

HOUSE BILL NO. 5303

September 21, 2021, Introduced by Rep. Wozniak and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending section 3157 (MCL 500.3157), as amended by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3157. (1) Subject to subsections (2) to ~~(14)~~, **(15)**, a
2 physician, hospital, clinic, or other person that lawfully renders
3 treatment to an injured person for an accidental bodily injury
4 covered by personal protection insurance, or a person that provides
5 rehabilitative occupational training following the injury, may

1 charge a reasonable amount for the treatment or training. The
2 charge must not exceed the amount the person customarily charges
3 for like treatment or training in cases that do not involve
4 insurance.

5 (2) Subject to subsections (3) to ~~(14)~~, **(15)**, a physician,
6 hospital, clinic, or other person that renders treatment or
7 rehabilitative occupational training to an injured person for an
8 accidental bodily injury covered by personal protection insurance
9 is not eligible for payment or reimbursement under this chapter for
10 more than the following:

11 (a) For treatment or training rendered after July 1, 2021 and
12 before July 2, 2022, 200% of the amount payable to the person for
13 the treatment or training under Medicare.

14 (b) For treatment or training rendered after July 1, 2022 and
15 before July 2, 2023, 195% of the amount payable to the person for
16 the treatment or training under Medicare.

17 (c) For treatment or training rendered after July 1, 2023,
18 190% of the amount payable to the person for the treatment or
19 training under Medicare.

20 (3) Subject to subsections (5) to ~~(14)~~, **(15)**, a physician,
21 hospital, clinic, or other person identified in subsection (4) that
22 renders treatment or rehabilitative occupational training to an
23 injured person for an accidental bodily injury covered by personal
24 protection insurance is eligible for payment or reimbursement under
25 this chapter of not more than the following:

26 (a) For treatment or training rendered after July 1, 2021 and
27 before July 2, 2022, 230% of the amount payable to the person for
28 the treatment or training under Medicare.

29 (b) For treatment or training rendered after July 1, 2022 and

1 before July 2, 2023, 225% of the amount payable to the person for
2 the treatment or training under Medicare.

3 (c) For treatment or training rendered after July 1, 2023,
4 220% of the amount payable to the person for the treatment or
5 training under Medicare.

6 (4) Subject to subsection (5), subsection (3) only applies to
7 a physician, hospital, clinic, or other person if either of the
8 following applies to the person rendering the treatment or
9 training:

10 (a) On July 1 of the year in which the person renders the
11 treatment or training, the person has 20% or more, but less than
12 30%, indigent volume determined pursuant to the methodology used by
13 the department of health and human services in determining
14 inpatient medical/surgical factors used in measuring eligibility
15 for Medicaid disproportionate share payments.

16 (b) The person is a freestanding rehabilitation facility. Each
17 year the director shall designate not more than 2 freestanding
18 rehabilitation facilities to qualify for payments under subsection
19 (3) for that year. As used in this subdivision, "freestanding
20 rehabilitation facility" means an acute care hospital to which all
21 of the following apply:

22 (i) The hospital has staff with specialized and demonstrated
23 rehabilitation medicine expertise.

24 (ii) The hospital possesses sophisticated technology and
25 specialized facilities.

26 (iii) The hospital participates in rehabilitation research and
27 clinical education.

28 (iv) The hospital assists patients to achieve excellent
29 rehabilitation outcomes.

1 (v) The hospital coordinates necessary post-discharge
2 services.

3 (vi) The hospital is accredited by 1 or more third-party,
4 independent organizations focused on quality.

5 (vii) The hospital serves the rehabilitation needs of
6 catastrophically injured patients in this state.

7 (viii) The hospital was in existence on May 1, 2019.

8 (5) To qualify for a payment under subsection (4) (a), a
9 physician, hospital, clinic, or other person shall provide the
10 director with all documents and information requested by the
11 director that the director determines are necessary to allow the
12 director to determine whether the person qualifies. The director
13 shall annually review documents and information provided under this
14 subsection and, if the person qualifies under subsection (4) (a),
15 shall certify the person as qualifying and provide a list of
16 qualifying persons to insurers and other persons that provide the
17 security required under section ~~3101(1)~~. **3101**. A physician,
18 hospital, clinic, or other person that provides 30% or more of its
19 total treatment or training as described under subsection (4) (a) is
20 entitled to receive, instead of an applicable percentage under
21 subsection (3), 250% of the amount payable to the person for the
22 treatment or training under Medicare.

