



HOUSE BILL No. 5416

November 28, 1995, Introduced by Rep. Varga and referred to the Committee on Insurance.

A bill to amend Act No. 368 of the Public Acts of 1978, entitled as amended "Public health code," as amended, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws, by adding sections 2226a and 21050a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 368 of the Public Acts of 1978, as
2 amended, being sections 333.1101 to 333.25211 of the Michigan
3 Compiled Laws, is amended by adding sections 2226a and 21050a to
4 read as follows:

5 SEC. 2226A. THE DEPARTMENT SHALL PROMULGATE RULES TO ESTAB-
6 LISH THE CRITERIA FOR APPROVING THOSE ORGANIZATIONS AND EDUCA-
7 TIONAL INSTITUTIONS THAT CERTIFY INDIVIDUALS WHO PERFORM
8 INDEPENDENT MEDICAL EXAMINATIONS. AS USED IN THIS SECTION,

1 "INDEPENDENT MEDICAL EXAMINATION" MEANS THAT TERM AS DEFINED IN
2 SECTION 21050A.

3 SEC. 21050A. (1) AS USED IN THIS SECTION:

4 (A) "INDEPENDENT MEDICAL EXAMINATION" MEANS A HEALTH CARE
5 PROVIDER'S DIRECT EXAMINATION OF A PATIENT TO EVALUATE THE APPRO-
6 PRIATENESS OF TREATMENT OR CARE PROVIDED THAT PATIENT BY A TREAT-
7 ING HEALTH CARE PROVIDER.

8 (B) "UTILIZATION REVIEW" MEANS THE EVALUATION OF THE NECES-
9 SITY, APPROPRIATENESS, AND EFFICIENCY OF THE USE OF A HEALTH CARE
10 SERVICE, PROCEDURE, OR FACILITY. UTILIZATION REVIEW DOES NOT
11 INCLUDE TECHNICAL ANALYSIS OF A BILL FOR ACCURACY OR
12 COMPLETENESS.

13 (2) A HEALTH MAINTENANCE ORGANIZATION REQUIRING A UTILIZA-
14 TION REVIEW SHALL COMPLY WITH THIS SECTION.

15 (3) AN INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW FOR A
16 HEALTH MAINTENANCE ORGANIZATION SHALL MEET ALL OF THE FOLLOWING
17 REQUIREMENTS:

18 (A) POSSESS THE SAME TYPE OF HEALTH CARE PROVIDER LICENSE AS
19 THE TREATING HEALTH CARE PROVIDER, AND ADDITIONALLY BE CERTIFIED
20 IN THE TREATING HEALTH CARE PROVIDER'S SPECIALTY OR PRIMARY AREA
21 OF PRACTICE BY AN ORGANIZATION OR EDUCATIONAL INSTITUTION
22 APPROVED BY THE DEPARTMENT OF PUBLIC HEALTH.

23 (B) HAVE AT LEAST 7 YEARS' ACTIVE EXPERIENCE IN THE TYPE OF
24 CLINICAL PRACTICE THAT IS BEING REVIEWED.

25 (C) DERIVE AT LEAST 65% OF HIS OR HER ANNUAL INCOME FROM
26 ACTIVE PATIENT CARE, AND ENGAGE IN ACTIVE PATIENT CARE NOT LESS
27 THAN AN AVERAGE OF 24 HOURS PER WEEK.

1 (D) HAVE COMPLETED AT LEAST 10 HOURS OF CONTINUING EDUCATION
2 IN THE SPECIALTY OR PRIMARY AREA OF PRACTICE OF THE TREATING
3 HEALTH CARE PROVIDER.

4 (E) NOT HAVE BEEN DETERMINED IN AN ADMINISTRATIVE OR OTHER
5 PROCEEDING TO HAVE VIOLATED ANY LAW GOVERNING HIS OR HER PRACTICE
6 OR SPECIALTY WITHIN THE 7-YEAR PERIOD PRECEDING THE INDEPENDENT
7 MEDICAL EXAMINATION.

8 (4) A HEALTH MAINTENANCE ORGANIZATION SHALL NOT PROVIDE, AND
9 AN INDIVIDUAL WHO PERFORMS A UTILIZATION REVIEW FOR A HEALTH
10 MAINTENANCE ORGANIZATION SHALL NOT RECEIVE, ANY FINANCIAL INCEN-
11 TIVE BASED UPON THE NUMBER OF ADVERSE UTILIZATION REVIEW DETERMI-
12 NATIONS MADE BY THE INDIVIDUAL PERFORMING THE UTILIZATION
13 REVIEW.

14 (5) A HEALTH MAINTENANCE ORGANIZATION SHALL INFORM A TREAT-
15 ING HEALTH CARE PROVIDER AND THE PATIENT IF A TREATMENT IS TO BE
16 REVIEWED.

