HOUSE SUBSTITUTE FOR

SENATE BILL NO. 691

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 2009 PA 225.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 502. (1) A health care corporation may enter into participating contracts for reimbursement with professional health care providers practicing legally in this state for health care services or with health practitioners practicing legally in any other jurisdiction for health care services that the professional health care providers or practitioners may legally perform. A participating contract may cover all members or may be a separate and individual contract on a per claim basis, as set forth in the provider class plan, if, in entering into a separate and individual

contract on a per claim basis, the participating provider certifies **ALL OF THE FOLLOWING** to the health care corporation:

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

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

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

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

(3) A health care corporation shall not restrict the methods of diagnosis or treatment of professional health care providers who treat members. Except as otherwise provided in section 502a, each member of the health care corporation shall at all times have a

choice of professional health care providers. This subsection does not apply to limitations in benefits contained in certificates, to the reimbursement provisions of a provider contract or reimbursement arrangement, or to standards set by the corporation for all contracting providers. A health care corporation may refuse to reimburse a health care provider for health care services that are overutilized, including those services rendered, ordered, or prescribed to an extent that is greater than reasonably necessary.

(4) A health care corporation may provide to a member, upon request, a list of providers with whom the corporation contracts, for the purpose of assisting a member in obtaining a type of health care service. However, except as otherwise provided in section 502a, an employee, agent, or officer of the corporation, or an individual on the board of directors of the corporation, shall not make recommendations on behalf of the corporation with respect to the choice of a specific health care provider. Except as otherwise provided in section 502a, an employee, agent, or officer of the corporation, or a person on the board of directors of the corporation who influences or attempts to influence a person in the choice or selection of a specific professional health care provider on behalf of the corporation, is guilty of a misdemeanor.

(5) A health care corporation shall provide a symbol of participation, which can be publicly displayed, to providers who participate on all claims for covered health care services rendered to subscribers.

(6) This section does not impede the lawful operation of, or lawful promotion of, a health maintenance organization owned by a

health care corporation.

(7) Contracts entered into under this section with professional health care providers licensed in this state are subject to ~~the provisions of~~ sections 504 to 518.

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

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

(10) Notwithstanding any other provision of this act, a health care corporation is not required to reimburse for services otherwise covered under a certificate if the services were performed by a member of a health care profession, which health care profession was not licensed or registered by this state on or before January 1, 1998 but that becomes a health care profession licensed or registered by this state after January 1, 1998. This subsection does not change the status of a health care profession that was licensed or registered by this state on or before January

1, 1998.

(11) Notwithstanding any other provision of this act, ~~including subsections (1) to (10),~~ if a certificate provides for benefits for services that are within the scope of practice of chiropractic, a health care corporation is not required to provide benefits or reimburse for a practice of chiropractic service unless that service was included in the definition of practice of chiropractic under section 16401 of the public health code, 1978 PA 368, MCL 333.16401, as of January 1, 2009.

(12) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF A CERTIFICATE PROVIDES FOR BENEFITS FOR SERVICES THAT ARE PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST, A HEALTH CARE CORPORATION IS NOT REQUIRED TO PROVIDE BENEFITS OR REIMBURSE FOR SERVICES PROVIDED BY A PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT UNLESS THAT SERVICE WAS PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST PURSUANT TO A PRESCRIPTION FROM A HEALTH CARE PROFESSIONAL WHO HOLDS A LICENSE ISSUED UNDER PART 166, 170, 175, OR 180 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16601 TO 333.16648, 333.17001 TO 333.17084, 333.17501 TO 333.17556, AND 333.18001 TO 333.18058, OR THE EQUIVALENT LICENSE ISSUED BY ANOTHER STATE.

Sec. 502a. (1) For the purpose of doing business as an organization under the prudent purchaser act, 1984 PA 233, MCL 550.51 to 550.63, a health care corporation may enter into prudent purchaser agreements with health care providers pursuant to this

section and the prudent purchaser act, 1984 PA 233, MCL 550.51 to 550.63.

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

(3) An individual who is a member of a group who is offered the option of being a subscriber under a contract ~~pursuant to~~ **UNDER** subsection (2) shall also be offered the option of being a subscriber under a contract ~~pursuant to~~ **UNDER** subsection (4). This subsection applies only if the group in which the individual is a member has 25 or more members or if the provider panel that is providing the services under the contract is limited by the organization to a specific number ~~pursuant to~~ **UNDER** section 3(1) of the prudent purchaser act, 1984 PA 233, MCL 550.53.

(4) A health care corporation may offer group contracts under which subscribers who elect to obtain services from health care providers who have entered into prudent purchaser agreements ~~shall~~ realize a financial advantage or other advantage by selecting ~~such~~ providers **WHO HAVE ENTERED INTO PRUDENT PURCHASER AGREEMENTS**. ~~Contracts offered pursuant to~~ **A HEALTH CARE CORPORATION SHALL NOT OFFER A GROUP CONTRACT UNDER** this subsection ~~shall not,~~ **THAT,** as a condition of coverage, ~~require~~ **REQUIRES** subscribers to obtain services exclusively from health care providers who have entered into prudent purchaser agreements.

