

HOUSE BILL NO. 4687

May 30, 2023, Introduced by Reps. Wozniak and Bezotte and referred to the Committee on Insurance and Financial Services.

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 3151 and 3157a (MCL 500.3151 and 500.3157a), section 3151 as amended by 2019 PA 22 and section 3157a as added by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3151. (1) ~~If~~ **Subject to subsection (3), if** the mental or
2 physical condition of a person is material to a claim that has been
3 or may be made for past or future personal protection insurance
4 benefits, at the request of an insurer the person shall submit to

1 mental or physical examination by physicians. A personal protection
2 insurer may include reasonable provisions that are in accord with
3 this section in a personal protection insurance policy for mental
4 and physical examination of persons claiming personal protection
5 insurance benefits.

6 (2) A physician who conducts a mental or physical examination
7 under this section must be licensed as a physician in this state or
8 another state and meet the following criteria, as applicable:

9 (a) If care is being provided to the person to be examined by
10 a specialist, the examining physician must specialize in the same
11 specialty as the physician providing the care, and if the physician
12 providing the care is board certified in the specialty, the
13 examining physician must be board certified in that specialty.

14 (b) During the year immediately preceding the examination, the
15 examining physician must have devoted a majority of his or her
16 professional time to either or both of the following:

17 (i) The active clinical practice of medicine and, if
18 subdivision (a) applies, the active clinical practice relevant to
19 the specialty.

20 (ii) The instruction of students in an accredited medical
21 school or in an accredited residency or clinical research program
22 for physicians and, if subdivision (a) applies, the instruction of
23 students is in the specialty.

24 **(3) This section does not apply, and an insurer or the**
25 **association created under section 3104 shall not request that an**
26 **injured person submit to a mental or physical exam under this**
27 **section or under an insurance policy provision, if the insurer or**
28 **association has done either of the following:**

29 (a) **Required an explanation under section 3157a(4) from a**

1 physician, hospital, clinic, or other person regarding treatment,
 2 products, services, or accommodations rendered to the injured
 3 person.

4 (b) Made a determination as described in section 3157a(5)
 5 about treatment, products, services, or accommodations rendered by
 6 a physician, hospital, clinic, or other person to the injured
 7 person.

8 Sec. 3157a. (1) ~~By~~ **Subject to subsection (6), by** rendering any
 9 treatment, products, services, or accommodations to 1 or more
 10 injured persons for an accidental bodily injury covered by personal
 11 protection insurance under this chapter after July 1, 2020, a
 12 physician, hospital, clinic, or other person is considered to have
 13 agreed to do both of the following:

14 (a) Submit necessary records and other information concerning
 15 treatment, products, services, or accommodations provided for
 16 utilization review under this section.

17 (b) Comply with any decision of the department under this
 18 section.

19 (2) A physician, hospital, clinic, or other person or
 20 institution that knowingly submits under this section false or
 21 misleading records or other information to an insurer, the
 22 association created under section 3104, or the department commits a
 23 fraudulent insurance act under section 4503.

24 (3) The department shall promulgate rules under the
 25 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
 26 24.328, to do both of the following:

27 (a) Establish criteria or standards for utilization review
 28 that identify utilization of treatment, products, services, or
 29 accommodations under this chapter above the usual range of

1 utilization for the treatment, products, services, or
2 accommodations based on medically accepted standards.

3 (b) Provide procedures related to utilization review,
4 including procedures for all of the following:

5 (i) Acquiring necessary records, medical bills, and other
6 information concerning the treatment, products, services, or
7 accommodations provided.

8 (ii) Allowing an insurer to request an explanation for and
9 requiring a physician, hospital, clinic, or other person to explain
10 the necessity or indication for treatment, products, services, or
11 accommodations provided.

12 (iii) Appealing determinations.

13 (4) ~~¶~~**Subject to subsection (6), if** a physician, hospital,
14 clinic, or other person provides treatment, products, services, or
15 accommodations under this chapter that are not usually associated
16 with, are longer in duration than, are more frequent than, or
17 extend over a greater number of days than the treatment, products,
18 services, or accommodations usually require for the diagnosis or
19 condition for which the patient is being treated, the insurer or
20 the association created under section 3104 may require the
21 physician, hospital, clinic, or other person to explain the
22 necessity or indication for the treatment, products, services, or
23 accommodations in writing under the procedures provided under
24 subsection (3).

25 (5) ~~¶~~**Subject to subsection (6), if** an insurer or the
26 association created under section 3104 determines that a physician,
27 hospital, clinic, or other person overutilized or otherwise
28 rendered or ordered inappropriate treatment, products, services, or
29 accommodations, or that the cost of the treatment, products,

1 services, or accommodations was inappropriate under this chapter,
2 the physician, hospital, clinic, or other person may appeal the
3 determination to the department under the procedures provided under
4 subsection (3).

5 **(6) This section does not apply, and an insurer or the**
6 **association created under section 3104 shall not require an**
7 **explanation under subsection (4) or make a determination as**
8 **described in subsection (5), if the insurer or association has**
9 **required the injured person to submit to a mental or physical exam**
10 **under section 3151 or under an insurance policy provision.**

11 **(7) ~~(6)~~—As used in this section, "utilization review" means**
12 **the initial evaluation by an insurer or the association created**
13 **under section 3104 of the appropriateness in terms of both the**
14 **level and the quality of treatment, products, services, or**
15 **accommodations provided under this chapter based on medically**
16 **accepted standards.**