

**SUBSTITUTE FOR
HOUSE BILL NO. 5736**

A bill to amend 1980 PA 350, entitled
"The nonprofit health care corporation reform act,"
by amending sections 502 and 502a (MCL 550.1502 and 550.1502a),
section 502 as amended by 1998 PA 24 and section 502a as amended
by 1994 PA 440.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 502. (1) A health care corporation may enter into par-
2 ticipating contracts for reimbursement with professional health
3 care providers practicing legally in this state for health care
4 services that the professional health care providers may legally
5 perform. A participating contract may cover all members or may
6 be a separate and individual contract on a per claim basis, as
7 set forth in the provider class plan, if, in entering into a
8 separate and individual contract on a per claim basis, the
9 participating provider certifies to the health care corporation:

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1 (a) That the provider will accept payment from the
2 corporation as payment in full for services rendered for the
3 specified claim for the member indicated.

4 (b) That the provider will accept payment from the corpora-
5 tion as payment in full for all cases involving the procedure
6 specified, for the duration of the calendar year. As used in
7 this subdivision, provider does not include a person licensed as
8 a dentist under part 166 of the public health code, 1978 PA 368,
9 MCL 333.16601 to 333.16648.

10 (c) That the provider will not determine whether to partici-
11 pate on a claim on the basis of the race, color, creed, marital
12 status, sex, national origin, residence, age, disability, or
13 lawful occupation of the member entitled to health care
14 benefits.

15 (2) A contract entered into pursuant to subsection (1) shall
16 provide that the private provider-patient relationship shall be
17 maintained to the extent provided for by law. A health care cor-
18 poration shall continue to offer a reimbursement arrangement to
19 any class of providers with which it has contracted prior to
20 August 27, 1985 and that continues to meet the standards set by
21 the corporation for that class of providers.

22 (3) A health care corporation shall not restrict the methods
23 of diagnosis or treatment of professional health care providers
24 who treat members. Except as otherwise provided in section 502a,
25 each member of the health care corporation shall at all times
26 have a choice of professional health care providers. This
27 subsection does not apply to limitations in benefits contained in

1 certificates, to the reimbursement provisions of a provider
2 contract or reimbursement arrangement, or to standards set by the
3 corporation for all contracting providers. A health care corpo-
4 ration may refuse to reimburse a health care provider for health
5 care services that are overutilized, including those services
6 rendered, ordered, or prescribed to an extent that is greater
7 than reasonably necessary.

8 (4) A health care corporation may provide to a member, upon
9 request, a list of providers with whom the corporation contracts,
10 for the purpose of assisting a member in obtaining a type of
11 health care service. However, except as otherwise provided in
12 section 502a, an employee, agent, or officer of the corporation,
13 or an individual on the board of directors of the corporation,
14 shall not make recommendations on behalf of the corporation with
15 respect to the choice of a specific health care provider. Except
16 as otherwise provided in section 502a, an employee, agent, or
17 officer of the corporation, or a person on the board of directors
18 of the corporation who influences or attempts to influence a
19 person in the choice or selection of a specific professional
20 health care provider on behalf of the corporation, is guilty of a
21 misdemeanor.

22 (5) A health care corporation shall provide a symbol of par-
23 ticipation, which can be publicly displayed, to providers who
24 participate on all claims for covered health care services
25 rendered to subscribers.

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Sub. H.B. 5736 (H-2) as amended June 2, 1998

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1 (6) This section does not impede the lawful operation of, or
2 lawful promotion of, a health maintenance organization owned by a
3 health care corporation.

4 (7) Contracts entered into under this section ~~shall be~~ ARE
5 subject to the provisions of sections 504 to 518.

6 (8) A health care corporation shall not deny participation
7 to a freestanding ~~medical or~~ surgical outpatient facility on
8 the basis of ownership if the facility meets the reasonable stan-
9 dards set by the health care corporation for similar facilities,
10 is licensed under part 208 of the public health code, 1978
11 PA 368, MCL 333.20801 to 333.20821, and complies with part 222 of
12 the public health code, 1978 PA 368, MCL 333.22201 to 333.22260.

13 (9) Notwithstanding any other provision of this act, if a
14 certificate provides for benefits for services that are within
15 the scope of practice of optometry, a health care corporation is
16 not required to provide benefits or reimburse for a practice of
17 optometric service unless that service was included in the defi-
18 nition of practice of optometry under section 17401 of the public
19 health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.

