

# HOUSE BILL No. 4597

April 30, 2003, Introduced by Rep. Spade and referred to the Committee on Family and Children Services.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending section 106 (MCL 400.106), as amended by 1990 PA 145.

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

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

3       (a) An individual receiving ~~aid to dependent children~~  
4 **family independence program benefits** or an individual receiving  
5 supplemental security income under title XVI ~~of the social~~  
6 ~~security act, 42 U.S.C. 1381 to 1385,~~ or state supplementation  
7 ~~thereunder~~ **under title XVI** subject to limitations imposed by  
8 the director ~~pursuant~~ **according** to title XIX.

9       (b) An individual ~~meeting~~ **who meets** all of the following  
10 conditions:

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1           (i) The individual has ~~made application~~ **applied** in the  
2 manner ~~prescribed by~~ the ~~state department~~ **family independence**  
3 **agency prescribes.**

4           (ii) The individual's need for the type of medical assistance  
5 available under this act for which ~~application has been made~~  
6 **the individual applied** has been professionally established and  
7 payment for it is not available through the legal obligation of a  
8 **public or private** contractor ~~, public or private,~~ to pay or  
9 provide for the care without regard to the income or resources of  
10 the patient. ~~The state department shall be subrogated to any~~  
11 ~~right of recovery which a patient may have for the cost of~~  
12 ~~hospitalization, pharmaceutical services, physician services,~~  
13 ~~nursing services, and other medical services not to exceed the~~  
14 ~~amount of funds expended by the department for the care and~~  
15 ~~treatment of the patient. The patient or other person acting in~~  
16 ~~the patient's behalf shall execute and deliver an assignment of~~  
17 ~~claim or other authorizations as necessary to secure the right of~~  
18 ~~recovery to the department. A payment may be withheld under this~~  
19 ~~act for medical assistance for an injury or disability for which~~  
20 ~~the patient is entitled to medical care or reimbursement for the~~  
21 ~~cost of medical care under sections 3101 to 3179 of the insurance~~  
22 ~~code of 1956, Act No. 218 of the Public Acts of 1956, as amended,~~  
23 ~~being sections 500.3101 to 500.3179 of the Michigan Compiled~~  
24 ~~Laws, or under any other policy of insurance providing medical or~~  
25 ~~hospital benefits, or both, for the patient unless the patient's~~  
26 ~~entitlement to that medical care or reimbursement is at issue.~~  
27 ~~If a payment is made, the state department, to enforce its~~

~~1 subrogation right, may do either of the following: (a) intervene  
2 or join in an action or proceeding brought by the injured,  
3 diseased, or disabled person, the person's guardian, personal  
4 representative, estate, dependents, or survivors, against the  
5 third person who may be liable for the injury, disease, or  
6 disability, or against contractors, public or private, who may be  
7 liable to pay or provide medical care and services rendered to an  
8 injured, diseased, or disabled patient; (b) institute and  
9 prosecute a legal proceeding against a third person who may be  
10 liable for the injury, disease, or disability, or against  
11 contractors, public or private, who may be liable to pay or  
12 provide medical care and services rendered to an injured,  
13 diseased, or disabled patient, in state or federal court, either  
14 alone or in conjunction with the injured, diseased, or disabled  
15 person, the person's guardian, personal representative, estate,  
16 dependents, or survivors. The state department may institute the  
17 proceedings in its own name or in the name of the injured,  
18 diseased, or disabled person, the person's guardian, personal  
19 representative, estate, dependents, or survivors. As provided in  
20 section 6023 of the revised judicature act of 1961, Act No. 236  
21 of the Public Acts of 1961, as amended, being section 600.6023 of  
22 the Michigan Compiled Laws, the state department, in enforcing  
23 its subrogation right, shall not satisfy a judgment against the  
24 third person's property which is exempt from levy and sale. The  
25 injured, diseased, or disabled person may proceed in his or her  
26 own name, collecting the costs without the necessity of joining  
27 the state department or the state as a named party. The injured,~~

