



# HOUSE BILL No. 4063

January 11, 1995, Introduced by Reps. Jamian, Llewellyn, Voorhees, DeLange, Bullard, Whyman, Bush, Lowe, Gernaat and Dalman and referred to the Committee on Human Services.

A bill to amend sections 106 and 107 of Act No. 280 of the Public Acts of 1939, entitled as amended "The social welfare act," section 106 as amended by Act No. 145 of the Public Acts of 1990, being sections 400.106 and 400.107 of the Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 106 and 107 of Act No. 280 of the  
2 Public Acts of 1939, section 106 as amended by Act No. 145 of the  
3 Public Acts of 1990, being sections 400.106 and 400.107 of the  
4 Michigan Compiled Laws, are amended to read as follows:

5 Sec. 106. (1) A medically indigent individual is defined as  
6 AN INDIVIDUAL WHO MEETS ALL OF THE FOLLOWING REQUIREMENTS:

7 ~~(a) An individual receiving aid to dependent children or an~~  
8 ~~individual receiving supplemental security income under title XVI~~

1 ~~of the social security act, 42 U.S.C. 1381 to 1385, or state~~  
2 ~~supplementation hereunder subject to limitations imposed by the~~  
3 ~~director pursuant to title XIX.~~

4 ~~(b) An individual meeting all of the following conditions.~~

5 (A) ~~(i)~~ The individual has made application in the manner  
6 prescribed by the state department.

7 (B) ~~(ii)~~ The individual's need for the type of medical  
8 assistance available under this act for which application has  
9 been made has been professionally established and payment for it  
10 is not available through the legal obligation of a contractor,  
11 public or private, to pay or provide for the care without regard  
12 to the income or resources of the patient. The state department  
13 shall be subrogated to any right of recovery which a patient may  
14 have for the cost of hospitalization, pharmaceutical services,  
15 physician services, nursing services, and other medical services  
16 not to exceed the amount of funds expended by the department for  
17 the care and treatment of the patient. The patient or other  
18 person acting in the patient's behalf shall execute and deliver  
19 an assignment of claim or other authorizations as necessary to  
20 secure the right of recovery to the department. A payment may be  
21 withheld under this act for medical assistance for an injury or  
22 disability for which the patient is entitled to medical care or  
23 reimbursement for the cost of medical care under sections 3101 to  
24 3179 of the insurance code of 1956, Act No. 218 of the Public  
25 Acts of 1956, ~~as amended,~~ being sections 500.3101 to 500.3179  
26 of the Michigan Compiled Laws, or under any other policy of  
27 insurance providing medical or hospital benefits, or both, for

1 the patient unless the patient's entitlement to that medical care  
2 or reimbursement is at issue. If a payment is made, the state  
3 department, to enforce its subrogation right, may do either of  
4 the following: ~~(a)~~ (i) intervene or join in an action or pro-  
5 ceeding brought by the injured, diseased, or disabled person, the  
6 person's guardian, personal representative, estate, dependents,  
7 or survivors, against the third person who may be liable for the  
8 injury, disease, or disability, or against contractors, public or  
9 private, who may be liable to pay or provide medical care and  
10 services rendered to an injured, diseased, or disabled patient;  
11 ~~(b)~~ OR (ii) institute and prosecute a legal proceeding against  
12 a third person who may be liable for the injury, disease, or dis-  
13 ability, or against contractors, public or private, who may be  
14 liable to pay or provide medical care and services rendered to an  
15 injured, diseased, or disabled patient, in state or federal  
16 court, either alone or in conjunction with the injured, diseased,  
17 or disabled person, the person's guardian, personal representa-  
18 tive, estate, dependents, or survivors. The state department may  
19 institute the proceedings in its own name or in the name of the  
20 injured, diseased, or disabled person, the person's guardian,  
21 personal representative, estate, dependents, or survivors. As  
22 provided in section 6023 of the revised judicature act of 1961,  
23 Act No. 236 of the Public Acts of 1961, ~~as amended,~~ being sec-  
24 tion 600.6023 of the Michigan Compiled Laws, the state depart-  
25 ment, in enforcing its subrogation right, shall not satisfy a  
26 judgment against the third person's property which is exempt from  
27 levy and sale. The injured, diseased, or disabled person may

1 proceed in his or her own name, collecting the costs without the  
2 necessity of joining the state department or the state as a named  
3 party. The injured, diseased, or disabled person shall notify  
4 the state department of the action or proceeding entered into  
5 upon commencement of the action or proceeding. An action taken  
6 by the state or the state department in connection with the right  
7 of recovery afforded by this section does not operate to deny the  
8 injured, diseased, or disabled person any part of the recovery  
9 beyond the costs expended on the person's behalf by the state  
10 department. The costs of legal action initiated by the state  
11 shall be paid by the state. A payment shall not be made under  
12 this act for medical assistance for an injury, disease, or dis-  
13 ability for which the patient is entitled to medical care or the  
14 cost of medical care under the worker's disability compensation  
15 act of 1969, Act No. 317 of the Public Acts of 1969, ~~as~~  
16 ~~amended,~~ being sections 418.101 to 418.941 of the Michigan  
17 Compiled Laws; except that payment may be made if an appropriate  
18 application for medical care or the cost of the medical care has  
19 been made under Act No. 317 of the Public Acts of 1969, ~~as~~  
20 ~~amended,~~ entitlement has not been finally determined, and an  
21 arrangement satisfactory to the state department has been made  
22 for reimbursement if the claim under Act No. 317 of the Public  
23 Acts of 1969, ~~as amended,~~ is finally sustained.

