

SENATE BILL No. 1089

February 6, 2002, Introduced by Senators SHUGARS, GARCIA, MC COTTER, HAMMERSTROM, GOUGEON, DE BEAUSSAERT, SIKKEMA and GOSCHKA and referred to the Committee on Health Policy.

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 1998 PA 446.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 502. (1) A health care corporation may enter into par-
2 ticipating contracts for reimbursement with professional health
3 care providers practicing legally in this state for health care
4 services that the professional health care providers may legally
5 perform. A participating contract may cover all members or may
6 be a separate and individual contract on a per claim basis, as
7 set forth in the provider class plan, if, in entering into a sep-
8 arate and individual contract on a per claim basis, the
9 participating provider certifies to the health care corporation:

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

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

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

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

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

1 certificates, to the reimbursement provisions of a provider
2 contract or reimbursement arrangement, or to standards set by the
3 corporation for all contracting providers. A health care corpo-
4 ration may refuse to reimburse a health care provider for health
5 care services that are overutilized, including those services
6 rendered, ordered, or prescribed to an extent that is greater
7 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
11 health care service. However, except as otherwise provided in
12 section 502a, an employee, agent, or officer of the corporation,
13 or an individual on the board of directors of the corporation,
14 shall not make recommendations on behalf of the corporation with
15 respect to the choice of a specific health care provider. Except
16 as otherwise provided in section 502a, an employee, agent, or
17 officer of the corporation, or a person on the board of directors
18 of the corporation who influences or attempts to influence a
19 person in the choice or selection of a specific professional
20 health care provider on behalf of the corporation, is guilty of a
21 misdemeanor.

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

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

4 (7) Contracts entered into under this section are subject to
5 the provisions of sections 504 to 518.

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

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

20 (9) ~~-(10)-~~ Notwithstanding any other provision of this act,
21 a health care corporation is not required to reimburse for serv-
22 ices otherwise covered under a certificate if the services were
23 performed by a member of a health care profession, which health
24 care profession was not licensed or registered by this state on
25 or before January 1, 1998 but that becomes a health care profes-
26 sion licensed or registered by this state after January 1, 1998.
27 This subsection does not change the status of a health care

1 profession that was licensed or registered by this state on or
2 before January 1, 1998.

3 Sec. 502a. (1) For the purpose of doing business as an
4 organization under the prudent purchaser act, 1984 PA 233, MCL
5 550.51 to 550.63, a health care corporation may enter into pru-
6 dent purchaser agreements with health care providers pursuant to
7 this section and the prudent purchaser act, 1984 PA 233, MCL
8 550.51 to 550.63.

9 (2) A health care corporation may offer group contracts
10 under which subscribers shall be required, as a condition of cov-
11 erage, to obtain services exclusively from health care providers
12 who have entered into prudent purchaser agreements.

13 (3) An individual who is a member of a group who is offered
14 the option of being a subscriber under a contract pursuant to
15 subsection (2) shall also be offered the option of being a sub-
16 scriber under a contract pursuant to subsection (4). This sub-
17 section applies only if the group in which the individual is a
18 member has 25 or more members or if the provider panel that is
19 providing the services under the contract is limited by the
20 organization to a specific number pursuant to section 3(1) of the
21 prudent purchaser act, 1984 PA 233, MCL 550.53.

22 (4) A health care corporation may offer group contracts
23 under which subscribers who elect to obtain services from health
24 care providers who have entered into prudent purchaser agreements
25 shall realize a financial advantage or other advantage by select-
26 ing ~~such~~ THOSE providers. Contracts offered pursuant to this
27 subsection shall not, as a condition of coverage, require

1 subscribers to obtain services exclusively from health care
2 providers who have entered into prudent purchaser agreements.

3 (5) An individual who is a member of a group who is offered
4 the option of being a subscriber under a contract pursuant to
5 subsection (2) or (4) shall also be offered the option of being a
6 subscriber under a contract that:

7 (a) Does not, as a condition of coverage, require subscrib-
8 ers to obtain services exclusively from health care providers who
9 have entered into prudent purchaser agreements.

