

# HOUSE BILL NO. 5125

June 24, 2021, Introduced by Reps. Rogers, Bezotte, Berman, Sowerby, Rabhi, Brenda Carter, Hood, Scott, Marino, Breen, Liberati, Pohutsky, Aiyash, Hope, Sabo, Bolden, Lasinski, Sneller, Steckloff, Haadsma, Weiss, LaGrand, Clemente, Steenland, Morse, Neeley, Young, Stone, Kuppa, Brixie, Brabec, Puri, Cavanagh, Cynthia Johnson, O'Neal, Coleman, Wozniak, Hertel and Yancey and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 3157 (MCL 500.3157), as amended by 2019 PA 21.

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

1           Sec. 3157. (1) Subject to subsections (2) to (14), a  
2 physician, hospital, clinic, or other person that lawfully renders  
3 treatment to an injured person for an accidental bodily injury  
4 covered by personal protection insurance, or a person that provides  
5 rehabilitative occupational training following the injury, may

1 charge a reasonable amount for the treatment or training. The  
2 charge must not exceed the amount the person customarily charges  
3 for like treatment or training in cases that do not involve  
4 insurance.

5 (2) Subject to subsections (3) to (14), a physician, hospital,  
6 clinic, or other person that renders treatment or rehabilitative  
7 occupational training to an injured person for an accidental bodily  
8 injury covered by personal protection insurance is not eligible for  
9 payment or reimbursement under this chapter for more than the  
10 following:

11 (a) For treatment or training rendered after July 1, 2021 and  
12 before July 2, 2022, 200% of the amount payable to the person for  
13 the treatment or training under Medicare.

14 (b) For treatment or training rendered after July 1, 2022 and  
15 before July 2, 2023, 195% of the amount payable to the person for  
16 the treatment or training under Medicare.

17 (c) For treatment or training rendered after July 1, 2023,  
18 190% of the amount payable to the person for the treatment or  
19 training under Medicare.

20 (3) Subject to subsections (5) to (14), a physician, hospital,  
21 clinic, or other person identified in subsection (4) that renders  
22 treatment or rehabilitative occupational training to an injured  
23 person for an accidental bodily injury covered by personal  
24 protection insurance is eligible for payment or reimbursement under  
25 this chapter of not more than the following:

26 (a) For treatment or training rendered after July 1, 2021 and  
27 before July 2, 2022, 230% of the amount payable to the person for  
28 the treatment or training under Medicare.

29 (b) For treatment or training rendered after July 1, 2022 and

1 before July 2, 2023, 225% of the amount payable to the person for  
2 the treatment or training under Medicare.

3 (c) For treatment or training rendered after July 1, 2023,  
4 220% of the amount payable to the person for the treatment or  
5 training under Medicare.

6 (4) Subject to subsection (5), subsection (3) only applies to  
7 a physician, hospital, clinic, or other person if either of the  
8 following applies to the person rendering the treatment or  
9 training:

10 (a) On July 1 of the year in which the person renders the  
11 treatment or training, the person has 20% or more, but less than  
12 30%, indigent volume determined pursuant to the methodology used by  
13 the department of health and human services in determining  
14 inpatient medical/surgical factors used in measuring eligibility  
15 for Medicaid disproportionate share payments.

16 (b) The person is a freestanding rehabilitation facility. Each  
17 year the director shall designate not more than 2 freestanding  
18 rehabilitation facilities to qualify for payments under subsection  
19 (3) for that year. As used in this subdivision, "freestanding  
20 rehabilitation facility" means an acute care hospital to which all  
21 of the following apply:

22 (i) The hospital has staff with specialized and demonstrated  
23 rehabilitation medicine expertise.

24 (ii) The hospital possesses sophisticated technology and  
25 specialized facilities.

26 (iii) The hospital participates in rehabilitation research and  
27 clinical education.

28 (iv) The hospital assists patients to achieve excellent  
29 rehabilitation outcomes.

1           (v) The hospital coordinates necessary post-discharge  
2 services.

3           (vi) The hospital is accredited by 1 or more third-party,  
4 independent organizations focused on quality.

5           (vii) The hospital serves the rehabilitation needs of  
6 catastrophically injured patients in this state.

7           (viii) The hospital was in existence on May 1, 2019.

