

# HOUSE BILL No. 4979

September 14, 2011, Introduced by Reps. Johnson, Bumstead and Rendon and referred to the Committee on Judiciary.

A bill to amend 1939 PA 280, entitled  
"The social welfare act,"  
by amending section 109 (MCL 400.109), as amended by 2011 PA 53.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 109. (1) The following medical services may be provided  
2 under this act:

3       (a) Hospital services that an eligible individual may receive  
4 consist of medical, surgical, or obstetrical care, together with  
5 necessary drugs, X-rays, physical therapy, prosthesis,  
6 transportation, and nursing care incident to the medical, surgical,  
7 or obstetrical care. The period of inpatient hospital service shall  
8 be the minimum period necessary in this type of facility for the  
9 proper care and treatment of the individual. Necessary  
10 hospitalization to provide dental care shall be provided if  
11 certified by the attending dentist with the approval of the

1 department of community health. An individual who is receiving  
2 medical treatment as an inpatient because of a diagnosis of  
3 tuberculosis or mental disease may receive service under this  
4 section, notwithstanding the mental health code, 1974 PA 258, MCL  
5 330.1001 to 330.2106, and 1925 PA 177, MCL 332.151 to 332.164. The  
6 department of community health shall pay for hospital services  
7 according to the state plan for medical assistance adopted under  
8 section 10 and approved by the United States department of health  
9 and human services.

10 (b) An eligible individual may receive physician services  
11 authorized by the department of community health. The service may  
12 be furnished in the physician's office, the eligible individual's  
13 home, a medical institution, or elsewhere in case of emergency. A  
14 physician shall be paid a reasonable charge for the service  
15 rendered. Reasonable charges shall be determined by the department  
16 of community health and shall not be more than those paid in this  
17 state for services rendered under title XVIII.

18 (c) An eligible individual may receive nursing home services  
19 in a state licensed nursing home, a medical care facility, or other  
20 facility or identifiable unit of that facility, certified by the  
21 appropriate authority as meeting established standards for a  
22 nursing home under the laws and rules of this state and the United  
23 States department of health and human services, to the extent found  
24 necessary by the attending physician, dentist, or certified  
25 Christian Science practitioner. An eligible individual may receive  
26 nursing services in an extended care services program established  
27 under section 22210 of the public health code, 1978 PA 368, MCL

1 333.22210, to the extent found necessary by the attending physician  
2 when the combined length of stay in the acute care bed and short-  
3 term nursing care bed exceeds the average length of stay for  
4 medicaid hospital diagnostic related group reimbursement. The  
5 department of community health shall not make a final payment under  
6 title XIX for benefits available under title XVIII without  
7 documentation that title XVIII claims have been filed and denied.  
8 The department of community health shall pay for nursing home  
9 services according to the state plan for medical assistance adopted  
10 according to section 10 and approved by the United States  
11 department of health and human services. A county shall reimburse a  
12 county maintenance of effort rate determined on an annual basis for  
13 each patient day of medicaid nursing home services provided to  
14 eligible individuals in long-term care facilities owned by the  
15 county and licensed to provide nursing home services. For purposes  
16 of determining rates and costs described in this subdivision, all  
17 of the following apply:

18 (i) For county owned facilities with per patient day updated  
19 variable costs exceeding the variable cost limit for the county  
20 facility, county maintenance of effort rate means 45% of the  
21 difference between per patient day updated variable cost and the  
22 concomitant nursing home-class variable cost limit, the quantity  
23 offset by the difference between per patient day updated variable  
24 cost and the concomitant variable cost limit for the county  
25 facility. The county rate shall not be less than zero.

26 (ii) For county owned facilities with per patient day updated  
27 variable costs not exceeding the variable cost limit for the county

1 facility, county maintenance of effort rate means 45% of the  
2 difference between per patient day updated variable cost and the  
3 concomitant nursing home class variable cost limit.

