

HOUSE BILL No. 4714

May 9, 2013, Introduced by Reps. Lori and Pscholka and referred to the Committee on Michigan Competitiveness.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 105, 105a, 106, 107, 108, and 109c (MCL 400.105, 400.105a, 400.106, 400.107, 400.108, and 400.109c), section 105 as amended by 1980 PA 321, section 105a as added by 1988 PA 438, sections 106 and 107 as amended by 2006 PA 144, and section 109c as amended by 1994 PA 302, and by adding sections 105c and 105d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 105. (1) The ~~state~~ department **OF COMMUNITY HEALTH** shall
2 establish a program for medical assistance for the medically
3 indigent under title XIX. The director of the ~~state~~ department **OF**
4 **COMMUNITY HEALTH** shall administer the program established by the
5 ~~state~~ department **OF COMMUNITY HEALTH** and shall be responsible for
6 determining eligibility under this act. Except as otherwise

1 provided in this act, the director may delegate the authority to
2 perform a function necessary or appropriate for the proper
3 administration of the program.

4 (2) As used in this section and sections 106 to 112, "peer
5 review advisory committee" means an entity comprising professionals
6 and experts who are selected by the director and nominated by an
7 organization or association or organizations or associations
8 representing a class of providers.

9 (3) As used in sections 106 to 112, "professionally accepted
10 standards" means those standards developed by peer review advisory
11 committees and professionals and experts with whom the director is
12 required to consult.

13 (4) As used in this section and sections 106 to 112,
14 "provider" means an individual, sole proprietorship, partnership,
15 association, corporation, institution, agency, or other legal
16 entity, who has entered into an agreement of enrollment specified
17 by the director ~~pursuant to~~ **UNDER** section ~~111b(1)(c)~~ **111B(4)**.

18 Sec. 105a. (1) The department **OF COMMUNITY HEALTH** shall
19 develop written information that sets forth the eligibility
20 requirements for participation in the program of medical assistance
21 administered under this act. The written information shall be
22 updated not less than every 2 years.

23 (2) The department **OF COMMUNITY HEALTH** shall provide copies of
24 the written information described in subsection (1) to all of the
25 following persons, agencies, and health facilities:

26 (a) A person applying to the department **OF COMMUNITY HEALTH**
27 for participation in the program of medical assistance administered

1 under this act who is considering institutionalization for the
 2 person or person's family member in a nursing home or home for the
 3 aged.

4 (b) Each nursing home in the state.

5 (c) Each hospital in the state.

6 (d) Each adult foster care facility in the state.

7 (e) Each area agency on aging.

8 (f) The office of services to the aging.

9 (g) Local health departments.

10 (h) Community mental health boards.

11 (i) Medicaid and medicare certified home health agencies.

12 (j) County medical care facilities.

13 (k) Appropriate department of ~~social services~~ **COMMUNITY HEALTH**
 14 personnel.

15 (l) Any other person, agency, or health facility determined to
 16 be appropriate by the department **OF COMMUNITY HEALTH**.

17 **SEC. 105C. THE DEPARTMENT SHALL PROVIDE A PROCESS BY WHICH**
 18 **INDIVIDUALS MAY APPLY FOR OR RENEW MEDICAL ASSISTANCE ELIGIBILITY**
 19 **THROUGH A WEBSITE FROM WHICH THE DEPARTMENT SHALL ENROLL**
 20 **INDIVIDUALS IN THE APPROPRIATE HEALTH CARE PROGRAM WITHOUT REGARD**
 21 **TO THE SPECIFIC PROGRAM FOR WHICH THE INDIVIDUAL APPLIES. THIS**
 22 **SECTION DOES NOT APPLY IF EITHER OF THE FOLLOWING OCCURS:**

23 (A) IF THE DEPARTMENT OF COMMUNITY HEALTH IS UNABLE TO OBTAIN
 24 A WAIVER FROM THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
 25 SERVICES TO IMPLEMENT THE PROVISIONS OF SECTION 105D OR 106(1)(C).