24 ~~(iii) The individual has an annual income which is below,~~  
25 ~~or because of medical expenses falls below, the protected basic~~  
26 ~~maintenance level. The protected basic maintenance level for~~  
27 ~~1 person and 2 person families shall be at least 100% of the~~

~~1 higher of the payment standards generally used to determine  
2 eligibility in the aid to dependent children program and the sup-  
3 plemental security income program under title XVI of the social  
4 security act, 42 U.S.C. 1381 to 1385, including state  
5 supplementation. For families of 3 or more persons, the pro-  
6 tected basic maintenance level shall be at least 100% of the pay-  
7 ment standard generally used to determine eligibility in the aid  
8 to dependent children program. These levels shall recognize  
9 regional variations and shall not exceed 133 1/3% of the payment  
10 standard generally used to determine eligibility in the aid to  
11 dependent children program.~~

12 (C) THE INDIVIDUAL HAS HOUSEHOLD INCOME THAT IS NOT GREATER  
13 THAN 100% OF THE OFFICIAL POVERTY LINE ESTABLISHED IN THE POVERTY  
14 GUIDELINES ISSUED BY THE SECRETARY OF HEALTH AND HUMAN SERVICES  
15 UNDER AUTHORITY OF SECTION 673(2) OF THE COMMUNITY SERVICES BLOCK  
16 GRANT ACT, SUBTITLE B OF TITLE VI OF THE OMNIBUS BUDGET RECONCIL-  
17 IATION ACT OF 1981, PUBLIC LAW 97-35, 42 U.S.C. 9902, OR  
18 \$35,000.00 REGARDLESS OF HOUSEHOLD SIZE, WHICHEVER IS LESS.

19 (D) ~~(iv)~~ The HOUSEHOLD OF WHICH THE individual ~~, if an~~  
20 ~~aid to dependent children related individual and living alone,~~  
21 IS A PART has liquid or marketable assets of not more than  
22 ~~\$1,500.00~~ \$20,000.00 in value, ~~or, if a 2 person family, the~~  
23 ~~family has liquid or marketable assets of not more than \$2,000.00~~  
24 ~~in value~~ EXCLUDING A HOMESTEAD WITH A STATE EQUALIZED VALUATION  
25 OF \$75,000.00 OR LESS. ~~The state department shall establish com-~~  
26 ~~parable liquid or marketable asset amounts for larger family~~  
27 ~~groups. Excluded in making the determination of the value of~~

~~1 liquid or marketable assets are the values of: the homestead,  
2 clothing, household effects, \$1,000.00 of cash surrender value of  
3 life insurance, except that if the health of the insured is such  
4 as to make continuance of the insurance desirable, the entire  
5 cash surrender value of life insurance is to be excluded from  
6 consideration, up to the maximums provided or allowed by federal  
7 regulations and in accordance with the rules of the state depart-  
8 ment; the fair market value of tangible personal property used in  
9 earning income; an amount paid as judgment or settlement for dam-  
10 ages suffered as a result of exposure to agent orange, as defined  
11 in section 5701 of the public health code, Act No. 368 of the  
12 Public Acts of 1978, being section 333.5701 of the Michigan  
13 Compiled Laws; and a space or plot purchased for the purposes of  
14 burial for the person. For individuals related to the title XVI  
15 program of the social security act, 42 U.S.C. 1381 to 1385, the  
16 appropriate resource levels and property exemptions specified in  
17 title XVI shall be used.~~

18 (E) ~~(v)~~ The individual is not an inmate of a public insti-  
19 tution except as a patient in a medical institution.

20 ~~(vi) The individual meets the eligibility standards for  
21 supplemental security income under title XVI of the social secur-  
22 ity act, 42 U.S.C. 1381 to 1385, or for state supplementation  
23 under the act, subject to limitations imposed by the director  
24 pursuant to title XIX; or meets the eligibility standards for aid  
25 to dependent children, except for income or income and resources;  
26 or is a child from 18 to 21 years of age and his or her adult  
27 caretaker would be eligible for aid to dependent children except~~

~~1 for age, income, or income and resources, or is a child under 2+~~  
~~2 years of age and is from a family whose income is below the basic~~  
~~3 maintenance level.~~

4 (2) As used in this act, "medical institution" means a state  
5 licensed or approved hospital, nursing home, medical care facili-  
6 ty, psychiatric hospital, or other facility or identifiable unit  
7 ~~thereof~~ OF A FACILITY certified as meeting established stan-  
8 dards for a nursing home or hospital in accordance with the laws  
9 of this state.

10 Sec. 107. In establishing financial eligibility for the  
11 medically indigent as defined in section ~~106(2)~~ 106, income  
12 shall be disregarded TO THE EXTENT IT IS USED TO PAY FOR MEDICAL  
13 SERVICES AND in accordance with standards established for the  
14 ~~related categorical assistance~~ program OF AID TO FAMILIES WITH  
15 DEPENDENT CHILDREN. Additional income shall be applied against:  
16 ~~(i)~~ (A) the cost of medical care not authorized under this act,  
17 and ~~(ii)~~ (B) the cost of services authorized under this act, in  
18 excess of the basic amount. For medical assistance only, income  
19 ~~shall include~~ INCLUDES the amount of contribution which an  
20 estranged spouse or parent for a minor child is making to the  
21 applicant according to the standards of the state department, or  
22 pursuant to a court determination, if there is such a  
23 determination. Nothing in this section ~~shall eliminate~~  
24 ELIMINATES the responsibility of support established in section  
25 76 for cash assistance received under this act.