

HOUSE BILL No. 5236

December 15, 2011, Introduced by Reps. Rutledge, Liss and O'Brien and referred to the Committee on Insurance.

A bill to amend 1980 PA 350, entitled
"The nonprofit health care corporation reform act,"
by amending sections 502 and 502a (MCL 550.1502 and 550.1502a), as
amended by 2009 PA 225.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 502. (1) A health care corporation may enter into
2 participating contracts for reimbursement with professional health
3 care providers practicing legally in this state for health care
4 services or with health practitioners practicing legally in any
5 other jurisdiction for health care services that the professional
6 health care providers or practitioners may legally perform. A
7 participating contract may cover all members or may be a separate
8 and individual contract on a per claim basis, as set forth in the

1 provider class plan, if, in entering into a separate and individual
2 contract on a per claim basis, the participating provider certifies
3 **ALL OF THE FOLLOWING** to the health care corporation:

4 (a) That the provider will accept payment from the corporation
5 as payment in full for services rendered for the specified claim
6 for the member indicated.

7 (b) That the provider will accept payment from the corporation
8 as payment in full for all cases involving the procedure specified,
9 for the duration of the calendar year. As used in this subdivision,
10 provider does not include a person licensed as a dentist under part
11 166 of the public health code, 1978 PA 368, MCL 333.16601 to
12 333.16648.

13 (c) That the provider will not determine whether to
14 participate on a claim on the basis of the race, color, creed,
15 marital status, sex, national origin, residence, age, disability,
16 or lawful occupation of the member entitled to health care
17 benefits.

18 (2) A contract entered into ~~pursuant to~~ **UNDER** subsection (1)
19 shall provide that the private provider-patient relationship shall
20 be maintained to the extent provided for by law. A health care
21 corporation shall continue to offer a reimbursement arrangement to
22 any class of providers with which it has contracted ~~prior to~~ **BEFORE**
23 August 27, 1985 and that continues to meet the standards set by the
24 corporation for that class of providers.

25 (3) A health care corporation shall not restrict the methods
26 of diagnosis or treatment of professional health care providers who
27 treat members. Except as otherwise provided in section 502a, each

1 member of the health care corporation shall at all times have a
2 choice of professional health care providers. This subsection does
3 not apply to limitations in benefits contained in certificates, to
4 the reimbursement provisions of a provider contract or
5 reimbursement arrangement, or to standards set by the corporation
6 for all contracting providers. A health care corporation may refuse
7 to reimburse a health care provider for health care services that
8 are overutilized, including those services rendered, ordered, or
9 prescribed to an extent that is greater than reasonably necessary.

10 (4) A health care corporation may provide to a member, upon
11 request, a list of providers with whom the corporation contracts,
12 for the purpose of assisting a member in obtaining a type of health
13 care service. However, except as otherwise provided in section
14 502a, an employee, agent, or officer of the corporation, or an
15 individual on the board of directors of the corporation, shall not
16 make recommendations on behalf of the corporation with respect to
17 the choice of a specific health care provider. Except as otherwise
18 provided in section 502a, an employee, agent, or officer of the
19 corporation, or a person on the board of directors of the
20 corporation who influences or attempts to influence a person in the
21 choice or selection of a specific professional health care provider
22 on behalf of the corporation, is guilty of a misdemeanor.

23 (5) A health care corporation shall provide a symbol of
24 participation, which can be publicly displayed, to providers who
25 participate on all claims for covered health care services rendered
26 to subscribers.

27 (6) This section does not impede the lawful operation of, or

1 lawful promotion of, a health maintenance organization owned by a
2 health care corporation.

3 (7) Contracts entered into under this section with
4 professional health care providers licensed in this state are
5 subject to ~~the provisions of~~ sections 504 to 518.

6 (8) A health care corporation shall not deny participation to
7 a freestanding surgical outpatient facility on the basis of
8 ownership if the facility meets the reasonable standards set by the
9 health care corporation for similar facilities, is licensed under
10 part 208 of the public health code, 1978 PA 368, MCL 333.20801 to
11 333.20821, and complies with part 222 of the public health code,
12 1978 PA 368, MCL 333.22201 to 333.22260.

13 (9) Notwithstanding any other provision of this act, if a
14 certificate provides for benefits for services that are within the
15 scope of practice of optometry, a health care corporation is not
16 required to provide benefits or reimburse for a practice of
17 ~~optometric~~ **OPTOMETRY** service unless that service was included in
18 the definition of practice of optometry under section 17401 of the
19 public health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.

20 (10) Notwithstanding any other provision of this act, a health
21 care corporation is not required to reimburse for services
22 otherwise covered under a certificate if the services were
23 performed by a member of a health care profession, which health
24 care profession was not licensed or registered by this state on or
25 before January 1, 1998 but that becomes a health care profession
26 licensed or registered by this state after January 1, 1998. This
27 subsection does not change the status of a health care profession

1 that was licensed or registered by this state on or before January
2 1, 1998.

