

# HOUSE BILL NO. 4992

June 10, 2021, Introduced by Reps. Berman, Green, Brixie, Wozniak, Bezotte and Breen 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,  
and by adding section 3157c.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3157. (1) Subject to subsections (2) to (14), 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

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

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

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

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

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

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

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

1 (b) For treatment or training rendered after July 1, 2022 and  
2 before July 2, 2023, 225% of the amount payable to the person for  
3 the treatment or training under Medicare.

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

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

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

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

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

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

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

29 (iv) The hospital assists patients to achieve excellent

1 rehabilitation outcomes.

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

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

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

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

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

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

1 this chapter of more than the following:

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

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

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

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

16 ~~(a) For a person to which subsection (2) applies, the~~  
17 ~~applicable following percentage of average amount charged for the~~  
18 ~~treatment or training in the relevant geographic region as~~  
19 ~~determined by the 3 most recent market surveys conducted under~~  
20 ~~section 3157c. However, if the person had a charge description~~  
21 ~~master in effect on January 1, 2019, the person is not eligible for~~  
22 ~~payment or reimbursement of more than~~ the amount payable for the  
23 treatment or training under the person's charge description master  
24 ~~in effect on January 1, 2019. or, if the person did not have a~~  
25 ~~charge description master on that date, the applicable following~~  
26 ~~percentage of the average amount the person charged for the~~  
27 ~~treatment on January 1, 2019:~~

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

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

3       ~~(iii) For treatment or training rendered after July 1, 2023,~~  
4 ~~52.5%.~~

5       ~~(b) For a person to which subsection (3) applies, the~~  
6 ~~applicable following percentage of the amount payable for the~~  
7 ~~treatment or training under the person's charge description master~~  
8 ~~in effect on January 1, 2019 or, if the person did not have a~~  
9 ~~charge description master on that date, the applicable following~~  
10 ~~percentage of the average amount the person charged for the~~  
11 ~~treatment or training on January 1, 2019:~~

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

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

16       ~~(iii) For treatment or training rendered after July 1, 2023,~~  
17 ~~66.5%.~~

18       ~~(c) For a person to which subsection (5) applies, 78% of the~~  
19 ~~amount payable for the treatment or training under the person's~~  
20 ~~charge description master in effect on January 1, 2019 or, if the~~  
21 ~~person did not have a charge description master on that date, 78%~~  
22 ~~of the average amount the person charged for the treatment on~~  
23 ~~January 1, 2019.~~

24       ~~(d) For a person to which subsection (6) applies, the~~  
25 ~~applicable following percentage of the amount payable for the~~  
26 ~~treatment under the person's charge description master in effect on~~  
27 ~~January 1, 2019 or, if the person did not have a charge description~~  
28 ~~master on that date, the applicable following percentage of the~~  
29 ~~average amount the person charged for the treatment on January 1,~~

1 ~~2019:~~

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

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

6 ~~(iii) For treatment or training rendered after July 1, 2023,~~  
7 ~~71%.As used in this subsection, "relevant geographic region" means~~  
8 ~~the area that is within 50 miles from the location where the person~~  
9 ~~rendered the treatment or training.~~

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

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

25 (10) For attendant care rendered in the injured person's home,  
26 an insurer is only required to pay benefits for attendant care up  
27 to the hourly limitation in section 315 of the worker's disability  
28 compensation act of 1969, 1969 PA 317, MCL 418.315. This subsection  
29 only applies if the attendant care is provided directly, or

1 indirectly through another person, by any of the following:

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

3 (b) An individual who is domiciled in the household of the  
4 injured person.

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

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

9 (12) A neurological rehabilitation clinic is not entitled to  
10 payment or reimbursement for ~~a treatment~~ **, or rehabilitative**  
11 **occupational** training ~~, product, service, or accommodation~~ unless  
12 the neurological rehabilitation clinic ~~is accredited by the~~  
13 ~~Commission on Accreditation of Rehabilitation Facilities or a~~  
14 ~~similar organization recognized by the director for purposes of~~  
15 ~~accreditation under this subsection. This subsection does not apply~~  
16 ~~to a neurological rehabilitation clinic that is in the process of~~  
17 ~~becoming accredited as required under this subsection on July 1,~~  
18 ~~2021, unless 3 years have passed since the beginning of that~~  
19 ~~process and the neurological rehabilitation clinic is still not~~  
20 ~~accredited.~~ **is licensed or otherwise permitted by law to provide the**  
21 **treatment or training.**

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

25 (a) "Ambulance operation" means that term as defined in  
26 section 20902 of the public health code, 1978 PA 368, MCL  
27 333.20902.

28 (b) "Emergency medical services" means that term as defined in  
29 section 20904 of the public health code, 1978 PA 368, MCL



1 333.20904.

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

4 (15) As used in this section:

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

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

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

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

16 (e) "Medicaid" means a program for medical assistance  
17 established under subchapter XIX of the social security act, 42 USC  
18 1396 to 1396w-5.

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

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

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

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

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

5 (k) "Treatment" includes, but is not limited to, products,  
6 services, and accommodations.

7 **Sec. 3157c. (1) Annually, the department shall conduct a**  
8 **market survey of persons who have, in the preceding 12 months,**  
9 **rendered treatment or rehabilitative occupational training**  
10 **described in section 3157(7). The survey must be designed to**  
11 **determine the amounts that the persons have charged as payment for**  
12 **the treatment or training.**

13 (2) By July 1 of each year, the department shall make the  
14 results of the survey conducted under this section available to  
15 insurers and other persons who provide the security required under  
16 section 3101 and to the catastrophic claims association created  
17 under section 3104.

18 (3) By rendering treatment or rehabilitative occupational  
19 training described in section 3157(7) to 1 or more injured persons  
20 for an accidental bodily injury covered by personal protection  
21 insurance under this chapter after the effective date of this  
22 section, a person is considered to have agreed to submit within 30  
23 days after a request by the department records and other  
24 information concerning the treatment or training necessary for the  
25 market survey under this section.

26 (4) Any proprietary information or sensitive personally  
27 identifiable information regarding a patient that is submitted to  
28 the department under this section is exempt from disclosure under  
29 section 13(d) of the freedom of information act, 1976 PA 442, MCL

1 15.243, and the department shall exempt any such information from  
2 disclosure under any other applicable exemptions under section 13  
3 of the freedom of information act, 1976 PA 442, MCL 15.243.