

SENATE BILL NO. 739

March 05, 2024, Introduced by Senators HERTEL, GEISS, KLINEFELT, CHANG, DAMOOSE, SHINK and BAYER and referred to the Committee on Housing and Human Services.

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
(MCL 400.1 to 400.119b) by adding section 112/.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 112/. (1) A qualified personal services agreement and an
2 affirmed personal services agreement may be made between an
3 individual or the individual's legally authorized representative
4 and a member of the individual's same household, a family member or
5 other relative of the individual, or any other person for the
6 provision of services to that individual. Payments for services

1 under a qualified personal services agreement or affirmed personal
2 services agreement are not divestments if the payments under that
3 agreement for those services are not for less than fair market
4 value. Payments for services under a personal services agreement
5 that is not a qualified personal services agreement or an affirmed
6 personal services agreement are not divestments if the individual
7 who applies for assistance under the state's medical assistance
8 program under this act establishes in accordance with 42 USC
9 1396p(c) (2) (C) by a preponderance of the evidence at least 1 of the
10 following:

11 (a) The individual intended to dispose of assets either at
12 fair market value or for other valuable consideration.

13 (b) The individual transferred the assets exclusively for a
14 purpose other than to qualify for medical assistance.

15 (2) The department of health and human services shall not
16 presume that services provided to an individual under a personal
17 services agreement by a member of the individual's same household,
18 a family member or other relative of the individual, or any other
19 person are gratuitous and shall not apply a divestment penalty for
20 payments that are made under an affirmed personal services
21 agreement, a qualified personal services agreement, or a personal
22 services agreement that meets the requirements of subsection (1) (a)
23 or (b) , or both.

24 (3) As used in this section:

25 (a) "Affirmed personal services agreement" means a personal
26 services agreement between an individual or the individual's
27 legally authorized representative and a person that meets all of
28 the following requirements:

29 (i) The agreement for the provision of services to the

1 individual, whether entirely oral or partially oral and partially
2 written, is made before the date the services covered by the
3 agreement are rendered or provided.

4 (ii) The agreement describes the type, frequency, and duration
5 of the services to be provided to the individual.

6 (iii) Payment for services and any reimbursement for costs under
7 the agreement may be made before, at, or after the actual time the
8 services are rendered or provided.

9 (iv) The payment amount under the agreement is at or below the
10 current rate charged by providers of similar services in the
11 individual's local community.

12 (v) A person with firsthand knowledge of the agreement offers
13 a statement, affirmed under penalty of perjury, that describes the
14 agreement's terms or presents other documentary evidence that
15 clarifies the agreement and its terms.

16 (b) "Divestment" means a transfer of resources for less than
17 fair market value under 42 USC 1396p(c).

18 (c) "Other documentary evidence" includes, but is not limited
19 to, invoices for services rendered, service logs or other writings
20 that describe the services provided, and canceled checks or other
21 financial records showing the amount paid for services.

22 (d) "Personal services agreement" means an agreement in any
23 form between an individual or the individual's legally authorized
24 representative and another person in which the individual or the
25 individual's legally authorized representative agrees to pay the
26 other person for providing services to the individual. Services may
27 include, but are not limited to, home maintenance and repairs,
28 house cleaning, meal preparation, grocery or other shopping,
29 assisting with daily living activities, travel, transportation,

1 including travel to medical appointments, social activities,
2 financial management, and other similar services.

3 (e) "Qualified personal services agreement" means a personal
4 services agreement between an individual or the individual's
5 legally authorized representative and a person that meets all of
6 the following requirements:

7 (i) The agreement for the provision of services to the
8 individual is made in writing and is signed and dated on or before
9 the date services covered under the agreement are rendered or
10 provided.

11 (ii) The agreement describes the type, frequency, and duration
12 of the services to be provided to the individual.

13 (iii) Payment for the services and any reimbursement for costs
14 incurred under the agreement may be made before, at, or after the
15 actual time the services are rendered or provided.

16 (iv) The payment amount under the agreement is at or below the
17 current rate charged by providers of similar services in the
18 individual's local community.