3 (11) Notwithstanding any other provision of this act,
4 ~~including subsections (1) to (10),~~ if a certificate provides for
5 benefits for services that are within the scope of practice of
6 chiropractic, a health care corporation is not required to provide
7 benefits or reimburse for a practice of chiropractic service unless
8 that service was included in the definition of practice of
9 chiropractic under section 16401 of the public health code, 1978 PA
10 368, MCL 333.16401, as of January 1, 2009.

11 (12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A
12 CERTIFICATE PROVIDES FOR BENEFITS FOR SERVICES PROVIDED BY A
13 LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT UNDER
14 THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST, A HEALTH CARE
15 CORPORATION IS NOT REQUIRED TO PROVIDE BENEFITS OR REIMBURSE FOR A
16 PRACTICE OF PHYSICAL THERAPY SERVICE OR PRACTICE AS A PHYSICAL
17 THERAPIST ASSISTANT SERVICE UNLESS THAT SERVICE WAS PROVIDED BY A
18 LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT UNDER
19 THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST PURSUANT TO A
20 PRESCRIPTION ISSUED BY AN INDIVIDUAL HOLDING A LICENSE ISSUED UNDER
21 PART 166, 170, 175, OR 180 OF THE PUBLIC HEALTH CODE, 1978 PA 368,
22 MCL 333.16601 TO 333.16648, 333.17001 TO 333.17084, 333.17501 TO
23 333.17556, OR 333.18001 TO 333.18058, OR THE EQUIVALENT LICENSE
24 ISSUED BY ANOTHER STATE.

25 Sec. 502a. (1) For the purpose of doing business as an
26 organization under the prudent purchaser act, 1984 PA 233, MCL
27 550.51 to 550.63, a health care corporation may enter into prudent

1 purchaser agreements with health care providers pursuant to this
2 section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to
3 550.63.

4 (2) A health care corporation may offer group contracts under
5 which subscribers shall be required, as a condition of coverage, to
6 obtain services exclusively from health care providers who have
7 entered into prudent purchaser agreements.

8 (3) An individual who is a member of a group who is offered
9 the option of being a subscriber under a contract ~~pursuant to~~ **UNDER**
10 subsection (2) shall also be offered the option of being a
11 subscriber under a contract ~~pursuant to~~ **UNDER** subsection (4). This
12 subsection applies only if the group in which the individual is a
13 member has 25 or more members or if the provider panel that is
14 providing the services under the contract is limited by the
15 organization to a specific number ~~pursuant to~~ **UNDER** section 3(1) of
16 the prudent purchaser act, 1984 PA 233, MCL 550.53.

17 (4) A health care corporation may offer group contracts under
18 which subscribers who elect to obtain services from health care
19 providers who have entered into prudent purchaser agreements ~~shall~~
20 realize a financial advantage or other advantage by selecting ~~such~~
21 providers **WHO HAVE ENTERED INTO PRUDENT PURCHASER AGREEMENTS**.
22 Contracts offered ~~pursuant to~~ **UNDER** this subsection shall not, as a
23 condition of coverage, require subscribers to obtain services
24 exclusively from health care providers who have entered into
25 prudent purchaser agreements.

26 (5) ~~An~~ **SUBJECT TO SUBSECTION (6), AN** individual who is a
27 member of a group who is offered the option of being a subscriber

1 under a contract ~~pursuant to~~ **UNDER** subsection (2) or (4) shall also
2 be offered the option of being a subscriber under a contract that
3 **DOES NOT DO ANY OF THE FOLLOWING:**

4 (a) ~~Does not, as~~ **AS** a condition of coverage, require
5 subscribers to obtain services exclusively from health care
6 providers who have entered into prudent purchaser agreements.

7 (b) ~~Does not give~~ **GIVE** a financial advantage or other
8 advantage to a subscriber who elects to obtain services from health
9 care providers who have entered into prudent purchaser agreements.

10 (6) Subsection (5) applies only if the group in which the
11 individual is a member has 25 or more members and if the group on
12 December 20, 1984 had health care coverage through the group
13 sponsor.

14 (7) A health care corporation may offer individual contracts
15 under which subscribers shall be required, as a condition of
16 coverage, to obtain services exclusively from health care providers
17 who have entered into prudent purchaser agreements. A person to
18 whom ~~such a contract~~ **DESCRIBED IN THIS SUBSECTION** is offered shall
19 also be offered a contract that **DOES NOT DO ANY OF THE FOLLOWING:**

20 (a) ~~Does not, as~~ **AS** a condition of coverage, require
21 subscribers to obtain services exclusively from health care
22 providers who have entered into prudent purchaser agreements.

23 (b) ~~Does not give~~ **GIVE** a financial advantage or other
24 advantage to a subscriber who elects to obtain services from health
25 care providers who have entered into prudent purchaser agreements.

