

HOUSE BILL NO. 6114

May 19, 2022, Introduced by Rep. Tisdell and referred to the Committee on Rules and Competitiveness.

A bill to amend 1956 PA 218, entitled
"The insurance code of 1956,"
by amending sections 3142 and 3157 (MCL 500.3142 and 500.3157), as
amended by 2019 PA 21.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 3142. (1) Personal protection insurance benefits are
- 2 payable as loss accrues.
- 3 (2) Subject to subsection (3), personal protection insurance
- 4 benefits are overdue if not paid within 30 days after an insurer

1 receives reasonable proof of the fact and of the amount of loss
2 sustained. Subject to subsection (3), if reasonable proof is not
3 supplied as to the entire claim, the amount supported by reasonable
4 proof is overdue if not paid within 30 days after the proof is
5 received by the insurer. Subject to subsection (3), any part of the
6 remainder of the claim that is later supported by reasonable proof
7 is overdue if not paid within 30 days after the proof is received
8 by the insurer. For the purpose of calculating the extent to which
9 benefits are overdue, payment must be treated as made on the date a
10 draft or other valid instrument was placed in the United States
11 mail in a properly addressed, postpaid envelope, or, if not so
12 posted, on the date of delivery.

13 (3) For personal protection insurance benefits under section
14 3107(1)(a), if a bill for the product, service, accommodations, or
15 training is not provided to the insurer within 90 days after the
16 product, service, accommodations, or training is provided, the
17 insurer has 60 days in addition to 30 days provided under
18 subsection (2) to pay before the benefits are overdue.

19 (4) ~~An~~ **If a payment is** overdue ~~payment bears simple interest~~
20 ~~at the rate of 12% per annum.~~ **under this section and if the insurer**
21 **has acted in bad faith in not making the payment in a timely**
22 **manner, the insurer shall pay the claimant 3 times the amount of**
23 **the overdue payment and any reasonable attorney fee actually**
24 **incurred. For purposes of this subsection, all of the following**
25 **apply:**

26 (a) **Whether the insurer acted in bad faith is a factual**
27 **determination to be made based on an analysis of the totality of**
28 **the evidence available at or before the time when the claim became**
29 **overdue.**

1 (b) If a payment is more than 90 days overdue, there is a
2 rebuttable presumption that the insurer has acted in bad faith.

3 (c) If an action is filed for payment of overdue benefits, the
4 claimant is not entitled to a duplicate attorney fee for the same
5 services or expenses under this subsection and section 3148.

6 Sec. 3157. (1) Subject to subsections (2) to ~~(14)~~, **(15)**, a
7 physician, hospital, clinic, or other person that lawfully renders
8 treatment to an injured person for an accidental bodily injury
9 covered by personal protection insurance, or a person that provides
10 rehabilitative occupational training following the injury, may
11 charge a reasonable amount for the treatment or training. The
12 charge must not exceed the amount the person customarily charges
13 for like treatment or training in cases that do not involve
14 insurance.

15 (2) Subject to subsections (3) to ~~(14)~~, **(15)**, a physician,
16 hospital, clinic, or other person that renders treatment or
17 rehabilitative occupational training to an injured person for an
18 accidental bodily injury covered by personal protection insurance
19 is not eligible for payment or reimbursement under this chapter for
20 more than the following:

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

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

27 (c) For treatment or training rendered after July 1, 2023,
28 190% of the amount payable to the person for the treatment or
29 training under Medicare.

1 (3) Subject to subsections (5) to ~~(14)~~, **(15)**, a physician,
2 hospital, clinic, or other person identified in subsection (4) that
3 renders treatment or rehabilitative occupational training to an
4 injured person for an accidental bodily injury covered by personal
5 protection insurance is eligible for payment or reimbursement under
6 this chapter of not more than the following:

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

10 (b) For treatment or training rendered after July 1, 2022 and
11 before July 2, 2023, 225% of the amount payable to the person for
12 the treatment or training under Medicare.

13 (c) For treatment or training rendered after July 1, 2023,
14 220% of the amount payable to the person for the treatment or
15 training under Medicare.

16 (4) Subject to subsection (5), subsection (3) only applies to
17 a physician, hospital, clinic, or other person if either of the
18 following applies to the person rendering the treatment or
19 training:

20 (a) On July 1 of the year in which the person renders the
21 treatment or training, the person has 20% or more, but less than
22 30%, indigent volume determined pursuant to the methodology used by
23 the department of health and human services in determining
24 inpatient medical/surgical factors used in measuring eligibility
25 for Medicaid disproportionate share payments.