8           (5) To qualify for a payment under subsection (4) (a), a  
9 physician, hospital, clinic, or other person shall provide the  
10 director with all documents and information requested by the  
11 director that the director determines are necessary to allow the  
12 director to determine whether the person qualifies. The director  
13 shall annually review documents and information provided under this  
14 subsection and, if the person qualifies under subsection (4) (a),  
15 shall certify the person as qualifying and provide a list of  
16 qualifying persons to insurers and other persons that provide the  
17 security required under section ~~3101(1)~~. **3101**. A physician,  
18 hospital, clinic, or other person that provides 30% or more of its  
19 total treatment or training as described under subsection (4) (a) is  
20 entitled to receive, instead of an applicable percentage under  
21 subsection (3), 250% of the amount payable to the person for the  
22 treatment or training under Medicare.

23           (6) Subject to subsections (7) to (14), a hospital that is a  
24 level I or level II trauma center that renders treatment to an  
25 injured person for an accidental bodily injury covered by personal  
26 protection insurance, if the treatment is for an emergency medical  
27 condition and rendered before the patient is stabilized and  
28 transferred, is not eligible for payment or reimbursement under  
29 this chapter of more than the following:

1 (a) For treatment rendered after July 1, 2021 and before July  
2 2, 2022, 240% of the amount payable to the hospital for the  
3 treatment under Medicare.

4 (b) For treatment rendered after July 1, 2022 and before July  
5 2, 2023, 235% of the amount payable to the hospital for the  
6 treatment under Medicare.

7 (c) For treatment rendered after July 1, 2023, 230% of the  
8 amount payable to the hospital for the treatment under Medicare.

9 (7) If Medicare does not provide an amount payable for a  
10 treatment or rehabilitative occupational training under subsection  
11 (2), (3), (5), or (6), the physician, hospital, clinic, or other  
12 person that renders the treatment or training is not eligible for  
13 payment or reimbursement under this chapter of more than the  
14 following, as applicable:

15 (a) For a person to which subsection (2) applies, **for**  
16 **treatment or training rendered before July 2, 2022, the amount that**  
17 **may be charged under subsection (1). For treatment or training**  
18 **rendered after July 1, 2022,** the applicable following percentage of  
19 the amount payable for the treatment or training under the person's  
20 charge description master in effect on January 1, 2019 or, if the  
21 person did not have a charge description master on that date, the  
22 applicable following percentage of the average amount the person  
23 charged for the treatment on January 1, 2019:

24 (i) For treatment or training rendered after July 1, ~~2021–2022~~  
25 and before July 2, ~~2022,–2023~~, 55%.

26 (ii) For treatment or training rendered after July 1, ~~2022–2023~~  
27 and before July 2, ~~2023,–2024~~, 54%.

28 (iii) For treatment or training rendered after July 1, ~~2023,~~  
29 **2024**, 52.5%.

1           (b) For a person to which subsection (3) applies, the  
2 applicable following percentage of the amount payable for the  
3 treatment or training under the person's charge description master  
4 in effect on January 1, 2019 or, if the person did not have a  
5 charge description master on that date, the applicable following  
6 percentage of the average amount the person charged for the  
7 treatment or training on January 1, 2019:

8           (i) For treatment or training rendered after July 1, 2021 and  
9 before July 2, 2022, 70%.

10           (ii) For treatment or training rendered after July 1, 2022 and  
11 before July 2, 2023, 68%.

12           (iii) For treatment or training rendered after July 1, 2023,  
13 66.5%.

14           (c) For a person to which subsection (5) applies, 78% of the  
15 amount payable for the treatment or training under the person's  
16 charge description master in effect on January 1, 2019 or, if the  
17 person did not have a charge description master on that date, 78%  
18 of the average amount the person charged for the treatment on  
19 January 1, 2019.

20           (d) For a person to which subsection (6) applies, the  
21 applicable following percentage of the amount payable for the  
22 treatment under the person's charge description master in effect on  
23 January 1, 2019 or, if the person did not have a charge description  
24 master on that date, the applicable following percentage of the  
25 average amount the person charged for the treatment on January 1,  
26 2019:

27           (i) For treatment or training rendered after July 1, 2021 and  
28 before July 2, 2022, 75%.

29           (ii) For treatment or training rendered after July 1, 2022 and

1 before July 2, 2023, 73%.

2 (iii) For treatment or training rendered after July 1, 2023,  
3 71%.