26 (8) A health care corporation may offer individual contracts
27 under which subscribers who elect to obtain services from health

care providers who have entered into prudent purchaser agreements
~~shall realize a financial advantage or other advantage by selecting~~
~~such providers~~ **WHO HAVE ENTERED INTO PRUDENT PURCHASER AGREEMENTS.**

Contracts offered ~~pursuant to~~ **UNDER** this subsection shall not, as a
 condition of coverage, require subscribers to obtain services
 exclusively from health care providers who have entered into
 prudent purchaser agreements. A person to whom ~~such a~~ contract
DESCRIBED IN THIS SUBSECTION is offered shall also be offered a
 contract that **DOES NOT DO ANY OF THE FOLLOWING:**

(a) ~~Does not, as~~ **AS** a condition of coverage, require
 subscribers to obtain services exclusively from health care
 providers who have entered into prudent purchaser agreements.

(b) ~~Does not give~~ **GIVE** a financial advantage or other
 advantage to a subscriber who elects to obtain services from health
 care providers who have entered into prudent purchaser agreements.

(9) The rates charged by a corporation for coverage under
 contracts issued under this section shall not be unreasonably lower
 than what is necessary to meet the expenses of the corporation for
 providing this coverage and shall not have an anticompetitive
 effect or result in predatory pricing in relation to prudent
 purchaser agreement coverages offered by other organizations.

(10) Contracts entered into under this section are not subject
 to ~~the provisions of~~ sections 504 to 518.

(11) A **HEALTH CARE** corporation shall not discriminate against
 a class of health care providers when entering into prudent
 purchaser agreements with health care providers for its provider
 panel. This subsection does not **DO ANY OF THE FOLLOWING:**

1 (a) Prohibit the formation of a provider panel consisting of a
2 single class of providers ~~when~~ **IF** a service provided for in the
3 specifications of a purchaser may be legally provided only by a
4 single class of providers.

5 (b) Prohibit the formation of a provider panel that conforms
6 to the specifications of a purchaser of the coverage authorized by
7 this section ~~so long as~~ **IF** the specifications do not exclude any
8 class of health care providers who may legally perform the services
9 included in the coverage.

10 (c) Require an organization that has uniformly applied the
11 standards filed ~~pursuant to~~ **UNDER** section 3(3) of the prudent
12 purchaser act, 1984 PA 233, MCL 550.53, to contract with any
13 individual provider.

14 (12) Nothing in ~~the 1984 amendatory act that added this~~
15 ~~section~~ **PA 230** applies to any contract that was in existence before
16 December 20, 1984, or the renewal of ~~such~~ **THAT** contract.

17 (13) Notwithstanding any other provision of this act, if
18 coverage under a prudent purchaser agreement provides for benefits
19 for services that are within the scope of practice of optometry, a
20 health care corporation is not required to provide benefits or
21 reimburse for a practice of ~~optometric~~ **OPTOMETRY** service unless
22 that service was included in the definition of practice of
23 optometry under section 17401 of the public health code, 1978 PA
24 368, MCL 333.17401, as of May 20, 1992.

25 (14) Notwithstanding any other provision of this act, a health
26 care corporation offering coverage under a prudent purchaser
27 agreement is not required to reimburse for services otherwise

1 covered if the services were performed by a member of a health care
2 profession, which health care profession was not licensed or
3 registered by this state on or before January 1, 1998 but that
4 becomes a health care profession licensed or registered by this
5 state after January 1, 1998. This subsection does not change the
6 status of a health care profession that was licensed or registered
7 by this state on or before January 1, 1998.

8 (15) Notwithstanding any other provision of this act,
9 ~~including subsections (1) to (14), if a certificate~~ **IF COVERAGE**
10 **UNDER A PRUDENT PURCHASER AGREEMENT** provides for benefits for
11 services that are within the scope of practice of chiropractic, a
12 health care corporation is not required to provide benefits or
13 reimburse for a practice of chiropractic service unless that
14 service was included in the definition of practice of chiropractic
15 under section 16401 of the public health code, 1978 PA 368, MCL
16 333.16401, as of January 1, 2009.

17 (16) **NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF**
18 **COVERAGE UNDER A PRUDENT PURCHASER AGREEMENT PROVIDES FOR BENEFITS**
19 **FOR SERVICES PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL**
20 **THERAPIST ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL**
21 **THERAPIST, A HEALTH CARE CORPORATION IS NOT REQUIRED TO PROVIDE**
22 **BENEFITS OR REIMBURSE FOR A PRACTICE OF PHYSICAL THERAPY SERVICE OR**
23 **PRACTICE AS A PHYSICAL THERAPIST ASSISTANT SERVICE UNLESS THAT**
24 **SERVICE WAS PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL**
25 **THERAPIST ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL**
26 **THERAPIST PURSUANT TO A PRESCRIPTION ISSUED BY AN INDIVIDUAL**
27 **HOLDING A LICENSE ISSUED UNDER PART 166, 170, 175, OR 180 OF THE**

1 PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16601 TO 333.16648,
2 333.17001 TO 333.17084, 333.17501 TO 333.17556, OR 333.18001 TO
3 333.18058, OR THE EQUIVALENT LICENSE ISSUED BY ANOTHER STATE.

4 Enacting section 1. This amendatory act does not take effect
5 unless House Bill No. 4603 of the 96th Legislature is enacted into
6 law.