

HOUSE BILL NO. 5475

February 22, 2024, Introduced by Rep. Schriver and referred to the Committee on Government Operations.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 55, 66a, 109, and 109e (MCL 400.55, 400.66a, 400.109, and 400.109e), section 55 as amended by 2015 PA 90, section 109 as amended by 2022 PA 98, and section 109e as added by 1996 PA 124.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 55. The county department shall administer a public
2 welfare program, as follows:

1 (a) To grant general assistance, including medical care and
2 care in the county medical care facility, but not including
3 hospitalization and infirmary care except for care in the county
4 medical care facility or a county infirmary existing on January 1,
5 1981, to ~~any person~~**an individual** domiciled in the county who has a
6 legal settlement in this state. General assistance may also be
7 granted to ~~a person~~**an individual** who has a legal settlement in
8 this state but no domicile in the county and a recoupment may be
9 made ~~when~~**if** appropriate in the manner provided in cases of
10 emergency hospitalization under this act. In a temporary emergency,
11 general assistance may be given to indigents without a settlement
12 in this state as the county department considers necessary,
13 including, if other ~~funds are~~**money is** not available for the
14 purpose, all necessary expenses in transporting an indigent to his
15 or her domicile in this state, or in another state or nation, ~~when~~
16 **if** information reasonably tends to show that the ~~person~~**individual**
17 has a home available in his or her place of domicile in this state
18 or a legal residence in another state or nation. A legal settlement
19 in this state is acquired by an emancipated ~~person~~**individual** who
20 has lived continuously in this state for 1 year with the intent to
21 make it his or her home and who, during the 1-year period has not
22 received public assistance, other than assistance received during
23 and as a direct result of a civil defense emergency, or support
24 from relatives. Time spent in a public institution ~~shall~~**is** not be
25 counted in determining settlement. A legal settlement ~~shall be~~**is**
26 lost by remaining away from this state for an uninterrupted period
27 of 1 year except that absence from this state for labor or other
28 special or temporary purpose ~~shall~~**does** not occasion loss of
29 settlement.

1 (b) To administer categorical assistance including medical
2 care.

3 (c) To supervise and be responsible for the operation of the
4 county infirmary and county medical care facility. In a county
5 having a population of 1,000,000 or more that maintains a county
6 infirmary or county hospital or a joint infirmary and hospital
7 providing for mental patients, the institution and the admissions
8 to the institution are subject to the control of a board to be
9 known as the board of county institutions. The board shall consist
10 of 5 members appointed by the county board of commissioners, except
11 that in a county having a board of county auditors, 3 members of
12 the board of county institutions ~~shall~~**must** be appointed by the
13 county board of commissioners and 2 members ~~shall~~**must** be appointed
14 by the board of county auditors. Each member of the board shall
15 hold office for a term and receive compensation as the county board
16 of commissioners provides by ordinance. In relation to the
17 administration of the institutions, the board has and succeeds to
18 all powers and duties formerly vested by law, general, local or
19 special, in the superintendents of the poor in the county and the
20 board of county institutions as constituted on April 13, 1943. The
21 board of county institutions of the county may also maintain
22 outpatient facilities for the treatment of needy ~~persons~~
23 **individuals** suffering from mental disorders. The board also has the
24 same powers as are given to the county board in section 78.

25 (d) To furnish in all cases, ~~insofar as~~**when** practicable, care
26 and treatment that will tend to restore needy ~~persons~~**individuals**
27 to a condition of financial and social independence.

28 (e) To require that each applicant ~~shall~~ furnish proof
29 satisfactory to the county board that the applicant is entitled to

1 the aid, assistance, or benefit sought.

2 (f) To investigate, in respect to each application for any
3 form of public aid or assistance, the circumstances of the
4 applicant, both at the time of application and periodically during
5 the receipt of aid or assistance.

6 (g) To maintain adequate social and financial records
7 pertaining to each recipient of aid or assistance and, ~~so far as is~~
8 **when** practicable, engage in the prevention of social disabilities.