4 (8) For any change to an amount payable under Medicare as  
5 provided in subsection (2), (3), (5), or (6) that occurs after ~~the~~  
6 ~~effective date of the amendatory act that added this subsection,~~  
7 **June 11, 2019**, the change must be applied to the amount allowed for  
8 payment or reimbursement under that subsection. However, an amount  
9 allowed for payment or reimbursement under subsection (2), (3),  
10 (5), or (6) must not exceed the average amount charged by the  
11 physician, hospital, clinic, or other person for the treatment or  
12 training on January 1, 2019.

13 (9) An amount that is to be applied under subsection (7) or  
14 (8), that was in effect on January 1, 2019, including any prior  
15 adjustments to the amount made under this subsection, must be  
16 adjusted annually by the percentage change in the medical care  
17 component of the Consumer Price Index for the year preceding the  
18 adjustment.

19 (10) For attendant care rendered in the injured person's home  
20 **after July 1, 2022**, an insurer is only required to pay benefits for  
21 attendant care up to the hourly limitation in section 315 of the  
22 worker's disability compensation act of 1969, 1969 PA 317, MCL  
23 418.315. This subsection only applies if the attendant care is  
24 provided directly, or indirectly through another person, by any of  
25 the following:

26 (a) An individual who is related to the injured person.

27 (b) An individual who is domiciled in the household of the  
28 injured person.

29 (c) An individual with whom the injured person had a business

1 or social relationship before the injury.

2 (11) An insurer may contract to pay benefits for attendant  
3 care for more than the hourly limitation under subsection (10).

4 (12) A neurological rehabilitation clinic is not entitled to  
5 payment or reimbursement for a treatment ~~, or training, product,~~  
6 ~~service, or accommodation~~ unless the neurological rehabilitation  
7 clinic is accredited by the Commission on Accreditation of  
8 Rehabilitation Facilities or a similar organization recognized by  
9 the director for purposes of accreditation under this subsection.  
10 This subsection does not apply to a neurological rehabilitation  
11 clinic that is in the process of becoming accredited as required  
12 under this subsection on July 1, 2021, unless 3 years have passed  
13 since the beginning of that process and the neurological  
14 rehabilitation clinic is still not accredited.

15 (13) Subsections (2) to (12) do not apply to emergency medical  
16 services rendered by an ambulance operation. As used in this  
17 subsection:

18 (a) "Ambulance operation" means that term as defined in  
19 section 20902 of the public health code, 1978 PA 368, MCL  
20 333.20902.

21 (b) "Emergency medical services" means that term as defined in  
22 section 20904 of the public health code, 1978 PA 368, MCL  
23 333.20904.

24 (14) ~~Subsections~~ **Except as provided in subsections (7)(a) and**  
25 **(10), subsections** (2) to (13) apply to treatment or rehabilitative  
26 occupational training rendered after July 1, 2021.

27 (15) As used in this section:

28 (a) "Charge description master" means a uniform schedule of  
29 charges represented by the person as its gross billed charge for a



1 given service or item, regardless of payer type.

2 (b) "Consumer Price Index" means the most comprehensive index  
3 of consumer prices available for this state from the United States  
4 Department of Labor, Bureau of Labor Statistics.

5 (c) "Emergency medical condition" means that term as defined  
6 in section 1395dd of the social security act, 42 USC 1395dd.

7 (d) "Level I or level II trauma center" means a hospital that  
8 is verified as a level I or level II trauma center by the American  
9 College of Surgeons Committee on Trauma.

10 (e) "Medicaid" means a program for medical assistance  
11 established under subchapter XIX of the social security act, 42 USC  
12 1396 to 1396w-5.

13 (f) "Medicare" means fee for service payments under part A, B,  
14 or D of the federal Medicare program established under subchapter  
15 XVIII of the social security act, 42 USC 1395 to 1395III, without  
16 regard to the limitations unrelated to the rates in the fee  
17 schedule such as limitation or supplemental payments related to  
18 utilization, readmissions, recaptures, bad debt adjustments, or  
19 sequestration.

20 (g) "Neurological rehabilitation clinic" means a person that  
21 provides post-acute brain and spinal rehabilitation care.

22 (h) "Person", as provided in section 114, includes, but is not  
23 limited to, an institution.

24 (i) "Stabilized" means that term as defined in section 1395dd  
25 of the social security act, 42 USC 1395dd.

26 (j) "Transfer" means that term as defined in section 1395dd of  
27 the social security act, 42 USC 1395dd.

28 (k) "Treatment" includes, but is not limited to, products,  
29 services, and accommodations.