26 (B) IF AT ANY TIME THE FEDERAL GOVERNMENT DOES NOT PROVIDE
 27 FUNDING AT A LEVEL OF 100% FOR IMPLEMENTATION AND ADMINISTRATION OF

1 SECTION 106(1)(C).

2 SEC. 105D. (1) THE DEPARTMENT OF COMMUNITY HEALTH SHALL SEEK A
3 WAIVER FROM THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
4 SERVICES TO DO ALL OF THE FOLLOWING:

5 (A) ENROLL NONDISABLED ADULTS WITH AN ANNUAL INCOME LEVEL
6 BELOW 133% OF THE FEDERAL POVERTY GUIDELINES WHO MEET THE
7 CITIZENSHIP PROVISIONS OF 42 CFR 435.406(A)(1) AND WHO ARE
8 OTHERWISE ELIGIBLE FOR THE MEDICAL ASSISTANCE PROGRAM UNDER THIS
9 ACT INTO A CONTRACTED HEALTH PLAN THAT PROVIDES FOR AN ACCOUNT INTO
10 WHICH MONEY CAN BE DEPOSITED TO PAY FOR INCURRED HEALTH EXPENSES,
11 EXCEPT THAT NONDISABLED ADULTS HAVE THE OPTION TO DECLINE
12 ENROLLMENT INTO THE MEDICAL ASSISTANCE PROGRAM UNDER THIS ACT AND
13 SELECT PRIVATE HEALTH INSURANCE EITHER ON OR OFF THE AMERICAN
14 HEALTH BENEFIT EXCHANGE ESTABLISHED OR OPERATING IN THIS STATE.

15 (B) GIVE NONDISABLED ADULTS DESCRIBED IN SUBDIVISION (A) A
16 CHOICE IN CHOOSING A CONTRACTED HEALTH PLAN.

17 (C) ENSURE THAT ALL NONDISABLED ADULTS DESCRIBED IN
18 SUBDIVISION (A) HAVE ACCESS TO A PRIMARY CARE PHYSICIAN AND TO
19 PREVENTIVE SERVICES.

20 (D) DEVELOP INCENTIVES FOR HEALTHY BEHAVIOR AND FOR PROGRESS
21 MADE TOWARD HEALTHY BEHAVIOR ON THE PART OF NONDISABLED ADULTS
22 DESCRIBED IN SUBDIVISION (A).

23 (E) DEVELOP INCENTIVES FOR ELIGIBLE ENROLLEES WHO ASSIST THE
24 DEPARTMENT OF COMMUNITY HEALTH IN DETECTING FRAUD AND ABUSE IN THE
25 MEDICAL ASSISTANCE PROGRAM.

26 (F) ALLOW FOR SERVICES PROVIDED THROUGH TELEMEDICINE.

27 (G) ALLOW NONDISABLED ADULTS TO RECEIVE MEDICAL ASSISTANCE

1 UNDER THIS ACT FOR NOT MORE THAN 48 MONTHS. THE 48-MONTH COUNT
2 BEGINS ON THE DATE THAT THE PROVISIONS OF SECTION 106(1)(C) ARE
3 IMPLEMENTED AND SHALL NOT INCLUDE ANY MONTHS BEFORE THAT DATE.
4 NONDISABLED ADULTS WHO HAVE RECEIVED MEDICAL ASSISTANCE UNDER
5 SECTION 106(1)(C) FOR 48 MONTHS AND ARE NO LONGER ELIGIBLE AS
6 DESCRIBED IN THIS SUBDIVISION MAY SELECT PRIVATE HEALTH INSURANCE
7 EITHER ON OR OFF THE AMERICAN HEALTH BENEFIT EXCHANGE ESTABLISHED
8 OR OPERATING IN THIS STATE.

9 (2) ANY HOSPITAL THAT PARTICIPATES IN THE MEDICAL ASSISTANCE
10 PROGRAM UNDER THIS ACT SHALL NOT CHARGE UNINSURED INDIVIDUALS WHO
11 HAVE AN ANNUAL INCOME LEVEL UNDER 100% OF THE FEDERAL POVERTY
12 GUIDELINES MORE THAN 115% OF RATES CHARGED TO MEDICARE.

