

# SENATE BILL No. 1378

November 27, 2012, Introduced by Senators NOFS and JANSEN 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  
9 provider class plan, if, in entering into a separate and individual  
10 contract on a per claim basis, the participating provider certifies

1 **ALL OF THE FOLLOWING** to the health care corporation:

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

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

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

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

23 (3) A health care corporation shall not restrict the methods  
24 of diagnosis or treatment of professional health care providers who  
25 treat members. Except as otherwise provided in section 502a, each  
26 member of the health care corporation shall at all times have a  
27 choice of professional health care providers. This subsection does

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

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

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

25 (6) This section does not impede the lawful operation of, or  
26 lawful promotion of, a health maintenance organization owned by a  
27 health care corporation.

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

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

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

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

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

9       Sec. 502a. (1) For the purpose of doing business as an  
10 organization under the prudent purchaser act, 1984 PA 233, MCL  
11 550.51 to 550.63, a health care corporation may enter into prudent  
12 purchaser agreements with health care providers pursuant to this  
13 section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to  
14 550.63.

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

19       (3) An individual who is a member of a group who is offered  
20 the option of being a subscriber under a contract ~~pursuant to~~**UNDER**  
21 subsection (2) shall also be offered the option of being a  
22 subscriber under a contract ~~pursuant to~~**UNDER** subsection (4). This  
23 subsection applies only if the group in which the individual is a  
24 member has 25 or more members or if the provider panel that is  
25 providing the services under the contract is limited by the  
26 organization to a specific number ~~pursuant to~~**UNDER** section 3(1) of  
27 the prudent purchaser act, 1984 PA 233, MCL 550.53.

1 (4) A health care corporation may offer group contracts under  
2 which subscribers who elect to obtain services from health care  
3 providers who have entered into prudent purchaser agreements ~~shall~~  
4 realize a financial advantage or other advantage by selecting ~~such~~  
5 providers **WHO HAVE ENTERED INTO PRUDENT PURCHASER AGREEMENTS**.  
6 Contracts offered ~~pursuant to~~ **UNDER** this subsection shall not, as a  
7 condition of coverage, require subscribers to obtain services  
8 exclusively from health care providers who have entered into  
9 prudent purchaser agreements.

10 (5) ~~An~~ **SUBJECT TO SUBSECTION (6), AN** individual who is a  
11 member of a group who is offered the option of being a subscriber  
12 under a contract ~~pursuant to~~ **UNDER** subsection (2) or (4) shall also  
13 be offered the option of being a subscriber under a contract that  
14 **DOES NOT DO ANY OF THE FOLLOWING:**

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

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

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

25 (7) A health care corporation may offer individual contracts  
26 under which subscribers shall be required, as a condition of  
27 coverage, to obtain services exclusively from health care providers

1 who have entered into prudent purchaser agreements. A person to  
2 whom ~~such~~ a contract **DESCRIBED IN THIS SUBSECTION** is offered shall  
3 also be offered a contract that **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 (8) A health care corporation may offer individual contracts  
11 under which subscribers who elect to obtain services from health  
12 care providers who have entered into prudent purchaser agreements  
13 ~~shall~~ realize a financial advantage or other advantage by selecting  
14 ~~such~~ providers **WHO HAVE ENTERED INTO PRUDENT PURCHASER AGREEMENTS.**  
15 Contracts offered ~~pursuant to~~ **UNDER** this subsection shall not, as a  
16 condition of coverage, require subscribers to obtain services  
17 exclusively from health care providers who have entered into  
18 prudent purchaser agreements. A person to whom ~~such~~ a contract  
19 **DESCRIBED IN THIS SUBSECTION** is offered shall also be offered a  
20 contract that **DOES NOT DO ANY OF THE FOLLOWING:**

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

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

27 (9) The rates charged by a corporation for coverage under

1 contracts issued under this section shall not be unreasonably lower  
2 than what is necessary to meet the expenses of the corporation for  
3 providing this coverage and shall not have an anticompetitive  
4 effect or result in predatory pricing in relation to prudent  
5 purchaser agreement coverages offered by other organizations.

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

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

12 (a) Prohibit the formation of a provider panel consisting of a  
13 single class of providers ~~when~~ **IF** a service provided for in the  
14 specifications of a purchaser may be legally provided only by a  
15 single class of providers.

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

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

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

1           (13) Notwithstanding any other provision of this act, if  
2 coverage under a prudent purchaser agreement provides for benefits  
3 for services that are within the scope of practice of optometry, a  
4 health care corporation is not required to provide benefits or  
5 reimburse for a practice of ~~optometric~~**OPTOMETRY** service unless  
6 that service was included in the definition of practice of  
7 optometry under section 17401 of the public health code, 1978 PA  
8 368, MCL 333.17401, as of May 20, 1992.

9           (14) Notwithstanding any other provision of this act, a health  
10 care corporation offering coverage under a prudent purchaser  
11 agreement is not required to reimburse for services otherwise  
12 covered if the services were performed by a member of a health care  
13 profession, which health care profession was not licensed or  
14 registered by this state on or before January 1, 1998 but that  
15 becomes a health care profession licensed or registered by this  
16 state after January 1, 1998. This subsection does not change the  
17 status of a health care profession that was licensed or registered  
18 by this state on or before January 1, 1998.

19 ~~——(15) Notwithstanding any other provision of this act including~~  
20 ~~subsections (1) to (14), if a certificate provides for benefits for~~  
21 ~~services that are within the scope of practice of chiropractic, a~~  
22 ~~health care corporation is not required to provide benefits or~~  
23 ~~reimburse for a practice of chiropractic service unless that~~  
24 ~~service was included in the definition of practice of chiropractic~~  
25 ~~under section 16401 of the public health code, 1978 PA 368, MCL~~  
26 ~~333.16401, as of January 1, 2009.~~