

SENATE BILL No. 971

November 5, 2009, Introduced by Senator KAHN and referred to the Committee on Economic Development and Regulatory Reform.

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 2003 PA 59 and section 502a as amended by 1998 PA 446.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 502. (1) A health care corporation may enter into
2 participating contracts for reimbursement with professional health
3 care providers practicing legally in this state for health care
4 services or with health practitioners practicing legally in any
5 other jurisdiction for health care services that the professional
6 health care providers or practitioners may legally perform. A
7 participating contract may cover all members or may be a separate

1 and individual contract on a per claim basis, as set forth in the
2 provider class plan, if, in entering into a separate and individual
3 contract on a per claim basis, the participating provider certifies
4 to the health care corporation:

5 (a) That the provider will accept payment from the corporation
6 as payment in full for services rendered for the specified claim
7 for the member indicated.

8 (b) That the provider will accept payment from the corporation
9 as payment in full for all cases involving the procedure specified,
10 for the duration of the calendar year. As used in this subdivision,
11 provider does not include a person licensed as a dentist under part
12 166 of the public health code, 1978 PA 368, MCL 333.16601 to
13 333.16648.

14 (c) That the provider will not determine whether to
15 participate on a claim on the basis of the race, color, creed,
16 marital status, sex, national origin, residence, age, disability,
17 or lawful occupation of the member entitled to health care
18 benefits.

19 (2) A contract entered into pursuant to subsection (1) shall
20 provide that the private provider-patient relationship shall be
21 maintained to the extent provided for by law. A health care
22 corporation shall continue to offer a reimbursement arrangement to
23 any class of providers with which it has contracted prior to August
24 27, 1985 and that continues to meet the standards set by the
25 corporation for that class of providers.

26 (3) A health care corporation shall not restrict the methods
27 of diagnosis or treatment of professional health care providers who

1 treat members. Except as otherwise provided in section 502a, each
2 member of the health care corporation shall at all times have a
3 choice of professional health care providers. This subsection does
4 not apply to limitations in benefits contained in certificates, to
5 the reimbursement provisions of a provider contract or
6 reimbursement arrangement, or to standards set by the corporation
7 for all contracting providers. A health care corporation may refuse
8 to reimburse a health care provider for health care services that
9 are overutilized, including those services rendered, ordered, or
10 prescribed to an extent that is greater than reasonably necessary.

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

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

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 with
5 professional health care providers licensed in this state are
6 subject to the provisions of sections 504 to 518.

7 (8) A health care corporation shall not deny participation to
8 a freestanding surgical outpatient facility on the basis of
9 ownership if the facility meets the reasonable standards set by the
10 health care corporation for similar facilities, is licensed under
11 part 208 of the public health code, 1978 PA 368, MCL 333.20801 to
12 333.20821, and complies with part 222 of the public health code,
13 1978 PA 368, MCL 333.22201 to 333.22260.

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

21 (10) Notwithstanding any other provision of this act, a health
22 care corporation is not required to reimburse for services
23 otherwise covered under a certificate if the services were
24 performed by a member of a health care profession, which health
25 care profession was not licensed or registered by this state on or
26 before January 1, 1998 but that becomes a health care profession
27 licensed or registered by this state after January 1, 1998. This

1 subsection does not change the status of a health care profession
2 that was licensed or registered by this state on or before January
3 1, 1998.

4 (11) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A
5 CERTIFICATE PROVIDES FOR BENEFITS FOR SERVICES THAT ARE WITHIN THE
6 SCOPE OF PRACTICE OF CHIROPRACTIC, A HEALTH CARE CORPORATION IS NOT
7 REQUIRED TO PROVIDE BENEFITS OR REIMBURSE FOR A PRACTICE OF
8 CHIROPRACTIC SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE
9 DEFINITION OF PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE
10 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16401, AS OF JANUARY 1,
11 2009.

12 Sec. 502a. (1) For the purpose of doing business as an
13 organization under the prudent purchaser act, 1984 PA 233, MCL
14 550.51 to 550.63, a health care corporation may enter into prudent
15 purchaser agreements with health care providers pursuant to this
16 section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to
17 550.63.

18 (2) A health care corporation may offer group contracts under
19 which subscribers shall be required, as a condition of coverage, to
20 obtain services exclusively from health care providers who have
21 entered into prudent purchaser agreements.

22 (3) An individual who is a member of a group who is offered
23 the option of being a subscriber under a contract pursuant to
24 subsection (2) shall also be offered the option of being a
25 subscriber under a contract pursuant to subsection (4). This
26 subsection applies only if the group in which the individual is a
27 member has 25 or more members or if the provider panel that is

1 providing the services under the contract is limited by the
2 organization to a specific number pursuant to section 3(1) of the
3 prudent purchaser act, 1984 PA 233, MCL 550.53.

