

# HOUSE BILL NO. 4486

March 10, 2021, Introduced by Reps. Wozniak, Steckloff, LaGrand, Frederick, Green, Beson, Yaroach, Bezotte, Sabo, Rabhi, Brenda Carter, Hood, Koleszar, Lasinski, Sneller, Thanedar, Anthony, Hope, Stone, Clemente, Kuppa, Manoogian, Brixie, Pohutsky, Morse, Cynthia Johnson, Steenland, Coleman, Liberati, Shannon, Breen, Haadsma, Howell, Cavanagh, Camilleri, Roth, Scott, Rogers, Bolden, Aiyash, Whitsett and Yancey 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), **and if subsection (12) does not apply**, the  
12 physician, hospital, clinic, or other person that renders the  
13 treatment or training is not eligible for payment or reimbursement  
14 under this chapter of more than the 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, **or an amount that is to**  
13 **be applied under subsection (12) or (13)**, including any prior  
14 adjustments to the amount made under this subsection, must be  
15 adjusted annually by the percentage change in the medical care  
16 component of the Consumer Price Index for the year preceding the  
17 adjustment.

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

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

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

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

29 (11) An insurer may contract to pay benefits for attendant

1 care for more than the hourly limitation under subsection (10).

2 (12) If Medicare does not provide an amount payable for a  
3 treatment or rehabilitative occupational training under subsection  
4 (2), (3), (5), or (6), and if the person is a rehabilitation  
5 clinic, this subsection applies. An amount allowed for payment or  
6 reimbursement under this subsection and subsection (13) must not  
7 exceed the lesser of the amount payable under the Michigan auto no-  
8 fault rehabilitation clinic fee schedule or the average amount  
9 charged by the rehabilitation clinic for the treatment or training  
10 on January 1, 2019, unless the treatment or training was not  
11 provided by the rehabilitation clinic on January 1, 2019, in which  
12 case the Michigan auto no-fault rehabilitation clinic fee schedule  
13 must be used to determine the maximum amount payable. A  
14 ~~neurological~~ rehabilitation clinic is not entitled to payment or  
15 reimbursement for a treatment ~~, training, product, service, or~~  
16 ~~accommodation~~ **for residential services, day treatment, or therapy**  
17 **services for individuals with a brain injury or spinal cord injury**  
18 unless the ~~neurological~~ rehabilitation clinic is accredited by the  
19 Commission on Accreditation of Rehabilitation Facilities or a  
20 ~~similar~~ **an** organization recognized by the director for purposes of  
21 accreditation, **certification, or licensure** under this subsection.  
22 This ~~subsection~~ **accreditation requirement** does not apply to a  
23 ~~neurological~~ rehabilitation clinic that is in the process of  
24 becoming accredited as required under this subsection on July 1,  
25 2021, unless 3 years have passed since the beginning of that  
26 process and the ~~neurological~~ rehabilitation clinic is still not  
27 accredited. **The director may determine that accreditation,**  
28 **certification, or licensure is not required or appropriate for**  
29 **certain treatments or types of rehabilitation clinics. The director**



1 may consider relevant factors including, but not limited to, the  
2 nature of treatment rendered, geographic location of treatment  
3 rendered, and the size of the clinic.

4 (13) If the rehabilitation clinic fee schedule adopted under  
5 this subsection is modified and if the director determines the  
6 modified rehabilitation clinic fee schedule meets the standards in  
7 this subsection, the director shall by order adopt the modified  
8 rehabilitation clinic fee schedule. The rehabilitation clinic fee  
9 schedule must meet all of the following requirements:

10 (a) Be a reasonable approximation to the fee schedule set  
11 forth in subsection (2)(a) on January 1, 2019.

12 (b) Be established based on a survey of rates of  
13 rehabilitation clinics including members of the Michigan Brain  
14 Injury Provider Council and a majority of this state's  
15 rehabilitation clinics accredited in interdisciplinary outpatient  
16 medical rehabilitation by the Commission on Accreditation of  
17 Rehabilitation Facilities and, from that survey, determine a  
18 reasonable approximation by comparing, as of January 1, 2019, the  
19 amount payable under Medicare to the average amount rehabilitation  
20 clinics charge for the same treatments payable under Medicare,  
21 resulting in an equivalency factor, and applying that equivalency  
22 factor to average rates for treatments for which Medicare does not  
23 provide an amount payable.

24 (c) Establish the maximum amount payable to rehabilitation  
25 clinics for treatment or training rendered after July 1, 2021.

26 (14) ~~(13)~~ Subsections (2) to ~~(12)~~ (13) do not apply to  
27 emergency medical services rendered by an ambulance operation. As  
28 used in this subsection:

29 (a) "Ambulance operation" means that term as defined in

1 section 20902 of the public health code, 1978 PA 368, MCL  
2 333.20902.

3 (b) "Emergency medical services" means that term as defined in  
4 section 20904 of the public health code, 1978 PA 368, MCL  
5 333.20904.

6 **(15)** ~~(14)~~ Subsections (2) to ~~(13)~~ **(14)** apply to treatment or  
7 rehabilitative occupational training rendered after July 1, 2021.

8 **(16)** ~~(15)~~ As used in this section:

9 (a) "Charge description master" means a uniform schedule of  
10 charges represented by the person as its gross billed charge for a  
11 given service or item, regardless of payer type.

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

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

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

20 (e) "Medicaid" means a program for medical assistance  
21 established under subchapter XIX of the social security act, 42 USC  
22 1396 to 1396w-5.

23 (f) "Medicare" means fee for service payments under part A, B,  
24 or D of the federal Medicare program established under subchapter  
25 XVIII of the social security act, 42 USC 1395 to 1395III, without  
26 regard to the limitations unrelated to the rates in the fee  
27 schedule such as limitation or supplemental payments related to  
28 utilization, readmissions, recaptures, bad debt adjustments, or  
29 sequestration.

1           (g) ~~"Neurological rehabilitation clinic" means a person that~~  
2 ~~provides post-acute brain and spinal rehabilitation care.~~**"Michigan**  
3 **auto no-fault rehabilitation clinic fee schedule" or**  
4 **"rehabilitation clinic fee schedule" means the Michigan auto no-**  
5 **fault rehabilitation clinic fee schedule copyrighted in 2020 by**  
6 **William R. Buccalo and Margaret J. Kroese.**

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

9           (i) **"Rehabilitation clinic" means a person that provides**  
10 **treatment and is not a hospital.**

11           (j) ~~(i)~~"Stabilized" means that term as defined in section  
12 1395dd of the social security act, 42 USC 1395dd.

13           (k) ~~(j)~~"Transfer" means that term as defined in section  
14 1395dd of the social security act, 42 USC 1395dd.

15           (l) ~~(k)~~"Treatment" includes, but is not limited to, products,  
16 services, and accommodations.