17 (6) THE TREATING HEALTH CARE PROVIDER OR HIS OR HER REPRESENTATIVE,
18 AND A REPRESENTATIVE OF THE PATIENT, MAY BE PRESENT AT
19 AN INDEPENDENT MEDICAL EXAMINATION AND MAY RECORD THE ENTIRE
20 EXAMINATION BY ANY MEANS.

21 (7) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL EXAMINATION
22 MAY RECORD THE EXAMINATION AND MAY ADDITIONALLY REQUIRE A WITNESS
23 TO BE PRESENT.

24 (8) IF A HEALTH MAINTENANCE ORGANIZATION REQUIRES AN INDE-
25 PENDENT MEDICAL EXAMINATION TO VERIFY THE APPROPRIATENESS OF
26 TREATMENT BY A TREATING HEALTH CARE PROVIDER, ALL OF THE
27 FOLLOWING APPLY:

1 (A) THE EXAMINATION MAY BE ORDERED SOLELY IF THE TREATMENT
2 EXTENDS BEYOND ESTABLISHED PROTOCOLS.

3 (B) THE PATIENT SHALL RECEIVE NOTICE OF THE FIRST INDEPEN-
4 DENT MEDICAL EXAMINATION AT LEAST 5 BUSINESS DAYS IN ADVANCE OF
5 THAT EXAMINATION.

6 (C) INDEPENDENT MEDICAL EXAMINATIONS THAT ARE SUBSEQUENT TO
7 THE FIRST EXAMINATION MAY BE ORDERED AT REASONABLE INTERVALS, BUT
8 SHALL NOT EXCEED 1 PER MONTH FOR A MAXIMUM OF 6 PER YEAR FOR EACH
9 CONDITION BEING TREATED, ABSENT THE CONSENT OF THE PATIENT AND
10 THE TREATING HEALTH CARE PROVIDER.

11 (D) IF THE EXERCISE OF A PATIENT'S RIGHT CONFERRED UNDER
12 THIS SECTION IS PROHIBITED BY THE PERSON DESIGNATED TO PERFORM
13 THE EXAMINATION, THE PATIENT IS NOT REQUIRED TO SUBMIT TO THE
14 EXAMINATION, AND A HEALTH MAINTENANCE ORGANIZATION THAT DENIED OR
15 WITHHELD BENEFITS PENDING THE EXAMINATION SHALL IMMEDIATELY PRO-
16 VIDE THE BENEFITS.

17 (9) IF THE RESULTS OF AN INDEPENDENT MEDICAL EXAMINATION
18 ESTABLISH THAT THE HEALTH CARE PROVIDED BY THE TREATING HEALTH
19 CARE PROVIDER WAS APPROPRIATE, AND THE HEALTH MAINTENANCE ORGANI-
20 ZATION FAILS TO PAY FOR THAT HEALTH CARE WITHIN 30 DAYS AFTER THE
21 EXAMINATION, THE HEALTH MAINTENANCE ORGANIZATION SHALL PAY TO THE
22 TREATING HEALTH CARE PROVIDER A SUM EQUIVALENT TO TWICE THE
23 TREATING HEALTH CARE PROVIDER'S FEE PLUS 10% FOR THE HEALTH CARE
24 DETERMINED APPROPRIATE. ANY FEES INCURRED BEFORE NOTIFICATION OF
25 AN INDEPENDENT MEDICAL EXAMINATION OR NOTIFICATION OF THE TERMI-
26 NATION OF BENEFITS SHALL BE PAID IN FULL BEFORE THE INDEPENDENT
27 MEDICAL EXAMINATION. IF TREATMENT OR CARE IS TERMINATED OR

1 DENIED DUE TO AN INDEPENDENT MEDICAL EXAMINATION AND SUBSEQUENTLY
2 DETERMINED TO HAVE BEEN APPROPRIATE, THE HEALTH MAINTENANCE
3 ORGANIZATION SHALL PAY ALL FEES, INCLUDING ATTORNEY FEES,
4 INCURRED BY THE ENROLLEE AS A RESULT OF THE TERMINATION OR
5 DENIAL.

6 (10) THE PERSON CONDUCTING AN INDEPENDENT MEDICAL EXAMINA-
7 TION OR UTILIZATION REVIEW SHALL PROVIDE THE PATIENT, THE
8 PATIENT'S TREATING HEALTH CARE PROVIDER, AND THE PERSON REQUEST-
9 ING THE EXAMINATION OR REVIEW A COPY OF THE EXAMINATION RESULTS
10 NOT MORE THAN 14 DAYS AFTER THE EXAMINATION OR REVIEW.