9 (h) Except as otherwise provided in this subdivision, to
10 investigate, ~~when-if~~ requested by the probate court or the family
11 division of circuit court, matters pertaining to dependent,
12 neglected, and delinquent children and wayward minors under the
13 court's jurisdiction, to provide supervision and foster care as
14 provided by court order, and to furnish the court, on request,
15 investigational service in respect to the hospitalization of
16 children under the program of services for children and youth with
17 special health care needs established under part 58 of the public
18 health code, 1978 PA 368, MCL 333.5801 to 333.5879, which services
19 ~~shall-must~~ include the follow-up investigation and continuing
20 observations. If the county is a county juvenile agency as defined
21 in section 2 of the county juvenile agency act, 1998 PA 518, MCL
22 45.622, the county department's obligations under this subdivision
23 are limited to public wards within the county's jurisdiction under
24 the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to
25 803.309, and county juvenile agency services as **that term is**
26 defined in section 117a.

27 (i) To assist other departments, agencies, and institutions of
28 the federal, state, and county governments, ~~when-if~~ requested, in
29 performing services in conformity with ~~the purposes of~~ this act.

1 (j) To assist in the development of sound programs and
 2 standards of child welfare, and promote programs and policies
 3 ~~looking toward the prevention of~~ **to prevent** dependency, neglect,
 4 and delinquency and other conditions affecting adversely the
 5 welfare of families and children.

6 (k) To create within the county department a division of
 7 medical care. The county board may appoint a properly qualified and
 8 licensed doctor of medicine as the head of the division and an
 9 advisory committee. The advisory committee shall consist of 1
 10 doctor of medicine, nominated by the county medical society; 1
 11 dentist, nominated by the district dental society; and 1
 12 pharmacist, nominated by the district pharmaceutical association,
 13 to assist in formulating policies of medical care and auditing and
 14 reviewing bills. ~~"Medical~~ **As used in this act, "medical** care" as
 15 ~~used in this act~~ means medical care rendered under the supervision
 16 of a licensed physician in an organized ~~out-patient~~ **outpatient**
 17 department of a hospital licensed by the department of ~~community~~
 18 ~~health~~ **licensing and regulatory affairs** under article 17 of the
 19 public health code, 1978 PA 368, MCL 333.20101 to ~~333.22260,~~
 20 **333.22121**, or home and office attendance by a physician,
 21 osteopathic physician and surgeon, or podiatrist licensed or
 22 otherwise authorized to engage in practice under article 15 of the
 23 public health code, 1978 PA 368, MCL 333.16101 to 333.18838; and
 24 ~~when~~ **if** prescribed by the physician, osteopathic physician and
 25 surgeon, or podiatrist, diagnostic services requiring the use of
 26 equipment not available in his or her offices, if the services do
 27 not require overnight care, dental service, optometric service,
 28 bedside nursing service in the home, or pharmaceutical service. The
 29 private physician-patient relationship ~~shall~~ **must** be maintained.

1 The normal relationships between the recipients of dental,
 2 optometric, nursing, and pharmaceutical services, and the services
 3 furnished by a physician, osteopathic physician and surgeon,
 4 podiatrist, or ~~a~~-chiropractor licensed or otherwise authorized to
 5 engage in practice under article 15 of the public health code, 1978
 6 PA 368, MCL 333.16101 to 333.18838, and the persons furnishing
 7 these services ~~shall~~**must** be maintained. This section does not
 8 affect the office of a city physician or city pharmacist
 9 established under a city charter, a county health officer, or the
 10 medical superintendent of a county hospital. This section permits
 11 the use of a case management system, a patient care management
 12 system, or other alternative system for providing medical care.

13 (l) To cause to be suitably buried the body of a deceased
 14 indigent ~~person~~**individual** who has a domicile in the county, ~~when~~
 15 **if** requested by the ~~person's~~**individual's** relative or friend, or of
 16 a stranger, ~~when~~**if** requested by a public official following an
 17 inquest.