23 (6) Subject to subsections (7) to ~~(14)~~, **(15)**, a hospital that
24 is a level I or level II trauma center that renders treatment to an
25 injured person for an accidental bodily injury covered by personal
26 protection insurance, if the treatment is for an emergency medical
27 condition and rendered before the patient is stabilized and
28 transferred, is not eligible for payment or reimbursement under
29 this chapter of more than the following:

1 (a) For treatment rendered after July 1, 2021 and before July
2 2, 2022, 240% of the amount payable to the hospital for the
3 treatment under Medicare.

4 (b) For treatment rendered after July 1, 2022 and before July
5 2, 2023, 235% of the amount payable to the hospital for the
6 treatment under Medicare.

7 (c) For treatment rendered after July 1, 2023, 230% of the
8 amount payable to the hospital for the treatment under Medicare.

9 (7) If Medicare does not provide an amount payable for a
10 treatment or rehabilitative occupational training under subsection
11 (2), (3), (5), or (6), the physician, hospital, clinic, or other
12 person that renders the treatment or training is not eligible for
13 payment or reimbursement under this chapter of more than the
14 following, as applicable:

15 (a) For a person to which subsection (2) applies, the
16 applicable following percentage of the amount payable for the
17 treatment or training under the person's charge description master
18 in effect on January 1, 2019 or, if the person did not have a
19 charge description master on that date, the applicable following
20 percentage of the average amount the person charged for the
21 treatment on January 1, 2019:

22 (i) For treatment or training rendered after July 1, 2021 and
23 before July 2, 2022, 55%.

24 (ii) For treatment or training rendered after July 1, 2022 and
25 before July 2, 2023, 54%.

26 (iii) For treatment or training rendered after July 1, 2023,
27 52.5%.

28 (b) For a person to which subsection (3) applies, the
29 applicable following percentage of the amount payable for the

1 treatment or training under the person's charge description master
2 in effect on January 1, 2019 or, if the person did not have a
3 charge description master on that date, the applicable following
4 percentage of the average amount the person charged for the
5 treatment or training on January 1, 2019:

6 (i) For treatment or training rendered after July 1, 2021 and
7 before July 2, 2022, 70%.

8 (ii) For treatment or training rendered after July 1, 2022 and
9 before July 2, 2023, 68%.

10 (iii) For treatment or training rendered after July 1, 2023,
11 66.5%.

12 (c) For a person to which subsection (5) applies, 78% of the
13 amount payable for the treatment or training under the person's
14 charge description master in effect on January 1, 2019 or, if the
15 person did not have a charge description master on that date, 78%
16 of the average amount the person charged for the treatment on
17 January 1, 2019.

18 (d) For a person to which subsection (6) applies, the
19 applicable following percentage of the amount payable for the
20 treatment under the person's charge description master in effect on
21 January 1, 2019 or, if the person did not have a charge description
22 master on that date, the applicable following percentage of the
23 average amount the person charged for the treatment on January 1,
24 2019:

25 (i) For treatment or training rendered after July 1, 2021 and
26 before July 2, 2022, 75%.

27 (ii) For treatment or training rendered after July 1, 2022 and
28 before July 2, 2023, 73%.

29 (iii) For treatment or training rendered after July 1, 2023,

1 71%.

2 (8) For any change to an amount payable under Medicare as
3 provided in subsection (2), (3), (5), or (6) that occurs after ~~the~~
4 ~~effective date of the amendatory act that added this subsection,~~
5 **June 11, 2019**, the change must be applied to the amount allowed for
6 payment or reimbursement under that subsection. However, an amount
7 allowed for payment or reimbursement under subsection (2), (3),
8 (5), or (6) must not exceed the average amount charged by the
9 physician, hospital, clinic, or other person for the treatment or
10 training on January 1, 2019.

