

HOUSE BILL No. 6478

September 14, 2006, Introduced by Reps. Vander Veen, Zelenko, Newell, Marleau, Brandenburg, Gaffney, Hummel, Caswell, Stahl, Amos, Green, Hansen, Booher, Sheen, Kahn and Huizenga and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 112b, 112c, and 112e (MCL 400.112b, 400.112c, and 400.112e), as added by 1995 PA 85; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 112b. As used in this section and sections 112c to 112e:

2 ~~— (a) "Home health care" means care described in section 109c.~~

3 **(A) "ASSET DISREGARD" MEANS, WITH REGARD TO THE STATE'S**
 4 **MEDICAL ASSISTANCE PROGRAM, DISREGARDING ANY ASSETS OR RESOURCES IN**
 5 **AN AMOUNT EQUAL TO THE INSURANCE BENEFIT PAYMENTS THAT ARE MADE TO**
 6 **OR ON BEHALF OF AN INDIVIDUAL WHO IS A BENEFICIARY UNDER A**
 7 **QUALIFIED LONG-TERM CARE INSURANCE PARTNERSHIP POLICY.**

8 (b) "Long-term care insurance policy" means a policy described

1 in chapter 39 of the insurance code of 1956, ~~Act No. 218 of the~~
 2 ~~Public Acts of 1956, being sections 500.3901 to 500.3955 of the~~
 3 ~~Michigan Compiled Laws 1956 PA 218, MCL 500.3901 TO 500.3955.~~

4 (C) "LONG-TERM CARE PARTNERSHIP PROGRAM" MEANS A QUALIFIED
 5 STATE LONG-TERM CARE INSURANCE PARTNERSHIP AS DEFINED IN SECTION
 6 1917(B) OF THE SOCIAL SECURITY ACT, 42 USC 1396P.

7 (D) "LONG-TERM CARE PARTNERSHIP PROGRAM POLICY" MEANS A
 8 QUALIFIED LONG-TERM CARE INSURANCE POLICY THAT THE COMMISSIONER OF
 9 THE OFFICE OF FINANCIAL AND INSURANCE SERVICES CERTIFIES AS MEETING
 10 THE REQUIREMENTS OF SECTION 1917(B) OF THE SOCIAL SECURITY ACT, 42
 11 USC 1396P, SECTION 6021 OF THE FEDERAL DEFICIT REDUCTION ACT OF
 12 2005, PUBLIC LAW 109-171, AND ANY APPLICABLE FEDERAL REGULATIONS OR
 13 GUIDELINES.

14 (E) ~~(e)~~ "Medicaid" means the program of medical assistance
 15 established by the department OF COMMUNITY HEALTH under section
 16 105.

17 ~~(d) "Nursing home care" means nursing home services as~~
 18 ~~described in section 109(1)(e).~~

19 ~~(e) "Partnership policy" means a long term care insurance~~
 20 ~~policy that meets the requirements set forth in section 112d.~~

21 ~~(f) "Partnership program" means the Michigan partnership for~~
 22 ~~long term care program established under section 112e.~~

23 Sec. 112c. (1) Subject to subsection ~~(4)~~ (5), the department
 24 OF COMMUNITY HEALTH IN CONJUNCTION WITH THE OFFICE OF FINANCIAL AND
 25 INSURANCE SERVICES AND THE DEPARTMENT OF HUMAN SERVICES shall
 26 establish ~~the Michigan partnership for long term care program~~ A
 27 LONG-TERM CARE PARTNERSHIP PROGRAM IN MICHIGAN to provide for the

1 financing of long-term care through a combination of private
2 insurance and medicaid. **THE LONG-TERM CARE PARTNERSHIP PROGRAM**
3 **SHALL DO ALL OF THE FOLLOWING:**

4 (A) PROVIDE INCENTIVES FOR INDIVIDUALS TO INSURE AGAINST THE
5 COSTS OF PROVIDING FOR THEIR LONG-TERM CARE NEEDS.

6 (B) PROVIDE A MECHANISM FOR INDIVIDUALS TO QUALIFY FOR
7 COVERAGE OF THE COST OF THEIR LONG-TERM CARE NEEDS UNDER MEDICAID
8 WITHOUT FIRST BEING REQUIRED TO SUBSTANTIALLY EXHAUST THEIR
9 RESOURCES.

10 (C) ALLEVIATE THE FINANCIAL BURDEN ON THE STATE'S MEDICAL
11 ASSISTANCE PROGRAM BY ENCOURAGING THE PURSUIT OF PRIVATE
12 INITIATIVES.

13 ~~—— (2) An individual is eligible to participate in the~~
14 ~~partnership program if he or she meets all of the following~~
15 ~~requirements:~~

16 ~~—— (a) Is a Michigan resident.~~

17 ~~—— (b) Purchases a partnership policy that is delivered, issued~~
18 ~~for delivery, or renewed on or after the effective date of this~~
19 ~~section, and maintains the partnership policy in effect throughout~~
20 ~~the period of participation in the partnership program.~~

21 ~~—— (c) Exhausts the minimum benefits under the partnership policy~~
22 ~~as described in section 112d(1)(a). Benefits received under a long-~~
23 ~~term care insurance policy before the effective date of this~~
24 ~~section do not count toward the exhaustion of benefits required in~~
25 ~~this subdivision.~~

26 ~~—— (3) Upon application of an individual who meets the~~
27 ~~requirements described in subsection (2), the department shall~~

1 ~~determine the individual's eligibility for medicaid in accordance~~
2 ~~with both of the following:~~

3 ~~—— (a) After disregarding financial assets exempted under~~
4 ~~medicaid eligibility requirements, the department shall disregard~~
5 ~~an additional amount of financial assets equal to the dollar amount~~
6 ~~of coverage under the partnership policy.~~