18 (m) To administer additional welfare functions as are vested
 19 in the department, including hospitalization.

20 (n) To act as an agent for the state department in matters
 21 requested by the state department under the rules of the state
 22 department.

23 ~~(o) To provide temporary general assistance for each family~~
 24 ~~found ineligible for family independence assistance by reason of~~
 25 ~~unsuitable family home as provided in section 56.~~

26 Sec. 66a. The county social welfare boards shall make
 27 provision for hospitalization ~~which~~**that** is necessary and not more
 28 advantageously provided to the recipient under other law or
 29 provided under other sections of this act for every person found in

1 their respective counties under rules of financial eligibility
2 established by the boards and shall be reimbursed 100% by ~~the~~**this**
3 state for the monthly net cost of the hospitalization for
4 nonresidents of ~~the~~**this** state. The county department, in its
5 discretion, may direct that the patient be conveyed to the
6 university hospital at Ann Arbor or any other hospital for
7 hospitalization. As used in this act, "hospitalization" means
8 medical, surgical, or obstetrical care in the university hospital
9 or in a hospital licensed under article 17 of ~~Act No. 368 of the~~
10 ~~Public Acts of 1978, as amended, being sections 333.20101 to~~
11 ~~333.22190 of the Michigan Compiled Laws, **the public health code,**~~
12 **1978 PA 368, MCL 333.20101 to 333.22121,** together with necessary
13 drugs, x-rays, physical therapy, prosthesis, transportation, and
14 nursing care incidental to the medical, surgical, or obstetrical
15 care, but ~~shall~~**does** not include medical care as defined in section
16 55. Before a patient ~~shall be~~**is** admitted except in an emergency,
17 to any hospital other than the university hospital, a definite
18 agreement, statement, or schedule of charges, expenses, and fees to
19 be received by the hospital and physicians or surgeons performing
20 necessary services under this act ~~shall~~**must** be filed with the
21 county department of the county in which the hospital is located
22 and approved by the county department, except as provided for in
23 section 66i. The hospital shall, at the conclusion of the
24 treatment, make a report of the treatment and an itemized statement
25 of the expenses of the treatment to the county department ~~which~~
26 **that** issued the order, but charges for special nurses ~~shall~~**must**
27 not be made without the consent of the county social welfare
28 director. The expenses for sending the patient home or to other
29 institutions after being discharged from the hospital may be paid

1 by the hospital and charged in the regular bill for maintenance
2 unless different instructions have been received from the county
3 department ~~which~~**that** issued the order for admission.

4 Sec. 109. (1) The following medical services may be provided
5 under this act:

6 (a) Hospital services that an eligible individual may receive
7 consist of medical, surgical, or obstetrical care, together with
8 necessary drugs, X-rays, physical therapy, prosthesis,
9 transportation, and nursing care incident to the medical, surgical,
10 or obstetrical care. The period of inpatient hospital service ~~shall~~
11 **must** be the minimum period necessary in this type of facility for
12 the proper care and treatment of the individual. Necessary
13 hospitalization to provide dental care must be provided if
14 certified by the attending dentist with the approval of the
15 department. An individual who is receiving medical treatment as an
16 inpatient because of a diagnosis of mental disease may receive
17 service under this section, notwithstanding the mental health code,
18 1974 PA 258, MCL 330.1001 to 330.2106. The department must pay for
19 hospital services according to the state plan for medical
20 assistance adopted under section 10 and approved by the United
21 States Department of Health and Human Services.

22 (b) An eligible individual may receive physician services
23 authorized by the department. The service may be furnished in the
24 physician's office, the eligible individual's home, a medical
25 institution, or elsewhere in case of emergency. A physician must be
26 paid a reasonable charge for the service rendered. The department
27 must determine reasonable charges. Reasonable charges must not be
28 more than those paid in this state for services rendered under
29 title XVIII.