10 (b) Does not give a financial advantage or other advantage
11 to a subscriber who elects to obtain services from health care
12 providers who have entered into prudent purchaser agreements.

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

17 (7) A health care corporation may offer individual contracts
18 under which subscribers shall be required, as a condition of cov-
19 erage, to obtain services exclusively from health care providers
20 who have entered into prudent purchaser agreements. A person to
21 whom such a contract is offered shall also be offered a contract
22 that:

23 (a) Does not, as a condition of coverage, require subscrib-
24 ers to obtain services exclusively from health care providers who
25 have entered into prudent purchaser agreements.

1 (b) Does not give a financial advantage or other advantage
2 to a subscriber who elects to obtain services from health care
3 providers who have entered into prudent purchaser agreements.

4 (8) A health care corporation may offer individual contracts
5 under which subscribers who elect to obtain services from health
6 care providers who have entered into prudent purchaser agreements
7 shall realize a financial advantage or other advantage by select-
8 ing ~~such~~ THOSE providers. Contracts offered pursuant to this
9 subsection shall not, as a condition of coverage, require sub-
10 scribers to obtain services exclusively from health care provid-
11 ers who have entered into prudent purchaser agreements. A person
12 to whom such a contract is offered shall also be offered a con-
13 tract that:

14 (a) Does not, as a condition of coverage, require subscrib-
15 ers to obtain services exclusively from health care providers who
16 have entered into prudent purchaser agreements.

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

20 (9) The rates charged by a corporation for coverage under
21 contracts issued under this section shall not be unreasonably
22 lower than what is necessary to meet the expenses of the corpora-
23 tion for providing this coverage and shall not have an anticom-
24 petitive effect or result in predatory pricing in relation to
25 prudent purchaser agreement coverages offered by other
26 organizations.

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

3 (11) A corporation shall not discriminate against a class of
4 health care providers when entering into prudent purchaser agree-
5 ments with health care providers for its provider panel. This
6 subsection does not:

7 (a) Prohibit the formation of a provider panel consisting of
8 a single class of providers when a service provided for in the
9 specifications of a purchaser may be legally provided only by a
10 single class of providers.

11 (b) Prohibit the formation of a provider panel that conforms
12 to the specifications of a purchaser of the coverage authorized
13 by this section so long as the specifications do not exclude any
14 class of health care providers who may legally perform the serv-
15 ices included in the coverage.

16 (c) Require an organization that has uniformly applied the
17 standards filed pursuant to section 3(3) of the prudent purchaser
18 act, 1984 PA 233, MCL 550.53, to contract with any individual
19 provider.

20 (12) Nothing in the 1984 amendatory act that added this sec-
21 tion applies to any contract that was in existence before
22 December 20, 1984, or the renewal of ~~such~~ THAT contract.

23 ~~(13) Notwithstanding any other provision of this act, if~~
24 ~~coverage under a prudent purchaser agreement provides for bene-~~
25 ~~fits for services that are within the scope of practice of optom=~~
26 ~~etry, a health care corporation is not required to provide~~
27 ~~benefits or reimburse for a practice of optometric service unless~~

1 ~~that service was included in the definition of practice of~~
2 ~~optometry under section 17401 of the public health code, 1978 PA~~
3 ~~368, MCL 333.17401, as of May 20, 1992.~~

4 (13) ~~-(14)-~~ Notwithstanding any other provision of this act,
5 a health care corporation offering coverage under a prudent pur-
6 chaser agreement is not required to reimburse for services other-
7 wise covered if the services were performed by a member of a
8 health care profession, which health care profession was not
9 licensed or registered by this state on or before January 1, 1998
10 but that becomes a health care profession licensed or registered
11 by this state after January 1, 1998. This subsection does not
12 change the status of a health care profession that was licensed
13 or registered by this state on or before January 1, 1998.

14 Enacting section 1. This amendatory act does not take
15 effect unless all of the following bills of the 91st Legislature
16 are enacted into law:

17 (a) Senate Bill No. 1088.

18

19 (b) Senate Bill No. 1090.

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21 (c) Senate Bill No. 1091.

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