13 (3) NONDISABLED ADULTS ENROLLED IN THE MEDICAL ASSISTANCE
14 PROGRAM UNDER SUBSECTION (1)(A) SHALL MAKE CONTRIBUTIONS OF NOT
15 MORE THAN 5% OF THEIR ANNUAL INCOME INTO THE ACCOUNTS DESCRIBED IN
16 SUBSECTION (1)(A) BASED ON THE DEPARTMENT OF COMMUNITY HEALTH'S
17 DETERMINATION OF THE NONDISABLED ADULT'S ABILITY TO PAY.
18 CONTRIBUTIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, DEDUCTIBLES,
19 COPAYMENTS, PREMIUMS, OR OTHER APPLICABLE CHARGES AS DETERMINED BY
20 THE DEPARTMENT OF COMMUNITY HEALTH.

21 (4) NOT MORE THAN 7 CALENDAR DAYS AFTER RECEIVING A WAIVER
22 FROM THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES TO
23 IMPLEMENT THE PROVISIONS OF THIS SECTION, THE DEPARTMENT OF
24 COMMUNITY HEALTH SHALL SUBMIT A WRITTEN COPY OF THE APPROVED WAIVER
25 PROVISIONS TO THE LEGISLATURE FOR REVIEW.

26 (5) BY NOT LATER THAN MARCH 1, 2015 AND ANNUALLY BY EVERY
27 MARCH 1 AFTER THAT, THE DEPARTMENT OF COMMUNITY HEALTH SHALL

1 PROVIDE A REPORT TO THE LEGISLATURE THAT INCLUDES, BUT IS NOT
 2 LIMITED TO, INFORMATION REGARDING THE IMPACT ON THE HEALTH STATUS
 3 OF THE COVERED POPULATION INCLUDING A TARGETED ASSESSMENT RELATED
 4 TO EMPLOYABILITY, THE COST EFFECTIVENESS OF THE MEDICAL ASSISTANCE
 5 PROGRAM, AND AN EVALUATION OF THE FINANCIAL IMPACT ON THE STATE'S
 6 HEALTH CARE AND HEALTH INSURANCE SYSTEMS.

7 (6) AS USED IN THIS SECTION:

8 (A) "NONDISABLED ADULT" MEANS AN INDIVIDUAL AGED 21 TO UNDER
 9 65 WHO IS NOT ELIGIBLE THROUGH A DISABILITY CATEGORY EXISTING ON
 10 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION
 11 FOR THE PURPOSES OF MEDICAL ASSISTANCE ELIGIBILITY.

12 (B) "TELEMEDICINE" MEANS THAT TERM AS DEFINED IN SECTION 3476
 13 OF THE INSURANCE CODE OF 1956, 1956 PA 218, MCL 500.3476.

14 Sec. 106. (1) A medically indigent individual is defined as:

15 (a) An individual receiving family independence program
 16 benefits or an individual receiving supplemental security income
 17 under title XVI or state supplementation under title XVI subject to
 18 limitations imposed by the director according to title XIX.

19 (b) Except as provided in section 106a, an individual who
 20 meets all of the following conditions:

21 (i) The individual has applied in the manner the ~~family~~
 22 ~~independence agency~~ DEPARTMENT OF COMMUNITY HEALTH prescribes.

23 (ii) The individual's need for the type of medical assistance
 24 available under this act for which the individual applied has been
 25 professionally established and payment for it is not available
 26 through the legal obligation of a public or private contractor to
 27 pay or provide for the care without regard to the income or

