of the Public Acts of 1978, being sections 333.16101 to 333.18838~~  
 4 ~~of the Michigan Compiled Laws.~~ **1978 PA 368, MCL 333.16101 to**  
 5 **333.18838.**

6 (c) "Health facility or agency" means a health facility or  
 7 agency licensed under article 17 of ~~Act No. 368 of the Public Acts~~  
 8 ~~of 1978, being sections 333.20101 to 333.22260 of the Michigan~~  
 9 ~~Compiled Laws.~~ **the public health code, 1978 PA 368, MCL 333.20101 to**  
 10 **333.21925.**

11 (2) A health care professional or a health facility or agency  
 12 shall not seek or accept reimbursement for the performance of an  
 13 abortion knowing that public ~~funds~~ **money** will be or ~~have~~ **has** been  
 14 used in whole or in part for the reimbursement in violation of  
 15 section 109a. ~~of Act No. 280 of the Public Acts of 1939, being~~  
 16 ~~section 400.109a of the Michigan Compiled Laws, as added by Act No.~~  
 17 ~~59 of the Public Acts of 1987.~~

18 (3) A person who violates this section is liable for a civil  
 19 fine of up to \$10,000.00 per violation. The department of ~~community~~  
 20 **health and human services** shall investigate an alleged violation of  
 21 this section and the attorney general, in cooperation with the  
 22 department of ~~community~~ **health and human services**, may bring an  
 23 action to enforce this section.

24 (4) ~~Nothing in this~~ **This** section ~~restricts~~ **does not restrict**  
 25 the right of a health care professional to discuss abortion or  
 26 abortion services with a patient who is pregnant.

27 (5) This section does not create a right to an abortion.

28 (6) Notwithstanding any other provision of this section, a  
 29 person shall not perform an abortion that is prohibited by law.



1 Enacting section 1. This amendatory act takes effect 90 days  
2 after the date it is enacted into law.

3 Enacting section 2. This amendatory act does not take effect  
4 unless Senate Bill No. \_\_\_\_\_ or House Bill No. 5510 (request no.  
5 04667'19) of the 100th Legislature is enacted into law.