1 (c) An eligible individual may receive nursing home services
 2 in a state licensed nursing home, a medical care facility, or other
 3 facility or identifiable unit of that facility, certified by the
 4 appropriate authority as meeting established standards for a
 5 nursing home under the laws and rules of this state and the United
 6 States Department of Health and Human Services, to the extent found
 7 necessary by the attending physician, dentist, or certified
 8 Christian Science practitioner. An eligible individual may receive
 9 nursing services in an extended care services program established
 10 under **former** section 22210 of the public health code, 1978 PA 368,
 11 ~~MCL 333.22210,~~ to the extent found necessary by the attending
 12 physician when the combined length of stay in the acute care bed
 13 and short-term nursing care bed exceeds the average length of stay
 14 for Medicaid hospital diagnostic related group reimbursement. The
 15 department shall not make a final payment under title XIX for
 16 benefits available under title XVIII without documentation that
 17 title XVIII claims have been filed and denied. The department must
 18 pay for nursing home services according to the state plan for
 19 medical assistance adopted according to section 10 and approved by
 20 the United States Department of Health and Human Services. A county
 21 must reimburse a county maintenance of effort rate determined on an
 22 annual basis for each patient day of Medicaid nursing home services
 23 provided to eligible individuals in long-term care facilities owned
 24 by the county and licensed to provide nursing home services. For
 25 purposes of determining rates and costs described in this
 26 subdivision, all of the following apply:

27 (i) For county-owned facilities with per patient day updated
 28 variable costs exceeding the variable cost limit for the county
 29 facility, county maintenance of effort rate means 45% of the

1 difference between per patient day updated variable cost and the
2 concomitant nursing home-class variable cost limit, the quantity
3 offset by the difference between per patient day updated variable
4 cost and the concomitant variable cost limit for the county
5 facility. The county rate must not be less than zero.

6 (ii) For county-owned facilities with per patient day updated
7 variable costs not exceeding the variable cost limit for the county
8 facility, county maintenance of effort rate means 45% of the
9 difference between per patient day updated variable cost and the
10 concomitant nursing home class variable cost limit.

11 (iii) For county-owned facilities with per patient day updated
12 variable costs not exceeding the concomitant nursing home class
13 variable cost limit, the county maintenance of effort rate must
14 equal zero.

15 (iv) For the purposes of this section: "per patient day updated
16 variable costs and the variable cost limit for the county facility"
17 must be determined according to the state plan for medical
18 assistance; for freestanding county facilities the "nursing home
19 class variable cost limit" must be determined according to the
20 state plan for medical assistance and for hospital attached county
21 facilities the "nursing class variable cost limit" must be
22 determined according to the state plan for medical assistance plus
23 \$5.00 per patient day; and "freestanding" and "hospital attached"
24 must be determined according to the federal regulations.

25 (v) If the county maintenance of effort rate computed under
26 this section exceeds the county maintenance of effort rate in
27 effect as of September 30, 1984, the rate in effect as of September
28 30, 1984 must remain in effect until a time that the rate computed
29 under this section is less than the September 30, 1984 rate. This

1 limitation remains in effect until December 31, 2025 or until a new
2 reimbursement system determined by the department replaces the
3 current system, whichever is sooner. For each subsequent county
4 fiscal year, the maintenance of effort rate may not increase by
5 more than \$1.00 per patient day each year.

6 (vi) For county-owned facilities, reimbursement for plant costs
7 must continue to be based on interest expense and depreciation
8 allowance unless otherwise provided by law.

9 (d) An eligible individual may receive pharmaceutical services
10 from a licensed pharmacist of the individual's choice as prescribed
11 by a licensed physician or dentist and approved by the department.
12 In an emergency, but not routinely, the individual may receive
13 pharmaceutical services rendered personally by a licensed physician
14 or dentist on the same basis as approved for pharmacists.

15 (e) An eligible individual may receive other medical and
16 health services as authorized by the department.

17 (f) Psychiatric care may also be provided according to the
18 guidelines established by the department to the extent of
19 appropriations made available by the legislature for the fiscal
20 year.