1 resources of the patient. The state department ~~is~~ **AND THE**
2 **DEPARTMENT OF COMMUNITY HEALTH ARE** subrogated to any right of
3 recovery that a patient may have for the cost of hospitalization,
4 pharmaceutical services, physician services, nursing services, and
5 other medical services not to exceed the amount of funds expended
6 by the state department **OR THE DEPARTMENT OF COMMUNITY HEALTH** for
7 the care and treatment of the patient. The patient or other person
8 acting in the patient's behalf shall execute and deliver an
9 assignment of claim or other authorizations as necessary to secure
10 the right of recovery to the department **OR THE DEPARTMENT OF**
11 **COMMUNITY HEALTH**. A payment may be withheld under this act for
12 medical assistance for an injury or disability for which the
13 individual is entitled to medical care or reimbursement for the
14 cost of medical care under sections 3101 to 3179 of the insurance
15 code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179, or under
16 another policy of insurance providing medical or hospital benefits,
17 or both, for the individual unless the individual's entitlement to
18 that medical care or reimbursement is at issue. If a payment is
19 made, the state department **OR THE DEPARTMENT OF COMMUNITY HEALTH**,
20 to enforce its subrogation right, may do either of the following:
21 (a) intervene or join in an action or proceeding brought by the
22 injured, diseased, or disabled individual, the individual's
23 guardian, personal representative, estate, dependents, or
24 survivors, against the third person who may be liable for the
25 injury, disease, or disability, or against contractors, public or
26 private, who may be liable to pay or provide medical care and
27 services rendered to an injured, diseased, or disabled individual;

1 (b) institute and prosecute a legal proceeding against a third
2 person who may be liable for the injury, disease, or disability, or
3 against contractors, public or private, who may be liable to pay or
4 provide medical care and services rendered to an injured, diseased,
5 or disabled individual, in state or federal court, either alone or
6 in conjunction with the injured, diseased, or disabled individual,
7 the individual's guardian, personal representative, estate,
8 dependents, or survivors. The state department may institute the
9 proceedings in its own name or in the name of the injured,
10 diseased, or disabled individual, the individual's guardian,
11 personal representative, estate, dependents, or survivors. As
12 provided in section 6023 of the revised judicature act of 1961,
13 1961 PA 236, MCL 600.6023, the state department **OR THE DEPARTMENT**
14 **OF COMMUNITY HEALTH**, in enforcing its subrogation right, shall not
15 satisfy a judgment against the third person's property that is
16 exempt from levy and sale. The injured, diseased, or disabled
17 individual may proceed in his or her own name, collecting the costs
18 without the necessity of joining the state department, **THE**
19 **DEPARTMENT OF COMMUNITY HEALTH**, or the state as a named party. The
20 injured, diseased, or disabled individual shall notify the state
21 department **OR THE DEPARTMENT OF COMMUNITY HEALTH** of the action or
22 proceeding entered into upon commencement of the action or
23 proceeding. An action taken by the state, ~~or~~ the state department,
24 **OR THE DEPARTMENT OF COMMUNITY HEALTH** in connection with the right
25 of recovery afforded by this section does not deny the injured,
26 diseased, or disabled individual any part of the recovery beyond
27 the costs expended on the individual's behalf by the state

1 department **OR THE DEPARTMENT OF COMMUNITY HEALTH**. The costs of
2 legal action initiated by the state shall be paid by the state. A
3 payment shall not be made under this act for medical assistance for
4 an injury, disease, or disability for which the individual is
5 entitled to medical care or the cost of medical care under the
6 worker's disability compensation act of 1969, 1969 PA 317, MCL
7 418.101 to 418.941; except that payment may be made if an
8 appropriate application for medical care or the cost of the medical
9 care has been made under the worker's disability compensation act
10 of 1969, 1969 PA 317, MCL 418.101 to 418.941, entitlement has not
11 been finally determined, and an arrangement satisfactory to the
12 state department **OR THE DEPARTMENT OF COMMUNITY HEALTH** has been
13 made for reimbursement if the claim under the worker's disability
14 compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, is
15 finally sustained.

16 (iii) The individual has an annual income that is below, or
17 subject to limitations imposed by the director and because of
18 medical expenses falls below, the protected basic maintenance
19 level. The protected basic maintenance level for 1-person and 2-
20 person families shall be at least 100% of the payment standards
21 generally used to determine eligibility in the family independence
22 program. For families of 3 or more persons, the protected basic
23 maintenance level shall be at least 100% of the payment standard
24 generally used to determine eligibility in the family independence
25 program. These levels shall recognize regional variations and shall
26 not exceed 133-1/3% of the payment standard generally used to
27 determine eligibility in the family independence program.