26 (b) The person is a freestanding rehabilitation facility. Each
27 year the director shall designate not more than 2 freestanding
28 rehabilitation facilities to qualify for payments under subsection
29 (3) for that year. As used in this subdivision, "freestanding

rehabilitation facility" means an acute care hospital to which all of the following apply:

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

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

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

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

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

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

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

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

(5) To qualify for a payment under subsection (4)(a), a physician, hospital, clinic, or other person shall provide the director with all documents and information requested by the director that the director determines are necessary to allow the director to determine whether the person qualifies. The director shall annually review documents and information provided under this subsection and, if the person qualifies under subsection (4)(a), shall certify the person as qualifying and provide a list of qualifying persons to insurers and other persons that provide the security required under section ~~3101(1)~~. **3101**. A physician, hospital, clinic, or other person that provides 30% or more of its total treatment or training as described under subsection (4)(a) is

entitled to receive, instead of an applicable percentage under subsection (3), 250% of the amount payable to the person for the treatment or training under Medicare.

(6) Subject to subsections (7) to ~~(14)~~, **(15)**, a hospital that is a level I or level II trauma center that renders treatment to an injured person for an accidental bodily injury covered by personal protection insurance, if the treatment is for an emergency medical condition and rendered before the patient is stabilized and transferred, is not eligible for payment or reimbursement under this chapter of more than the following:

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

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

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

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

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

percentage of the average amount the person charged for the treatment on January 1, 2019:

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

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

(iii) For treatment or training rendered after July 1, 2023, 52.5%.

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

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

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

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

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

(d) For a person to which subsection (6) applies, the applicable following percentage of the amount payable for the

1 treatment under the person's charge description master in effect on
2 January 1, 2019 or, if the person did not have a charge description
3 master on that date, the applicable following percentage of the
4 average amount the person charged for the treatment on January 1,
5 2019:

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

8 (ii) For treatment or training rendered after July 1, 2022 and
9 before July 2, 2023, 73%.

10 (iii) For treatment or training rendered after July 1, 2023,
11 71%.

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

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

27 (10) For attendant care rendered in the injured person's home,
28 an insurer is only required to pay benefits for attendant care up
29 to the hourly limitation in section 315 of the worker's disability

1 compensation act of 1969, 1969 PA 317, MCL 418.315. This subsection
2 only applies if the attendant care is provided directly, or
3 indirectly through another person, by any of the following:

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

5 (b) An individual who is domiciled in the household of the
6 injured person.

7 (c) An individual with whom the injured person had a business
8 or social relationship before the injury.

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

11 (12) A neurological rehabilitation clinic is not entitled to
12 payment or reimbursement for a treatment ~~, or rehabilitative~~
13 **occupational** training ~~, product, service, or accommodation~~ unless
14 the neurological rehabilitation clinic is accredited by the
15 Commission on Accreditation of Rehabilitation Facilities or a
16 similar organization recognized by the director for purposes of
17 accreditation under this subsection. This subsection does not apply
18 to a neurological rehabilitation clinic that is in the process of
19 becoming accredited as required under this subsection on July 1,
20 2021, unless 3 years have passed since the beginning of that
21 process and the neurological rehabilitation clinic is still not
22 accredited.

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

26 (a) "Ambulance operation" means that term as defined in
27 section 20902 of the public health code, 1978 PA 368, MCL
28 333.20902.

29 (b) "Emergency medical services" means that term as defined in

1 section 20904 of the public health code, 1978 PA 368, MCL
2 333.20904.

3 (14) Subsections (2) to (13) apply to treatment or
4 rehabilitative occupational training rendered after July 1, 2021.

5 **(15) Subsections (2) to (9) apply only if payment of the**
6 **benefits is not overdue under section 3142.**

7 **(16) A payment rate under subsections (2) to (9) is not**
8 **admissible in an action against an insurer for overdue benefits.**

9 **(17) ~~(15)~~As used in this section:**

10 (a) "Charge description master" means a uniform schedule of
11 charges represented by the person as its gross billed charge for a
12 given service or item, regardless of payer type.

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

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

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

21 (e) "Medicaid" means a program for medical assistance
22 established under subchapter XIX of the social security act, 42 USC
23 1396 to ~~1396w-5~~.**1396w-6.**

24 (f) "Medicare" means fee for service payments under part A, B,
25 or D of the federal Medicare program established under subchapter
26 XVIII of the social security act, 42 USC 1395 to 1395III, without
27 regard to the limitations unrelated to the rates in the fee
28 schedule such as limitation or supplemental payments related to
29 utilization, readmissions, recaptures, bad debt adjustments, or

1 sequestration.

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

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

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

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

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