4 (4) A health care corporation may offer group contracts under
5 which subscribers who elect to obtain services from health care
6 providers who have entered into prudent purchaser agreements shall
7 realize a financial advantage or other advantage by selecting such
8 providers. Contracts offered pursuant to this subsection shall not,
9 as a condition of coverage, require subscribers to obtain services
10 exclusively from health care providers who have entered into
11 prudent purchaser agreements.

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

16 (a) Does not, as a condition of coverage, require subscribers
17 to obtain services exclusively from health care providers who have
18 entered into prudent purchaser agreements.

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

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

26 (7) A health care corporation may offer individual contracts
27 under which subscribers shall be required, as a condition of

1 coverage, to obtain services exclusively from health care providers
2 who have entered into prudent purchaser agreements. A person to
3 whom such a contract is offered shall also be offered a contract
4 that:

5 (a) Does not, as a condition of coverage, require subscribers
6 to obtain services exclusively from health care providers who have
7 entered into prudent purchaser agreements.

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

11 (8) A health care corporation may offer individual contracts
12 under which subscribers who elect to obtain services from health
13 care providers who have entered into prudent purchaser agreements
14 shall realize a financial advantage or other advantage by selecting
15 such providers. Contracts offered pursuant to this subsection shall
16 not, as a condition of coverage, require subscribers to obtain
17 services exclusively from health care providers who have entered
18 into prudent purchaser agreements. A person to whom such a contract
19 is offered shall also be offered a contract that:

20 (a) Does not, as a condition of coverage, require subscribers
21 to obtain services exclusively from health care providers who have
22 entered into prudent purchaser agreements.

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

26 (9) The rates charged by a corporation for coverage under
27 contracts issued under this section shall not be unreasonably lower

1 than what is necessary to meet the expenses of the corporation for
2 providing this coverage and shall not have an anticompetitive
3 effect or result in predatory pricing in relation to prudent
4 purchaser agreement coverages offered by other organizations.

5 (10) Contracts entered into under this section are not subject
6 to the provisions of sections 504 to 518.

7 (11) A corporation shall not discriminate against a class of
8 health care providers when entering into prudent purchaser
9 agreements with health care providers for its provider panel. This
10 subsection does not:

11 (a) Prohibit the formation of a provider panel consisting of a
12 single class of providers when a service provided for in the
13 specifications of a purchaser may be legally provided only by a
14 single class of providers.

15 (b) Prohibit the formation of a provider panel that conforms
16 to the specifications of a purchaser of the coverage authorized by
17 this section so long as the specifications do not exclude any class
18 of health care providers who may legally perform the services
19 included in the coverage.

20 (c) Require an organization that has uniformly applied the
21 standards filed pursuant to section 3(3) of the prudent purchaser
22 act, 1984 PA 233, MCL 550.53, to contract with any individual
23 provider.

24 (12) Nothing in the 1984 amendatory act that added this
25 section applies to any contract that was in existence before
26 December 20, 1984, or the renewal of such contract.

27 (13) Notwithstanding any other provision of this act, if

1 coverage under a prudent purchaser agreement provides for benefits
2 for services that are within the scope of practice of optometry, a
3 health care corporation is not required to provide benefits or
4 reimburse for a practice of optometric service unless that service
5 was included in the definition of practice of optometry under
6 section 17401 of the public health code, 1978 PA 368, MCL
7 333.17401, as of May 20, 1992.

8 (14) Notwithstanding any other provision of this act, a health
9 care corporation offering coverage under a prudent purchaser
10 agreement is not required to reimburse for services otherwise
11 covered if the services were performed by a member of a health care
12 profession, which health care profession was not licensed or
13 registered by this state on or before January 1, 1998 but that
14 becomes a health care profession licensed or registered by this
15 state after January 1, 1998. This subsection does not change the
16 status of a health care profession that was licensed or registered
17 by this state on or before January 1, 1998.

18 **(15) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A**
19 **CERTIFICATE PROVIDES FOR BENEFITS FOR SERVICES THAT ARE WITHIN THE**
20 **SCOPE OF PRACTICE OF CHIROPRACTIC, A HEALTH CARE CORPORATION IS NOT**
21 **REQUIRED TO PROVIDE BENEFITS OR REIMBURSE FOR A PRACTICE OF**
22 **CHIROPRACTIC SERVICE UNLESS THAT SERVICE WAS INCLUDED IN THE**
23 **DEFINITION OF PRACTICE OF CHIROPRACTIC UNDER SECTION 16401 OF THE**
24 **PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16401, AS OF JANUARY 1,**
25 **2009.**