1 (iv) The individual, if a family independence program related
2 individual and living alone, has liquid or marketable assets of not
3 more than \$2,000.00 in value, or, if a 2-person family, the family
4 has liquid or marketable assets of not more than \$3,000.00 in
5 value. The ~~state~~ department **OF COMMUNITY HEALTH** shall establish
6 comparable liquid or marketable asset amounts for larger family
7 groups. Excluded in making the determination of the value of liquid
8 or marketable assets are the values of: the homestead; clothing;
9 household effects; \$1,000.00 of cash surrender value of life
10 insurance, except that if the health of the insured makes
11 continuance of the insurance desirable, the entire cash surrender
12 value of life insurance is excluded from consideration, up to the
13 maximum provided or allowed by federal regulations and in
14 accordance with ~~state~~ department **OF COMMUNITY HEALTH** rules; the
15 fair market value of tangible personal property used in earning
16 income; an amount paid as judgment or settlement for damages
17 suffered as a result of exposure to agent orange, as defined in
18 section 5701 of the public health code, 1978 PA 368, MCL 333.5701;
19 and a space or plot purchased for the purposes of burial for the
20 person. For individuals related to the title XVI program, the
21 appropriate resource levels and property exemptions specified in
22 title XVI shall be used.

23 (v) The individual is not an inmate of a public institution
24 except as a patient in a medical institution.

25 (vi) The individual meets the eligibility standards for
26 supplemental security income under title XVI or for state
27 supplementation under the act, subject to limitations imposed by

1 the director **OF THE DEPARTMENT OF COMMUNITY HEALTH** according to
2 title XIX; or meets the eligibility standards for family
3 independence program benefits; or meets the eligibility standards
4 for optional eligibility groups under title XIX, subject to
5 limitations imposed by the director **OF THE DEPARTMENT OF COMMUNITY**
6 **HEALTH** according to title XIX.

7 (C) **EXCEPT AS OTHERWISE PROVIDED IN SECTION 106A, THE**
8 **NONDISABLED ADULT HAS AN ANNUAL INCOME LEVEL BELOW 133% OF THE**
9 **FEDERAL POVERTY GUIDELINES. AS USED IN THIS SUBDIVISION,**
10 **"NONDISABLED ADULT" MEANS AN INDIVIDUAL 21 YEARS OF AGE TO UNDER 65**
11 **YEARS OF AGE WHO IS NOT ELIGIBLE THROUGH A DISABILITY CATEGORY**
12 **EXISTING ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED**
13 **THIS SUBSECTION FOR THE PURPOSES OF MEDICAL ASSISTANCE ELIGIBILITY.**
14 **THIS SUBDIVISION DOES NOT APPLY IF EITHER OF THE FOLLOWING OCCURS:**

15 (i) **IF THE DEPARTMENT OF COMMUNITY HEALTH IS UNABLE TO OBTAIN A**
16 **WAIVER FROM THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN**
17 **SERVICES TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION OR SECTION**
18 **105D.**

19 (ii) **IF AT ANY TIME THE FEDERAL GOVERNMENT DOES NOT PROVIDE**
20 **FUNDING AT A LEVEL OF 100% FOR IMPLEMENTATION AND ADMINISTRATION OF**
21 **THIS SUBDIVISION.**

22 (2) As used in this act:

23 (a) ~~"Medicaid contracted"~~ **"CONTRACTED** health plan" means a
24 managed care organization with whom the state department **OR THE**
25 **DEPARTMENT OF COMMUNITY HEALTH** contracts to provide or arrange for
26 the delivery of comprehensive health care services as authorized
27 under this act.