4 (iii) For county owned facilities with per patient day updated  
5 variable costs not exceeding the concomitant nursing home class  
6 variable cost limit, the county maintenance of effort rate shall  
7 equal zero.

8 (iv) For the purposes of this section: "per patient day updated  
9 variable costs and the variable cost limit for the county facility"  
10 shall be determined according to the state plan for medical  
11 assistance; for freestanding county facilities the "nursing home  
12 class variable cost limit" shall be determined according to the  
13 state plan for medical assistance and for hospital attached county  
14 facilities the "nursing class variable cost limit" shall be  
15 determined ~~pursuant~~ **ACCORDING** to the state plan for medical  
16 assistance plus \$5.00 per patient day; and "freestanding" and  
17 "hospital attached" shall be determined according to the federal  
18 regulations.

19 (v) If the county maintenance of effort rate computed under  
20 this section exceeds the county maintenance of effort rate in  
21 effect as of September 30, 1984, the rate in effect as of September  
22 30, 1984 shall remain in effect until a time that the rate computed  
23 under this section is less than the September 30, 1984 rate. This  
24 limitation remains in effect until December 31, 2012. For each  
25 subsequent county fiscal year the maintenance of effort may not  
26 increase by more than \$1.00 per patient day each year.

27 (vi) For county owned facilities, reimbursement for plant costs

1 will continue to be based on interest expense and depreciation  
2 allowance unless otherwise provided by law.

3 (d) ~~An~~ **EXCEPT AS PROVIDED IN SUBSECTION (3),** AN eligible  
4 individual may receive pharmaceutical services from a licensed  
5 pharmacist of the person's choice as prescribed by a licensed  
6 physician or dentist and approved by the department of community  
7 health. In an emergency, but not routinely, the individual may  
8 receive pharmaceutical services rendered personally by a licensed  
9 physician or dentist on the same basis as approved for pharmacists.

10 (e) An eligible individual may receive other medical and  
11 health services as authorized by the department of community  
12 health.

13 (f) Psychiatric care may also be provided according to the  
14 guidelines established by the department of community health to the  
15 extent of appropriations made available by the legislature for the  
16 fiscal year.

17 (g) An eligible individual may receive screening, laboratory  
18 services, diagnostic services, early intervention services, and  
19 treatment for chronic kidney disease under guidelines established  
20 by the department of community health. A clinical laboratory  
21 performing a creatinine test on an eligible individual under this  
22 subdivision shall include in the lab report the glomerular  
23 filtration rate (eGFR) of the individual and shall report it as a  
24 percent of kidney function remaining.

25 (2) The director shall provide notice to the public, according  
26 to applicable federal regulations, and shall obtain the approval of  
27 the committees on appropriations of the house of representatives

1 and senate of the legislature of this state, of a proposed change  
2 in the statewide method or level of reimbursement for a service, if  
3 the proposed change is expected to increase or decrease payments  
4 for that service by 1% or more during the 12 months after the  
5 effective date of the change.

6 (3) IF AN INDIVIDUAL HAS BEEN CONVICTED OF A CRIME INVOLVING  
7 THE POSSESSION OR DELIVERY OF A CONTROLLED SUBSTANCE, HE OR SHE IS  
8 NOT ELIGIBLE TO RECEIVE PHARMACEUTICAL SERVICES UNDER THIS ACT.

9 (4) ~~(3)~~—As used in this act:

10 (A) "CONTROLLED SUBSTANCE" MEANS THAT TERM AS DEFINED IN  
11 SECTION 7104 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.7104.

12 (B) ~~(a)~~—"Title XVIII" means title XVIII of the social security  
13 act, 42 USC 1395 to 1395kkk-1.

14 (C) ~~(b)~~—"Title XIX" means title XIX of the social security  
15 act, 42 USC 1396 to 1396w-5.

16 (D) ~~(c)~~—"Title XX" means title XX of the social security act,  
17 42 USC 1397 to 1397m-5.