20 [(10) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A HEALTH
21 CARE CORPORATION IS NOT REQUIRED TO REIMBURSE FOR SERVICES OTHERWISE
22 COVERED UNDER A CERTIFICATE IF THE SERVICES WERE PERFORMED BY A
23 MEMBER OF A HEALTH CARE PROFESSION, WHICH HEALTH CARE PROFESSION WAS
24 NOT LICENSED OR REGISTERED BY THIS STATE ON OR BEFORE JANUARY 1,
25 1998 BUT THAT BECOMES A HEALTH CARE PROFESSION LICENSED OR
26 REGISTERED BY THIS STATE AFTER JANUARY 1, 1998. THIS SUBSECTION
27 DOES NOT CHANGE THE STATUS OF A HEALTH CARE PROFESSION THAT WAS
LICENSED OR REGISTERED BY THIS STATE ON OR BEFORE JANUARY 1, 1998.]

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1 Sec. 502a. (1) For the purpose of doing business as an
2 organization under the prudent purchaser act, ~~Act No. 233 of the~~
3 ~~Public Acts of 1984, being sections 550.51 to 550.63 of the~~
4 ~~Michigan Compiled Laws~~ 1984 PA 233, MCL 550.51 TO 550.63, a
5 health care corporation may enter into prudent purchaser agree-
6 ments with health care providers pursuant to this section and
7 ~~Act No. 233 of the Public Acts of 1984~~ THE PRUDENT PURCHASER
8 ACT, 1984 PA 233, MCL 550.51 TO 550.63.

9 (2) A health care corporation may offer group contracts
10 under which subscribers shall be required, as a condition of cov-
11 erage, to obtain services exclusively from health care providers
12 who have entered into prudent purchaser agreements.

13 (3) An individual who is a member of a group who is offered
14 the option of being a subscriber under a contract pursuant to
15 subsection (2) shall also be offered the option of being a sub-
16 scriber under a contract pursuant to subsection (4). This sub-
17 section applies only if the group in which the individual is a
18 member has 25 or more members or if the provider panel that is
19 providing the services under the contract is limited by the
20 organization to a specific number pursuant to section 3(1) of
21 ~~Act No. 233 of the Public Acts of 1984, being section 550.53 of~~
22 ~~the Michigan Compiled Laws~~ THE PRUDENT PURCHASER ACT, 1984 PA
23 233, MCL 550.53.

24 (4) A health care corporation may offer group contracts
25 under which subscribers who elect to obtain services from health
26 care providers who have entered into prudent purchaser agreements
27 shall realize a financial advantage or other advantage by

1 selecting such providers. Contracts offered pursuant to this
2 subsection shall not, as a condition of coverage, require sub-
3 scribers to obtain services exclusively from health care provid-
4 ers who have entered into prudent purchaser agreements.

5 (5) An individual who is a member of a group who is offered
6 the option of being a subscriber under a contract pursuant to
7 subsection (2) or (4) shall also be offered the option of being a
8 subscriber under a contract that:

9 (a) Does not, as a condition of coverage, require subscrib-
10 ers to obtain services exclusively from health care providers who
11 have entered into prudent purchaser agreements.

12 (b) Does not give a financial advantage or other advantage
13 to a subscriber who elects to obtain services from health care
14 providers who have entered into prudent purchaser agreements.

15 (6) Subsection (5) applies only if the group in which the
16 individual is a member has 25 or more members and if the group on
17 December 20, 1984 had health care coverage through the group
18 sponsor.

19 (7) A health care corporation may offer individual contracts
20 under which subscribers shall be required, as a condition of cov-
21 erage, to obtain services exclusively from health care providers
22 who have entered into prudent purchaser agreements. A person to
23 whom such a contract is offered shall also be offered a contract
24 that:

25 (a) Does not, as a condition of coverage, require subscrib-
26 ers to obtain services exclusively from health care providers who
27 have entered into prudent purchaser agreements.

1 (b) Does not give a financial advantage or other advantage
2 to a subscriber who elects to obtain services from health care
3 providers who have entered into prudent purchaser agreements.

