

Act No. 224
Public Acts of 1995
Approved by the Governor
December 6, 1995
Filed with the Secretary of State
December 7, 1995

**STATE OF MICHIGAN
88TH LEGISLATURE
REGULAR SESSION OF 1995**

Introduced by Reps. Cropsey, Horton, Bullard and Perricone

ENROLLED HOUSE BILL No. 5354

AN ACT to amend section 7 of Act No. 306 of the Public Acts of 1969, entitled as amended "An act to provide for the effect, processing, promulgation, publication, and inspection of state agency rules, determinations, and other matters; to provide for the printing, publishing, and distribution of the Michigan register; to provide for state agency administrative procedures and contested cases and appeals from contested cases in licensing and other matters; to provide for declaratory judgments as to rules; to repeal certain acts and parts of acts; and to repeal certain parts of this act on a specific date," as amended by Act No. 288 of the Public Acts of 1989, being section 24.207 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

Section 1. Section 7 of Act No. 306 of the Public Acts of 1969, as amended by Act No. 288 of the Public Acts of 1989, being section 24.207 of the Michigan Compiled Laws, is amended to read as follows:

Sec. 7. "Rule" means an agency regulation, statement, standard, policy, ruling, or instruction of general applicability that implements or applies law enforced or administered by the agency, or that prescribes the organization, procedure, or practice of the agency, including the amendment, suspension, or rescission of the law enforced or administered by the agency. Rule does not include any of the following:

- (a) A resolution or order of the state administrative board.
- (b) A formal opinion of the attorney general.
- (c) A rule or order establishing or fixing rates or tariffs.

(d) A rule or order pertaining to game and fish and promulgated under part 411 (protection and preservation of fish, game, and birds) of the natural resources and environmental protection act, Act No. 451 of the Public Acts of 1994, being sections 324.41101 to 324.41105 of the Michigan Compiled Laws, part 487 (sport fishing) of Act No. 451 of the Public Acts of 1994, being sections 324.48701 to 324.48740 of the Michigan Compiled Laws, and part 401 (wildlife conservation) of Act No. 451 of the Public Acts of 1994, being sections 324.40101 to 324.40119 of the Michigan Compiled Laws.

(e) A rule relating to the use of streets or highways, the substance of which is indicated to the public by means of signs or signals.

(f) A determination, decision, or order in a contested case.

(g) An intergovernmental, interagency, or intra-agency memorandum, directive, or communication that does not affect the rights of, or procedures and practices available to, the public.

(h) A form with instructions, an interpretive statement, a guideline, an informational pamphlet, or other material that in itself does not have the force and effect of law but is merely explanatory.

(i) A declaratory ruling or other disposition of a particular matter as applied to a specific set of facts involved.

(j) A decision by an agency to exercise or not to exercise a permissive statutory power, although private rights or interests are affected.

(k) Unless another statute requires a rule to be promulgated under this act, a rule or policy that only concerns the inmates of a state correctional facility and does not directly affect other members of the public, except that a rule that only concerns inmates which was promulgated before December 4, 1986, shall be considered a rule and shall remain in effect until rescinded but shall not be amended. As used in this subdivision, "state correctional facility" means a facility or institution that houses an inmate population under the jurisdiction of the department of corrections.

(l) All of the following, after final approval by the certificate of need commission or the statewide health coordinating council under section 22215 or 22217 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.22215 and 333.22217 of the Michigan Compiled Laws:

(i) The designation, deletion, or revision of covered medical equipment and covered clinical services.

(ii) Certificate of need review standards.

(iii) Data reporting requirements and criteria for determining health facility viability.

(iv) Standards used by the department of public health in designating a regional certificate of need review agency.

(v) The modification of the 100 licensed bed limitation for short-term nursing care programs set forth in section 22210 of Act No. 368 of the Public Acts of 1978, being section 333.22210 of the Michigan Compiled Laws.

(m) A policy developed by the family independence agency under section 6(3) of the social welfare act, Act No. 280 of the Public Acts of 1939, being section 400.6 of the Michigan Compiled Laws, setting income and asset limits, types of income and assets to be considered for eligibility, and payment standards for administration of assistance programs under that act.

(n) A policy developed by the family independence agency under section 6(4) of Act No. 280 of the Public Acts of 1939, being section 400.6 of the Michigan Compiled Laws, to implement requirements that are mandated by federal statute or regulations as a condition of receipt of federal funds.

(o) Until the expiration of 12 months after the effective date of this subdivision, a regulation issued by the family independence agency under section 6(2) of Act No. 280 of the Public Acts of 1939, being section 400.6 of the Michigan Compiled Laws, setting standards and policies for the administration of programs under that act. Upon the expiration of 12 months after the effective date of this subdivision, regulations described in this subdivision are not binding and effective unless processed as emergency rules under section 48 or promulgated in accordance with this act. This subdivision does not apply to policies permanently exempted under subdivisions (m) and (n).

Section 2. This amendatory act shall not take effect unless House Bill No. 5353 of the 88th Legislature is enacted into law.

Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.