1 **(B) "FEDERAL POVERTY GUIDELINES" MEANS THE POVERTY GUIDELINES**
 2 **PUBLISHED ANNUALLY IN THE FEDERAL REGISTER BY THE UNITED STATES**
 3 **DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER ITS AUTHORITY TO**
 4 **REVISE THE POVERTY LINE UNDER SECTION 673(2) OF SUBTITLE B OF TITLE**
 5 **VI OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981, 42 USC 9902.**

6 **(C) ~~(b)~~**"Medical institution" means a state licensed or
 7 approved hospital, nursing home, medical care facility, psychiatric
 8 hospital, or other facility or identifiable unit of a listed
 9 institution certified as meeting established standards for a
 10 nursing home or hospital in accordance with the laws of this state.

11 **(D) ~~(e)~~**"Title XVI" means title XVI of the social security
 12 act, 42 USC 1381 to ~~1382j~~ and ~~1383~~ to 1383f.

13 (3) An individual receiving medical assistance under this act
 14 or his or her legal counsel shall notify the state department **OR**
 15 **THE DEPARTMENT OF COMMUNITY HEALTH** when filing an action in which
 16 the state department **OR THE DEPARTMENT OF COMMUNITY HEALTH** may have
 17 a right to recover expenses paid under this act. If the individual
 18 is enrolled in a ~~medicaid~~-contracted health plan, the individual or
 19 his or her legal counsel shall provide notice to the ~~medicaid~~
 20 contracted health plan in addition to providing notice to the state
 21 department.

22 (4) If a legal action in which the state department, **THE**
 23 **DEPARTMENT OF COMMUNITY HEALTH**, a ~~medicaid~~-contracted health plan,
 24 or ~~both~~ **has ALL 3 HAVE** a right to recover expenses paid under this
 25 act is filed and settled after November 29, 2004 without notice to
 26 the state department, **THE DEPARTMENT OF COMMUNITY HEALTH**, or the
 27 ~~medicaid~~-contracted health plan, the state department, **THE**

1 **DEPARTMENT OF COMMUNITY HEALTH**, or the ~~medicaid~~-contracted health
2 plan may file a legal action against the individual or his or her
3 legal counsel, or both, to recover expenses paid under this act.
4 The attorney general shall recover any cost or attorney fees
5 associated with a recovery under this subsection.

6 (5) The state department **OR THE DEPARTMENT OF COMMUNITY HEALTH**
7 has first priority against the proceeds of the net recovery from
8 the settlement or judgment in an action settled in which notice has
9 been provided under subsection (3). A ~~medicaid~~-contracted health
10 plan has priority immediately after the state department **OR THE**
11 **DEPARTMENT OF COMMUNITY HEALTH** in an action settled in which notice
12 has been provided under subsection (3). The state department, **THE**
13 **DEPARTMENT OF COMMUNITY HEALTH**, and a ~~medicaid~~-contracted health
14 plan shall recover the full cost of expenses paid under this act
15 unless the state department, **THE DEPARTMENT OF COMMUNITY HEALTH**, or
16 the ~~medicaid~~-contracted health plan agrees to accept an amount less
17 than the full amount. If the individual would recover less against
18 the proceeds of the net recovery than the expenses paid under this
19 act, the state department, **THE DEPARTMENT OF COMMUNITY HEALTH**, or
20 ~~medicaid~~-contracted health plan, and the individual shall share
21 equally in the proceeds of the net recovery. As used in this
22 subsection, "net recovery" means the total settlement or judgment
23 less the costs and fees incurred by or on behalf of the individual
24 who obtains the settlement or judgment.

25 Sec. 107. (1) In establishing financial eligibility for the
26 medically indigent, ~~as defined in section 106,~~ income shall be
27 disregarded in accordance with standards established for the

1 related categorical assistance program. For medical assistance
 2 only, income shall include the amount of contribution that an
 3 estranged spouse or parent for a minor child is making to the
 4 applicant according to the standards of the ~~state~~ department **OF**
 5 **COMMUNITY HEALTH**, or according to a court determination, if there
 6 is a court determination. Nothing in this section eliminates the
 7 responsibility of support established in section 76 for cash
 8 assistance received under this act.