(5) ~~An~~ **SUBJECT TO SUBSECTION (6), AN** individual who is a member of a group who is offered the option of being a subscriber

under a contract ~~pursuant to~~ **UNDER** subsection (2) or (4) shall also be offered the option of being a subscriber under a contract that **DOES NOT DO ANY OF THE FOLLOWING:**

(a) ~~Does not, as~~ **AS** a condition of coverage, require subscribers to obtain services exclusively from health care providers who have entered into prudent purchaser agreements.

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

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

(7) A health care corporation may offer individual contracts under which subscribers ~~shall be~~ **ARE** required, as a condition of coverage, to obtain services exclusively from health care providers who have entered into prudent purchaser agreements. A person to whom ~~such~~ a contract **DESCRIBED IN THIS SUBSECTION** is offered shall also be offered a contract that **DOES NOT DO ANY OF THE FOLLOWING:**

(a) ~~Does not, as~~ **AS** a condition of coverage, require subscribers to obtain services exclusively from health care providers who have entered into prudent purchaser agreements.

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

(8) A health care corporation may offer individual contracts under which subscribers who elect to obtain services from health

care providers who have entered into prudent purchaser agreements ~~shall~~ realize a financial advantage or other advantage by selecting ~~such~~ providers **WHO HAVE ENTERED INTO PRUDENT PURCHASER AGREEMENTS.** ~~Contracts offered pursuant to~~ **A HEALTH CARE CORPORATION SHALL NOT OFFER AN INDIVIDUAL CONTRACT UNDER** this subsection ~~shall not,~~ **THAT,** as a condition of coverage, ~~require~~ **REQUIRES** subscribers to obtain services exclusively from health care providers who have entered into prudent purchaser agreements. A person to whom ~~such~~ a contract **DESCRIBED IN THIS SUBSECTION** is offered shall also be offered a contract that **DOES NOT DO ANY OF THE FOLLOWING:**

(a) ~~Does not, as~~ **AS** a condition of coverage, require subscribers to obtain services exclusively from health care providers who have entered into prudent purchaser agreements.

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

(9) The rates charged by a corporation for coverage under contracts issued under this section shall not be unreasonably lower than what is necessary to meet the expenses of the corporation for providing this coverage and shall not have an anticompetitive effect or result in predatory pricing in relation to prudent purchaser agreement coverages offered by other organizations.

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

(11) A **HEALTH CARE** corporation shall not discriminate against a class of health care providers when entering into prudent purchaser agreements with health care providers for its provider

panel. This subsection does not **DO ANY OF THE FOLLOWING:**

(a) Prohibit the formation of a provider panel consisting of a single class of providers ~~when~~ **IF** a service provided for in the specifications of a purchaser may be legally provided only by a single class of providers.

(b) Prohibit the formation of a provider panel that conforms to the specifications of a purchaser of the coverage authorized by this section ~~so long as~~ **IF** the specifications do not exclude any class of health care providers who may legally perform the services included in the coverage.

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

(12) Nothing in ~~the~~ 1984 ~~amendatory act that added this section~~ **PA 230** applies to any contract that was in existence before December 20, 1984, or the renewal of ~~such~~ **THAT** contract.

(13) Notwithstanding any other provision of this act, if coverage under a prudent purchaser agreement provides for benefits for services that are within the scope of practice of optometry, a health care corporation is not required to provide benefits or reimburse for a practice of ~~optometric~~ **OPTOMETRY** service unless that service was included in the definition of practice of optometry under section 17401 of the public health code, 1978 PA 368, MCL 333.17401, as of May 20, 1992.

(14) Notwithstanding any other provision of this act, a health care corporation offering coverage under a prudent purchaser

agreement is not required to reimburse for services otherwise covered if the services were performed by a member of a health care profession, which health care profession was not licensed or registered by this state on or before January 1, 1998 but that becomes a health care profession licensed or registered by this state after January 1, 1998. This subsection does not change the status of a health care profession that was licensed or registered by this state on or before January 1, 1998.

(15) Notwithstanding any other provision of this act, ~~including subsections (1) to (14), if a certificate~~ **IF COVERAGE UNDER A PRUDENT PURCHASER AGREEMENT** provides for benefits for services that are within the scope of practice of chiropractic, a health care corporation is not required to provide benefits or reimburse for a practice of chiropractic service unless that service was included in the definition of practice of chiropractic under section 16401 of the public health code, 1978 PA 368, MCL 333.16401, as of January 1, 2009.

(16) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, IF COVERAGE UNDER A PRUDENT PURCHASER AGREEMENT PROVIDES FOR BENEFITS FOR SERVICES THAT ARE PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST, A HEALTH CARE CORPORATION IS NOT REQUIRED TO PROVIDE BENEFITS OR REIMBURSE FOR SERVICES PROVIDED BY A PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT UNLESS THAT SERVICE WAS PROVIDED BY A LICENSED PHYSICAL THERAPIST OR PHYSICAL THERAPIST ASSISTANT UNDER THE SUPERVISION OF A LICENSED PHYSICAL THERAPIST PURSUANT TO A PRESCRIPTION FROM A HEALTH CARE PROFESSIONAL WHO

HOLDS A LICENSE ISSUED UNDER PART 166, 170, 175, OR 180 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL 333.16601 TO 333.16648, 333.17001 TO 333.17084, 333.17501 TO 333.17556, AND 333.18001 TO 333.18058, OR THE EQUIVALENT LICENSE ISSUED BY ANOTHER STATE.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 690 of the 97th Legislature is enacted into law.