~~1 diseased, or disabled person shall notify the state department of  
2 the action or proceeding entered into upon commencement of the  
3 action or proceeding. An action taken by the state or the state  
4 department in connection with the right of recovery afforded by  
5 this section does not operate to deny the injured, diseased, or  
6 disabled person any part of the recovery beyond the costs  
7 expended on the person's behalf by the state department. The  
8 costs of legal action initiated by the state shall be paid by the  
9 state. A payment shall not be made under this act for medical  
10 assistance for an injury, disease, or disability for which the  
11 patient is entitled to medical care or the cost of medical care  
12 under the worker's disability compensation act of 1969, Act  
13 No. 317 of the Public Acts of 1969, as amended, being sections  
14 418.101 to 418.941 of the Michigan Compiled Laws; except that  
15 payment may be made if an appropriate application for medical  
16 care or the cost of the medical care has been made under Act  
17 No. 317 of the Public Acts of 1969, as amended, entitlement has  
18 not been finally determined, and an arrangement satisfactory to  
19 the state department has been made for reimbursement if the claim  
20 under Act No. 317 of the Public Acts of 1969, as amended, is  
21 finally sustained.~~

22       (iii) The individual has an annual income ~~which~~ **that** is  
23 below, or because of medical expenses falls below, the protected  
24 basic maintenance level. The protected basic maintenance level  
25 for 1-person and 2-person families shall be at least 100% of the  
26 higher of the payment standards generally used to determine  
27 eligibility in the ~~aid to dependent children~~ **family**

1 **independence** program and the supplemental security income program  
2 under title XVI, ~~of the social security act, 42 U.S.C. 1381 to~~  
3 ~~1385,~~ including state supplementation. For families of 3 or  
4 more persons, the protected basic maintenance level shall be at  
5 least 100% of the payment standard generally used to determine  
6 eligibility in the ~~aid to dependent children~~ **family**  
7 **independence** program. These levels shall recognize regional  
8 variations and shall not exceed 133-1/3% of the payment standard  
9 generally used to determine eligibility in the ~~aid to dependent~~  
10 ~~children~~ **family independence** program.

11 (iv) The individual, if ~~an aid to dependent children~~ a  
12 **family independence program** related individual and living alone,  
13 has liquid or marketable assets of not more than \$1,500.00 in  
14 value, or, if a 2-person family, the family has liquid or  
15 marketable assets of not more than \$2,000.00 in value. The  
16 ~~state department~~ **family independence agency** shall establish  
17 comparable liquid or marketable asset amounts for larger family  
18 groups. Excluded in making the determination of the value of  
19 liquid or marketable assets are the values of: the homestead;  
20 clothing; household effects; \$1,000.00 of cash surrender value of  
21 life insurance, except that if the health of the insured ~~is such~~  
22 ~~as to make~~ **makes** continuance of the insurance desirable, the  
23 entire cash surrender value of life insurance is ~~to be~~ excluded  
24 from consideration, up to the ~~maximums~~ **maximum** provided or  
25 allowed by federal regulations and in accordance with the rules  
26 of the ~~state department~~ **family independence agency**; the fair  
27 market value of tangible personal property used in earning

1 income; an amount paid as judgment or settlement for damages  
2 suffered as a result of exposure to agent orange, as defined in  
3 section 5701 of the public health code, ~~Act No. 368 of the~~  
4 ~~Public Acts of 1978, being section 333.5701 of the Michigan~~  
5 ~~Compiled Laws 1978 PA 368, MCL 333.5701; the amount a nursing~~  
6 **home is required to pay an individual under section 21799c(4) of**  
7 **the public health code, 1978 PA 368, MCL 333.21799c;** and a space  
8 or plot purchased for the purposes of burial for the person. For  
9 individuals related to the title XVI program, ~~of the social~~  
10 ~~security act, 42 U.S.C. 1381 to 1385,~~ the appropriate resource  
11 levels and property exemptions specified in title XVI shall be  
12 used.

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

15 (vi) The individual meets the eligibility standards for  
16 supplemental security income under title XVI ~~of the social~~  
17 ~~security act, 42 U.S.C. 1381 to 1385,~~ or for state  
18 supplementation under the act, subject to limitations imposed by  
19 the director ~~pursuant~~ **according** to title XIX; or meets the  
20 eligibility standards for ~~aid to dependent children~~ **family**  
21 **independence program benefits**, except for income or income and  
22 resources; or is a child from 18 to 21 years of age and his or  
23 her adult caretaker would be eligible for ~~aid to dependent~~  
24 ~~children~~ **family independence program benefits** except for age,  
25 income, or income and resources; or is a child under 21 years of  
26 age and is from a family whose income is below the basic  
27 maintenance level.