9 (2) **THE DEPARTMENT OF COMMUNITY HEALTH SHALL APPLY A MODIFIED**
 10 **ADJUSTED GROSS INCOME METHODOLOGY IN DETERMINING IF AN INDIVIDUAL'S**
 11 **ANNUAL INCOME LEVEL IS BELOW 133% OF THE FEDERAL POVERTY**
 12 **GUIDELINES. THIS SUBSECTION DOES NOT APPLY IF EITHER OF THE**
 13 **FOLLOWING OCCURS:**

14 (A) **IF THE DEPARTMENT OF COMMUNITY HEALTH IS UNABLE TO OBTAIN**
 15 **A WAIVER FROM THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN**
 16 **SERVICES TO IMPLEMENT THE PROVISIONS OF SECTION 105D OR 106(1)(C).**

17 (B) **IF AT ANY TIME THE FEDERAL GOVERNMENT DOES NOT PROVIDE**
 18 **FUNDING AT A LEVEL OF 100% FOR IMPLEMENTATION AND ADMINISTRATION OF**
 19 **SECTION 106(1)(C).**

20 Sec. 108. A medically indigent person as defined under
 21 ~~subdivision (1) of section 106, 106(1)~~ is entitled to all the
 22 services enumerated in ~~subsections (a), (b), (c), (d), (e) and (f)~~
 23 ~~of section 109.~~ A medically indigent person as defined under
 24 ~~subdivision (2) of section 106 106(2)~~ is entitled to medical
 25 services enumerated in ~~subsections (a), (c) and (e) of section 109.~~
 26 **SECTION 109(A), (C), AND (E).** He ~~shall also be~~ **OR SHE IS** entitled
 27 to the services enumerated in ~~subsections (b),~~ **SECTION 109(B), (d),**

1 and (f) ~~of section 109~~ to the extent of appropriations made
2 available by the legislature for the fiscal year. Medical services
3 shall be rendered upon certification by the attending licensed
4 physician and dental services shall be rendered upon certification
5 of the attending licensed dentist that a service is required for
6 the treatment of an individual. The services of a medical
7 institution shall be rendered only after referral by a licensed
8 physician or dentist and certification by him **OR HER** that the
9 services of the medical institution are required for the medical or
10 dental treatment of the individual, except that referral is not
11 necessary in case of an emergency. Periodic recertification that
12 medical treatment ~~which~~ **THAT** extends over a period of time is
13 required in accordance with regulations of the ~~state~~ department
14 ~~shall be~~ **OF COMMUNITY HEALTH IS** a condition of continuing
15 eligibility to receive medical assistance. To comply with federal
16 statutes governing medicaid, the ~~state~~ department **OF COMMUNITY**
17 **HEALTH** shall provide ~~such~~ early and periodic screening, diagnostic
18 and treatment services to eligible children as it ~~deems~~ **CONSIDERS**
19 necessary.

20 Sec. 109c. (1) The ~~state~~ department **OF COMMUNITY HEALTH** shall
21 include, as part of its program of medical services under this act,
22 home- or community-based services to eligible persons whom the
23 ~~state~~ department **OF COMMUNITY HEALTH** determines would otherwise
24 require nursing home services or similar institutional care
25 services under section 109. The home- or community-based services
26 shall be offered to qualified eligible persons who are receiving
27 inpatient hospital or nursing home services as an alternative to

1 those forms of care.

2 (2) The home- or community-based services shall include
3 safeguards adequate to protect the health and welfare of
4 participating eligible persons, and shall be provided according to
5 a written plan of care for each person. The services available
6 under the home- or community-based services program shall include,
7 at a minimum, all of the following:

8 (a) Home delivered meals.

9 (b) Chore services.

10 (c) Homemaker services.

11 (d) Respite care.

12 (e) Personal care.

13 (f) Adult day care.

14 (g) Private duty nursing.

15 (h) Mental health counseling.

16 (i) Caregiver training.

17 (j) Emergency response systems.

18 (k) Home modification.

19 (l) Transportation.

20 (m) Medical equipment and supply services.

21 (3) This section shall be implemented so that the average per
22 capita expenditure for home- or community-based services for
23 eligible persons receiving those services does not exceed the
24 estimated average per capita expenditure that would have been made
25 for those persons had they been receiving nursing home services,
26 inpatient hospital or similar institutional care services instead.

