

HOUSE BILL NO. 5006

June 15, 2021, Introduced by Reps. Hammoud, Tyrone Carter, Puri, Camilleri, Aiyash and Whiteford and referred to the Committee on Health Policy.

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
(MCL 400.1 to 400.119b) by adding sections 105i and 105j.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 105i. (1) The department shall not enter into a contract**
2 **with a Medicaid managed care organization that relies on a pharmacy**
3 **benefit manager that does not do all of the following:**

4 **(a) For pharmacies with not more than 7 retail outlets,**
5 **utilizes a pharmacy reimbursement methodology of the national**

1 average drug acquisition cost plus a professional dispensing fee
2 comparable to the applicable professional dispensing fee provided
3 through section 1620 of article 6 of 2020 PA 166. The pharmacy
4 benefit manager or the involved pharmacy services administrative
5 organization shall not receive any portion of the additional
6 professional dispensing fee. The department shall identify the
7 pharmacies this subdivision applies to and provide the list of
8 applicable pharmacies to the Medicaid managed care organizations.

9 (b) For pharmacies with not more than 7 retail outlets,
10 utilizes a pharmacy reimbursement methodology, when a national
11 average drug acquisition cost price is not available, for brand
12 drugs of the lesser of the wholesale acquisition cost, the average
13 wholesale price less 16.7% plus a professional dispensing fee
14 comparable to the applicable professional dispensing fee provided
15 through section 1620 of article 6 of 2020 PA 166, or the usual and
16 customary charge by the pharmacy. The department shall identify the
17 pharmacies this subdivision applies to and provide the list of
18 applicable pharmacies to the Medicaid managed care organizations.

19 (c) For pharmacies with not more than 7 retail outlets,
20 utilizes a pharmacy reimbursement methodology, when a national
21 average drug acquisition cost price is not available, for generic
22 drugs of the lesser of wholesale acquisition cost plus a
23 professional dispensing fee comparable to the applicable
24 professional dispensing fee provided through section 1620 of
25 article 6 of 2020 PA 166, average wholesale price less 30.0% plus a
26 professional dispensing fee comparable to the applicable
27 professional dispensing fee provided through section 1620 of
28 article 6 of 2020 PA 166, or the usual and customary charge by the
29 pharmacy. The department shall identify the pharmacies this

1 subdivision applies to and provide the list of applicable
2 pharmacies to the Medicaid managed care organizations.

3 (d) Reimburses for a legally valid claim at a rate not less
4 than the rate in effect at the time the original claim adjudication
5 as submitted at the point of sale.

6 (e) Agrees to move to a transparent pass-through pricing
7 model, in which the pharmacy benefit manager discloses the
8 administrative fee as a percentage of the professional dispensing
9 costs to the department.

10 (f) Agrees to not create new pharmacy administration fees and
11 to not increase current fees more than the rate of inflation. This
12 subdivision does not apply to any federal rule or action that
13 creates a new fee.

14 (g) Agrees to not terminate an existing contract with a
15 pharmacy with not more than 7 retail outlets for the sole reason of
16 the additional professional dispensing fee authorized under this
17 section.

18 (2) This section does not prohibit a Medicaid managed care
19 organization from implementing this section before the effective
20 date of the amendatory act that added this section.

21 Sec. 105j. (1) By January 15, 2022 and by January 15 for each
22 year after 2022, each pharmacy benefit manager that receives
23 reimbursement, either directly or through a Medicaid contracted
24 health plan, for medical services must submit all of the following
25 information to the department for the previous fiscal year:

26 (a) The total number of prescriptions that were dispensed.

27 (b) The aggregate wholesale acquisition cost for each drug on
28 its formulary.

29 (c) The aggregate amount of rebates, discounts, and price

1 concessions that the pharmacy benefit manager received for each
2 drug on its formulary. The amount of rebates shall include any
3 utilization discounts the pharmacy benefit manager receives from a
4 manufacturer.

5 (d) The aggregate amount of administrative fees that the
6 pharmacy benefit manager received from all pharmaceutical
7 manufacturers.

8 (e) The aggregate amount identified in subdivisions (b) and
9 (c) that were retained by the pharmacy benefit manager and did not
10 pass through to the department or to the Medicaid contracted health
11 plan.

12 (f) The aggregate amount of reimbursements the pharmacy
13 benefit manager pays to contracting pharmacies.

14 (g) Any other information considered necessary by the
15 department.

16 (2) By March 1, 2022 and by March 1 of each year after 2022,
17 the department shall submit the information provided under
18 subsection (1) to the house and senate appropriations subcommittees
19 on the department budget, the house and senate fiscal agencies, the
20 house and senate policy offices, and the state budget office.

21 (3) Any nonaggregated information submitted under this section
22 is confidential and shall not be disclosed to any person by the
23 department. Information received under this section is not a public
24 record of the department.