21 (g) An eligible individual may receive screening, laboratory
22 services, diagnostic services, early intervention services, and
23 treatment for chronic kidney disease under guidelines established
24 by the department. A clinical laboratory performing a creatinine
25 test on an eligible individual under this subdivision must include
26 in the lab report the glomerular filtration rate (eGFR) of the
27 individual and must report it as a percentage of kidney function
28 remaining.

29 (h) An eligible individual may receive medically necessary

1 acute medical detoxification for opioid use disorder, medically
 2 necessary inpatient care at an approved facility, or care in an
 3 appropriately licensed substance use disorder residential treatment
 4 facility.

5 (2) The director must provide notice to the public, according
 6 to applicable federal regulations, and must obtain the approval of
 7 the committees on appropriations of the house of representatives
 8 and senate of the state legislature, of a proposed change in the
 9 statewide method or level of reimbursement for a service, if the
 10 proposed change is expected to increase or decrease payments for
 11 that service by 1% or more during the 12 months after the effective
 12 date of the change.

13 (3) As used in this act:

14 (a) "Title XVIII" means title XVIII of the social security
 15 act, 42 USC 1395 to 1395lll.

16 (b) "Title XIX" means title XIX of the social security act, 42
 17 USC 1396 to ~~1396w-6~~.1396w-7.

18 (c) "Title XX" means title XX of the social security act, 42
 19 USC 1397 to 1397n-13.

20 Sec. 109e. (1) As used in this section:

21 (a) "Abortion" means the intentional use of an instrument,
 22 drug, or other substance or device to terminate a woman's pregnancy
 23 for a purpose other than to increase the probability of a live
 24 birth, to preserve the life or health of the child after live
 25 birth, or to remove a dead fetus. Abortion does not include the use
 26 or prescription of a drug or device intended as a contraceptive.

27 (b) "Health care professional" means an individual licensed or
 28 registered under article 15 of the public health code, ~~Act No. 368~~
 29 ~~of the Public Acts of 1978, being sections 333.16101 to 333.18838~~

1 ~~of the Michigan Compiled Laws.~~ **1978 PA 368, MCL 333.16101 to**
 2 **333.18838.**

3 (c) "Health facility or agency" means a health facility or
 4 agency licensed under article 17 of ~~Act No. 368 of the Public Acts~~
 5 ~~of 1978, being sections 333.20101 to 333.22260 of the Michigan~~
 6 ~~Compiled Laws.~~ **the public health code, 1978 PA 368, MCL 333.20101 to**
 7 **333.22121.**

8 (2) A health care professional or a health facility or agency
 9 shall not seek or accept reimbursement for the performance of an
 10 abortion knowing that public ~~funds~~ **money** will be or ~~have~~ **has** been
 11 used in whole or in part for the reimbursement in violation of
 12 section 109a. ~~of Act No. 280 of the Public Acts of 1939, being~~
 13 ~~section 400.109a of the Michigan Compiled Laws, as added by Act No.~~
 14 ~~59 of the Public Acts of 1987.~~

15 (3) A person who violates this section is liable for a civil
 16 fine of up to \$10,000.00 per violation. The department of ~~community~~
 17 **health and human services** shall investigate an alleged violation of
 18 this section and the attorney general, in cooperation with the
 19 department of ~~community~~ **health and human services**, may bring an
 20 action to enforce this section.

21 (4) ~~Nothing in this~~ **This** section ~~restricts~~ **does not restrict**
 22 the right of a health care professional to discuss abortion or
 23 abortion services with a patient who is pregnant.

24 (5) This section does not create a right to an abortion.

25 (6) Notwithstanding any other provision of this section, a
 26 person shall not perform an abortion that is prohibited by law.

27 Enacting section 1. This amendatory act does not take effect
 28 unless Senate Bill No. ____ or House Bill No. 5477 (request no.
 29 01038'23) of the 102nd Legislature is enacted into law.