7 ~~—— (b) The department shall consider the individual's income in~~
8 ~~accordance with medicaid eligibility requirements.~~

9 ~~—— (4) The department shall seek appropriate amendments to the~~
10 ~~medicaid state plan and shall apply for any necessary waiver of~~
11 ~~medicaid requirements by the federal health care financing~~
12 ~~administration to implement the partnership program.~~

13 ~~—— (5) The department shall not implement the partnership program~~
14 ~~unless both of the following apply:~~

15 ~~—— (a) A federal waiver of medicaid requirements is obtained, if~~
16 ~~necessary.~~

17 ~~—— (b) Federal law exempts individuals who receive medicaid under~~
18 ~~this section from estate recovery requirements under section 1917~~
19 ~~of title XIX of the social security act, 42 U.S.C. 1396p.~~

20 **(2) AN INDIVIDUAL WHO IS A BENEFICIARY OF A MICHIGAN LONG-TERM**
21 **CARE PARTNERSHIP PROGRAM POLICY IS ELIGIBLE FOR ASSISTANCE UNDER**
22 **THE STATE'S MEDICAL ASSISTANCE PROGRAM USING THE ASSET DISREGARD AS**
23 **PROVIDED UNDER SUBSECTION (5).**

24 **(3) THE DEPARTMENT OF COMMUNITY HEALTH MAY ENTER INTO**
25 **RECIPROCAL AGREEMENTS WITH OTHER STATES TO EXTEND THE ASSET**
26 **DISREGARD TO MICHIGAN RESIDENTS WHO PURCHASED LONG-TERM CARE**
27 **PARTNERSHIP POLICES IN OTHER STATES THAT ARE COMPLIANT WITH TITLE**

1 VI, SECTION 6021 OF THE FEDERAL DEFICIT REDUCTION ACT OF 2005,
2 PUBLIC LAW 109-171, AND ANY APPLICABLE FEDERAL REGULATIONS OR
3 GUIDELINES.

4 (4) UPON THE EXHAUSTION OF BENEFITS OR UPON THE DIMINISHMENT
5 OF ASSETS BELOW THE ANTICIPATED REMAINING BENEFITS UNDER A LONG-
6 TERM CARE PARTNERSHIP PROGRAM POLICY, CERTAIN ASSETS OF AN
7 INDIVIDUAL, AS PROVIDED UNDER SUBSECTION (5), SHALL NOT BE
8 CONSIDERED WHEN DETERMINING ANY OF THE FOLLOWING:

9 (A) MEDICAID ELIGIBILITY.

10 (B) THE AMOUNT OF ANY MEDICAID PAYMENT.

11 (C) ANY SUBSEQUENT RECOVERY BY THE STATE OF A PAYMENT FOR
12 MEDICAL SERVICES.

13 (5) NOT LATER THAN 180 DAYS AFTER THE EFFECTIVE DATE OF THE
14 AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE DEPARTMENT OF
15 COMMUNITY HEALTH SHALL APPLY TO THE UNITED STATES DEPARTMENT OF
16 HEALTH AND HUMAN SERVICES FOR AN AMENDMENT TO THE STATE'S MEDICAID
17 STATE PLAN TO ESTABLISH THAT THE ASSETS AN INDIVIDUAL OWNS AND MAY
18 RETAIN UNDER MEDICAID AND STILL QUALIFY FOR BENEFITS UNDER MEDICAID
19 AT THE TIME THE INDIVIDUAL APPLIES FOR BENEFITS IS INCREASED
20 DOLLAR-FOR-DOLLAR FOR EACH DOLLAR PAID OUT UNDER THE INDIVIDUAL'S
21 LONG-TERM CARE INSURANCE POLICY IF THE INDIVIDUAL IS A BENEFICIARY
22 OF A QUALIFIED LONG-TERM CARE PARTNERSHIP PROGRAM POLICY.

23 (6) IF THE LONG-TERM CARE PARTNERSHIP PROGRAM IS DISCONTINUED,
24 AN INDIVIDUAL WHO PURCHASED A MICHIGAN LONG-TERM CARE PARTNERSHIP
25 PROGRAM POLICY BEFORE THE DATE THE PROGRAM WAS DISCONTINUED SHALL
26 BE ELIGIBLE TO RECEIVE ASSET DISREGARD IF ALLOWED AS PROVIDED BY
27 TITLE VI, SECTION 6021 OF THE FEDERAL DEFICIT REDUCTION ACT OF

1 2005, PUBLIC LAW 109-171.

2 (7) THE DEPARTMENT OF COMMUNITY HEALTH MAY CONTRACT WITH A
3 NONPROFIT ORGANIZATION TO PROVIDE COUNSELING SERVICES UNDER THE
4 MICHIGAN LONG-TERM CARE PARTNERSHIP PROGRAM.

5 Sec. 112e. The department OF COMMUNITY HEALTH may promulgate
6 rules pursuant to the administrative procedures act of 1969, ~~Act~~
7 ~~No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328~~
8 ~~of the Michigan Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328,~~
9 as necessary to implement the partnership program IN ACCORDANCE
10 WITH THE REQUIREMENTS OF SECTION 1917(B) OF THE SOCIAL SECURITY
11 ACT, 42 USC 1396P, SECTION 6021 OF THE FEDERAL DEFICIT REDUCTION
12 ACT OF 2005, PUBLIC LAW 109-171, AND APPLICABLE FEDERAL REGULATIONS
13 OR GUIDELINES.

14 Enacting section 1. Section 112d of the social welfare act,
15 1939 PA 280, MCL 400.112d, is repealed.