4 (8) A health care corporation may offer individual contracts
5 under which subscribers who elect to obtain services from health
6 care providers who have entered into prudent purchaser agreements
7 shall realize a financial advantage or other advantage by select-
8 ing such providers. Contracts offered pursuant to this subsec-
9 tion shall not, as a condition of coverage, require subscribers
10 to obtain services exclusively from health care providers who
11 have entered into prudent purchaser agreements. A person to whom
12 such a contract is offered shall also be offered a contract
13 that:

14 (a) Does not, as a condition of coverage, require subscrib-
15 ers to obtain services exclusively from health care providers who
16 have entered into prudent purchaser agreements.

17 (b) Does not give a financial advantage or other advantage
18 to a subscriber who elects to obtain services from health care
19 providers who have entered into prudent purchaser agreements.

20 (9) The rates charged by a corporation for coverage under
21 contracts issued under this section shall not be unreasonably
22 lower than what is necessary to meet the expenses of the corpora-
23 tion for providing this coverage and shall not have an anticom-
24 petitive effect or result in predatory pricing in relation to
25 prudent purchaser agreement coverages offered by other
26 organizations.

1 (10) Contracts entered into under this section ~~shall~~ ARE
2 not ~~be~~ subject to the provisions of sections 504 to 518.

3 (11) A corporation shall not discriminate against a class of
4 health care providers when entering into prudent purchaser agree-
5 ments with health care providers for its provider panel. This
6 subsection does not:

7 (a) Prohibit the formation of a provider panel consisting of
8 a single class of providers when a service provided for in the
9 specifications of a purchaser may be legally provided only by a
10 single class of providers.

11 (b) Prohibit the formation of a provider panel that conforms
12 to the specifications of a purchaser of the coverage authorized
13 by this section so long as the specifications do not exclude any
14 class of health care providers who may legally perform the serv-
15 ices included in the coverage.

16 (c) Require an organization that has uniformly applied the
17 standards filed pursuant to section 3(3) of ~~Act No. 233 of the~~
18 ~~Public Acts of 1984~~ THE PRUDENT PURCHASER ACT, 1984 PA 233, MCL
19 550.53, to contract with any individual provider.

20 (12) Nothing in the 1984 amendatory act that added this sec-
21 tion applies to any contract that was in existence before
22 December 20, 1984, or the renewal of such contract.

23 (13) Notwithstanding any other provision of this act, if
24 coverage under a prudent purchaser agreement provides for bene-
25 fits for services that are within the scope of practice of optom-
26 etry, a health care corporation is not required to provide
27 benefits or reimburse for a practice of optometric service unless

1 that service was included in the definition of practice of
2 optometry under section 17401 of the public health code, ~~Act~~
3 ~~No. 368 of the Public Acts of 1978, being section 333.17401 of~~
4 ~~the Michigan Compiled Laws 1978 PA 368, MCL 333.17401, as of~~
5 May 20, 1992.

6 ~~[(14) Notwithstanding any other provision of this act, if~~
7 ~~coverage under a prudent purchaser agreement provides for bene-~~
8 ~~fits for services that are within the scope of practice of~~
9 ~~chiropractic~~

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11 ~~a health care corporation is not required to provide~~
12 ~~benefits or reimburse for the use of therapeutic sound or elec-~~
13 ~~tricity, or both, for the reduction or correction of spinal sub-~~
14 ~~luxations in a chiropractic service~~

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16 ~~This subsection~~
17 ~~shall not take effect unless Senate Bill No. 493 or House Bill~~
18 ~~No. 4494 of the 87th Legislature is enacted into law.~~

(14) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A HEALTH CARE CORPORATION OFFERING COVERAGE UNDER A PRUDENT PURCHASER AGREEMENT IS NOT REQUIRED TO REIMBURSE FOR SERVICES OTHERWISE COVERED IF THE SERVICES WERE PERFORMED BY A MEMBER OF A HEALTH CARE PROFESSION, WHICH HEALTH CARE PROFESSION WAS NOT LICENSED OR REGISTERED BY THIS STATE ON OR BEFORE JANUARY 1, 1998 BUT THAT BECOMES A HEALTH CARE PROFESSION LICENSED OR REGISTERED BY THIS STATE AFTER JANUARY 1, 1998. THIS SUBSECTION DOES NOT CHANGE THE STATUS OF A HEALTH CARE PROFESSION THAT WAS LICENSED OR REGISTERED BY THIS STATE ON OR BEFORE JANUARY 1, 1998.]