

HOUSE BILL NO. 6200

June 09, 2022, Introduced by Reps. Tisdell, Steven Johnson, Bollin, Beeler, Calley, Meerman, Rendon, Bellino, Hoitenga, Lightner, Clements, Outman, Eisen, Allor and Alexander and referred to the Committee on Oversight.

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending section 111f (MCL 400.111f), as amended by 1986 PA 227.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 111f. (1) The director may issue an order incorporating a
2 finding that emergency action is required to protect the state's
3 interest, as the state's interest is described in this subsection
4 by the statement of circumstances warranting emergency action, in
5 any of the following: the public health, welfare, or safety;
6 medically indigent individuals; or public funds of the **medical**

1 **assistance** program. ~~of medical assistance.~~ Circumstances that
 2 warrant emergency action include, but are not limited to, any of
 3 the following:

4 (a) A reasonable belief, determined in accordance with
 5 professionally accepted standards, that rendered services for which
 6 a provider has submitted claims were medically unnecessary,
 7 inappropriate, or of inferior quality, and therefore that the
 8 continued participation in the program by the provider or payments
 9 to the provider for services constitutes a threat to the public
 10 health, safety, or welfare or to the health, safety, or welfare of
 11 recipient medically indigent individuals.

12 (b) A reasonable belief that the provider has violated the
 13 ~~medicaid~~ **Medicaid** false claims act, ~~Act No. 72 of the Public Acts~~
 14 ~~of 1977, being sections 400.601 to 400.613 of the Michigan Compiled~~
 15 ~~Laws, 1977 PA 72, MCL 400.601 to 400.615,~~ the health care false
 16 claims act, ~~Act No. 323 of the Public Acts of 1984, being sections~~
 17 ~~752.1001 to 752.1011 of the Michigan Compiled Laws, 1984 PA 323,~~
 18 **MCL 752.1001 to 752.1011,** or a substantially similar statute of
 19 another state or the federal government.

20 (c) A reasonable belief that the overpayment sought to be
 21 recovered ~~pursuant to~~ **under** this section, or ~~pursuant to~~ **under** any
 22 other section of this act, is in jeopardy of not being recovered.

23 (d) A reasonable belief that 10% or \$10,000.00, whichever is
 24 less, for a noninstitutional provider, or 10% or \$50,000.00,
 25 whichever is less, for an institutional provider, of the provider's
 26 total program dollar amount for claims submitted at any time during
 27 the most recent 12-month period was unsubstantiated or was for
 28 services that were noncovered.

29 (e) A reasonable belief that 10% or \$10,000.00, whichever is

1 less, for a noninstitutional provider, or 10% or \$50,000.00,
2 whichever is less, for an institutional provider, of the provider's
3 total program dollar amount for claims submitted at any time during
4 the most recent 12-month period were medically unnecessary,
5 inappropriate, or of inferior quality.

6 (f) A reasonable belief that 15% or \$15,000.00, whichever is
7 less, for a noninstitutional provider, or 15% or \$75,000.00,
8 whichever is less, for an institutional provider, of the provider's
9 total program dollar amount for claims submitted at any time during
10 a consecutive 12-month period, and that 5% or \$5,000.00, whichever
11 is less, for a noninstitutional provider, or 5% or \$25,000.00,
12 whichever is less, for an institutional provider, of the provider's
13 total program dollar amount for claims submitted during the most
14 recent 12-month period, was for services that were noncovered.

15 (g) A reasonable belief that 15% or \$15,000.00, whichever is
16 less, for a noninstitutional provider, or 15% or \$75,000.00,
17 whichever is less, for an institutional provider, of the provider's
18 claims submitted at any time during a consecutive 12-month period,
19 and that 5% or \$5,000.00, whichever is less, for a noninstitutional
20 provider, or 5% or \$25,000.00, whichever is less, for an
21 institutional provider, of the provider's total program dollar
22 amount for claims submitted during the most recent 12-month period,
23 was for services that were medically unnecessary, inappropriate, or
24 of inferior quality.

25 (h) A reasonable belief that the provider is refusing to
26 comply with section 111b(7), (19), or (25).

27 (2) If the director finds that emergency action is required
28 under subsection (1) in a clinic, corporation, partnership, or
29 other entity with multiple providers or locations, the director may

1 extend any emergency action to the entire legal entity and its
2 providers.

3 (3) As used in subsection (1), "most recent 12-month period"
4 means a period of not more than 12 consecutive months within the 15
5 consecutive months immediately preceding the notice to the provider
6 that an emergency action has been taken.

7 (4) In order to determine whether the conditions described in
8 subsection (1)(a), (d), (e), (f), or (g) exist, the director shall
9 consult with peer review advisory committees, professionals, or
10 experts who are individuals of the same licensed profession as the
11 provider subject to the action, as selected by the director.

12 (5) Upon a determination that circumstances described in
13 subsection (1) exist, the director may issue an order for the
14 summary suspension of payments on pending or subsequent claims, in
15 whole or in part, or for the summary suspension of a provider from
16 participation in the **medical assistance** program. ~~of medical~~
17 ~~assistance. The summary suspension shall be~~ **is** effective on the
18 date specified in the order or on service of a certified copy of
19 the order on the provider, whichever occurs later, and ~~shall remain~~
20 **remains** in effect during administrative or judicial proceedings on
21 the suspension. Upon request of a provider, a contested case
22 hearing ~~pursuant to~~ **under** chapter 4 and chapter 6 of the
23 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
24 ~~Acts of 1969, being sections 24.271 to 24.287 and 24.301 to 24.306~~
25 ~~of the Michigan Compiled Laws, shall~~ **1969 PA 306, MCL 24.271 to**
26 **24.288 and 24.301 to 24.306, must** be commenced not later than 15
27 days after the summary suspension. If a contested case hearing is
28 requested by a provider relative to an emergency suspension under
29 this section, a hearing ~~shall~~ **must** be held to determine whether the

1 emergency suspension is supported by competent, material, and
2 substantial evidence on the whole record. Under appropriate
3 circumstances, the state department may hold or institute a hearing
4 under section 111c(1), or take an action under section 111d at the
5 same time an action is taken under this section, while an action
6 under this section is pending, or after a decision on an action is
7 made. The presiding officer may consolidate the 2 hearings into a
8 single proceeding in the interest of economy. ~~However, the~~ **The**
9 director shall not make a final decision in a contested case under
10 section 111c(1) or 111d arising from or related to an emergency
11 action or the circumstances upon which an emergency action was
12 taken.

13 (6) A hearing, conference, or similar meeting between a
14 provider or representative of a provider and the state department
15 ~~shall is~~ not ~~be~~ required to be held or conducted before the
16 emergency suspension of payment to the provider or the emergency
17 suspension of participation of the provider in the **medical**
18 **assistance** program ~~of medical assistance~~ under this section.

19 (7) **The department must provide notice to the legislature on a**
20 **quarterly basis of any order of suspension issued under this**
21 **section.**

22 Enacting section 1. This amendatory act takes effect 180 days
23 after the date it is enacted into law.