1 (2) As used in this act: ~~—~~"medical"

2 (a) "Medical institution" means a state licensed or approved  
3 hospital, nursing home, medical care facility, psychiatric  
4 hospital, or other facility or identifiable unit ~~thereof~~ of a  
5 listed institution certified as meeting established standards for  
6 a nursing home or hospital in accordance with the laws of this  
7 state.

8 (b) "Title II" means title II of the social security act,  
9 chapter 531, 49 Stat. 620, 42 U.S.C. 401 to 405, 406 to 418, 420  
10 to 423, 424a to 426-1, and 427 to 434.

11 (c) "Title XVI" means title XVI of the social security act,  
12 chapter 531, 49 Stat. 620, 42 U.S.C. 1381 to 1382j and 1383 to  
13 1383f.

14 (3) The department of community health is subrogated to a  
15 right of recovery that a patient has for the cost of  
16 hospitalization, pharmaceutical services, physician services,  
17 nursing services, and other medical services not to exceed the  
18 amount of money expended by the department of community health  
19 for the care and treatment of the patient. The patient or other  
20 person acting in the patient's behalf shall execute and deliver  
21 an assignment of claim or other authorization necessary to secure  
22 the right of recovery to the department of community health. A  
23 payment may be withheld under this act for medical assistance for  
24 an injury or disability for which the patient is entitled to  
25 medical care or reimbursement for the cost of medical care under  
26 sections 3101 to 3179 of the insurance code of 1956, 1956 PA 218,  
27 MCL 500.3101 to 500.3179, or under another policy of insurance

1 providing medical or hospital benefits, or both, for the patient  
2 unless the patient's entitlement to that medical care or  
3 reimbursement is at issue. If a payment is made, the department  
4 of community health, to enforce its subrogation right, may do  
5 either of the following:

6 (a) Intervene or join in an action or proceeding brought by  
7 the injured, diseased, or disabled person, or the person's  
8 guardian, personal representative, estate, dependents, or  
9 survivors, against the third person who may be liable for the  
10 injury, disease, or disability or against public or private  
11 contractors who may be liable to pay or provide medical care and  
12 services rendered to an injured, diseased, or disabled patient.

13 (b) Institute and prosecute a legal proceeding against a  
14 third person who may be liable for the injury, disease, or  
15 disability or against a public or private contractor who may be  
16 liable to pay or provide medical care and services rendered to an  
17 injured, diseased, or disabled patient, in state or federal  
18 court, either alone or in conjunction with the injured, diseased,  
19 or disabled person or the person's guardian, personal  
20 representative, estate, dependent, or survivor.

21 (4) In enforcing its subrogation right under subsection (3),  
22 the department of community health may institute the proceedings  
23 in its own name or in the name of the injured, diseased, or  
24 disabled person or the person's guardian, personal  
25 representative, estate, dependent, or survivor. As provided in  
26 section 6023 of the revised judicature act of 1961, 1961 PA 236,  
27 MCL 600.6023, the department of community health, in enforcing



1 its subrogation right, shall not satisfy a judgment against the  
2 third person's property that is exempt from levy and sale.

3 (5) The injured, diseased, or disabled person may proceed in  
4 his or her own name, collecting the costs without the necessity  
5 of joining the department of community health or the state as a  
6 named party. The injured, diseased, or disabled person shall  
7 notify the department of community health of the action or  
8 proceeding entered into upon commencement of the action or  
9 proceeding.

10 (6) An action taken by the state or the department of  
11 community health in connection with the right of recovery  
12 afforded by this section does not deny the injured, diseased, or  
13 disabled person a part of the recovery beyond the costs expended  
14 on the person's behalf by the department of community health.  
15 The costs of legal action initiated by the state shall be paid by  
16 the state. A payment shall not be made under this act for  
17 medical assistance for an injury, disease, or disability for  
18 which the patient is entitled to medical care or the cost of  
19 medical care under the worker's disability compensation act of  
20 1969, 1969 PA 317, MCL 418.101 to 418.941; except that payment  
21 may be made if an appropriate application for medical care or the  
22 cost of the medical care has been made under the worker's  
23 disability compensation act of 1969, 1969 PA 317, MCL 418.101 to  
24 418.941, entitlement has not been finally determined, and an  
25 arrangement satisfactory to the department of community health  
26 has been made for reimbursement if the claim is finally  
27 sustained.

1           Enacting section 1. This amendatory act does not take  
2 effect unless Senate Bill No. \_\_\_\_\_ or House Bill No. 4331  
3 (request no. 02832'03) of the 92nd Legislature is enacted into  
4 law.