11 (9) An amount that is to be applied under subsection (7) or
12 (8), that was in effect on January 1, 2019, including any prior
13 adjustments to the amount made under this subsection, must be
14 adjusted annually by the percentage change in the medical care
15 component of the Consumer Price Index for the year preceding the
16 adjustment.

17 (10) For attendant care rendered in the injured person's home,
18 an insurer is only required to pay benefits for attendant care up
19 to the hourly limitation in section 315 of the worker's disability
20 compensation act of 1969, 1969 PA 317, MCL 418.315. This subsection
21 only applies if the attendant care is provided directly, or
22 indirectly through another person, by any of the following:

23 (a) An individual who is related to the injured person.

24 (b) An individual who is domiciled in the household of the
25 injured person.

26 (c) An individual with whom the injured person had a business
27 or social relationship before the injury.

28 (11) An insurer may contract to pay benefits for attendant
29 care for more than the hourly limitation under subsection (10).

1 (12) A neurological rehabilitation clinic is not entitled to
2 payment or reimbursement for a treatment ~~, or rehabilitative~~
3 **occupational** training ~~, product, service, or accommodation~~ unless
4 the neurological rehabilitation clinic is accredited by the
5 Commission on Accreditation of Rehabilitation Facilities or a
6 similar organization recognized by the director for purposes of
7 accreditation under this subsection. This subsection does not apply
8 to a neurological rehabilitation clinic that is in the process of
9 becoming accredited as required under this subsection on July 1,
10 2021, unless 3 years have passed since the beginning of that
11 process and the neurological rehabilitation clinic is still not
12 accredited.

13 (13) Subsections (2) to (12) do not apply to emergency medical
14 services rendered by an ambulance operation. As used in this
15 subsection:

16 (a) "Ambulance operation" means that term as defined in
17 section 20902 of the public health code, 1978 PA 368, MCL
18 333.20902.

19 (b) "Emergency medical services" means that term as defined in
20 section 20904 of the public health code, 1978 PA 368, MCL
21 333.20904.

22 (14) Subsections (2) to (13) apply to treatment or
23 rehabilitative occupational training rendered after July 1, 2021.

24 **(15) Subsections (2) to (9) apply only if payment of the**
25 **benefits is not overdue under section 3142.**

26 **(16) A payment rate under subsections (2) to (9) is not**
27 **admissible in an action against an insurer for overdue benefits.**

28 (17) ~~(15)~~As used in this section:

29 (a) "Charge description master" means a uniform schedule of

1 charges represented by the person as its gross billed charge for a
2 given service or item, regardless of payer type.

3 (b) "Consumer Price Index" means the most comprehensive index
4 of consumer prices available for this state from the United States
5 Department of Labor, Bureau of Labor Statistics.

6 (c) "Emergency medical condition" means that term as defined
7 in section 1395dd of the social security act, 42 USC 1395dd.

8 (d) "Level I or level II trauma center" means a hospital that
9 is verified as a level I or level II trauma center by the American
10 College of Surgeons Committee on Trauma.

11 (e) "Medicaid" means a program for medical assistance
12 established under subchapter XIX of the social security act, 42 USC
13 1396 to ~~1396w-5~~. **1396w-6**.

14 (f) "Medicare" means fee for service payments under part A, B,
15 or D of the federal Medicare program established under subchapter
16 XVIII of the social security act, 42 USC 1395 to 1395III, without
17 regard to the limitations unrelated to the rates in the fee
18 schedule such as limitation or supplemental payments related to
19 utilization, readmissions, recaptures, bad debt adjustments, or
20 sequestration.

21 (g) "Neurological rehabilitation clinic" means a person that
22 provides post-acute brain and spinal rehabilitation care.

23 (h) "Person", as provided in section 114, includes, but is not
24 limited to, an institution.

25 (i) "Stabilized" means that term as defined in section 1395dd
26 of the social security act, 42 USC 1395dd.

27 (j) "Transfer" means that term as defined in section 1395dd of
28 the social security act, 42 USC 1395dd.

29 (k) "Treatment" includes, but is not limited to, products,

1 services, and accommodations.