27 (4) The ~~state~~ department **OF COMMUNITY HEALTH** shall seek a

1 waiver necessary to implement this program from the federal
2 department of health and human services, as provided in section
3 1915 of title XIX, 42 U.S.C.—USC 1396n. The department **OF COMMUNITY**
4 **HEALTH** shall request any modifications of the waiver that are
5 necessary in order to expand the program in accordance with
6 subsection (9).

7 (5) The ~~state~~ department **OF COMMUNITY HEALTH** shall establish
8 policy for identifying the rules for persons receiving inpatient
9 hospital or nursing home services who may qualify for home- or
10 community-based services. The rules shall contain, at a minimum, a
11 listing of diagnoses and patient conditions to which the option of
12 home- or community-based services may apply, and a procedure to
13 determine if the person qualifies for home- or community-based
14 services.

15 (6) The ~~state~~ department **OF COMMUNITY HEALTH** shall provide to
16 the legislature and the governor an annual report showing the
17 detail of its home- and community-based case finding and placement
18 activities. At a minimum, the report shall contain each of the
19 following:

20 (a) The number of persons provided home- or community-based
21 services who would otherwise require inpatient hospital services.
22 This shall include a description of medical conditions, services
23 provided, and projected cost savings for these persons.

24 (b) The number of persons provided home- or community-based
25 services who would otherwise require nursing home services. This
26 shall include a description of medical conditions, services
27 provided, and projected cost savings for these persons.

1 (c) The number of persons and the annual expenditure for
2 personal care services.

3 (d) The number of hearings requested concerning home- or
4 community-based services and the outcome of each hearing which has
5 been adjudicated during the year.

6 (7) The written plan of care required under subsection (2) for
7 an eligible person shall not be changed unless the change is
8 prospective only, and the ~~state~~ department **OF COMMUNITY HEALTH** does
9 both of the following:

10 (a) Not later than 30 days before making the change, except in
11 the case of emergency, consults with the eligible person or, in the
12 case of a child, with the child's parent or guardian.

13 (b) Consults with each medical service provider involved in
14 the change. This consultation shall be documented in writing.

15 (8) An eligible person who is receiving home- or community-
16 based services under this section, and who is dissatisfied with a
17 change in his or her plan of care or a denial of any home- or
18 community-based service, may demand a hearing as provided in
19 section 9, and subsequently may appeal the hearing decision to
20 circuit court as provided in section 37.

21 (9) The ~~state~~ department **OF COMMUNITY HEALTH** shall expand the
22 home- and community-based services program by increasing the number
23 of counties in which it is available, in conformance with this
24 subsection. The program may be limited in total cost and in the
25 number of recipients per county who may receive services at 1 time.
26 Subject to obtaining the waiver and any modifications of the waiver
27 sought under subsection (4), the program shall be expanded as

1 follows:

2 (a) Not later than ~~1 year after the effective date of this~~
3 ~~subsection, JULY 14, 1995,~~ home- and community-based services shall
4 be available to eligible applicants in those counties that, when
5 combined, contain at least 1/4 of the population of this state.

6 (b) Not later than ~~2 years after the effective date of this~~
7 ~~subsection, JULY 14, 1996,~~ home- and community-based services shall
8 be available to eligible applicants in those counties that, when
9 combined, contain at least 1/2 of the population of this state.

10 (c) Not later than ~~3 years after the effective date of this~~
11 ~~subsection, JULY 14, 1997,~~ home- and community-based services shall
12 be available to eligible applicants in those counties that, when
13 combined, contain at least 3/4 of the population of this state.

14 (d) Not later than ~~4 years after the effective date of this~~
15 ~~subsection, JULY 14, 1998,~~ home- and community-based services shall
16 be available to eligible applicants on a statewide basis.

17 (10) The ~~state~~ department **OF COMMUNITY HEALTH** shall work with
18 the office of services to the aging in implementing the home- and
19 community-based services program, including the provision of
20 preadmission screening, case management, and recipient access to
21 services.