

# HOUSE BILL NO. 5698

January 26, 2022, Introduced by Reps. Green, VanSingel, Beson, Markkanen, Howell, Brann, Roth, Martin, Breen, Yarocho, Damoose, Maddock, Bolden, Frederick, Bezotte, Outman, Steenland, Puri, Liberati, Morse, LaGrand, Weiss, Brixie, Camilleri, Kuppa, Koleszar, Rogers, Sabo, Hope, Peterson, O'Neal, Aiyash, Stone, Cynthia Johnson, Neeley, Scott, Haadsma, Manoogian, Ellison, Garza, Jones, Hood, Thanedar, Tyrone Carter, Clemente, Brabec, Steckloff, Shannon, Sneller, Hertel, Lasinski, Coleman, Pohutsky, Sowerby, Yancey, Rabhi, Allor and Anthony and referred to the Committee on Insurance.

A bill to amend 1956 PA 218, entitled  
"The insurance code of 1956,"  
by amending section 3157 (MCL 500.3157), as amended by 2019 PA 21.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 3157. (1) Subject to subsections (2) to ~~(14)~~, **(15)**, a  
2 physician, hospital, clinic, or other person that lawfully renders  
3 treatment to an injured person for an accidental bodily injury  
4 covered by personal protection insurance, or a person that provides  
5 rehabilitative occupational training following the injury, may  
6 charge a reasonable amount for the treatment or training. The

1 charge must not exceed the amount the person customarily charges  
 2 for like treatment or training in cases that do not involve  
 3 insurance.

4 (2) Subject to subsections (3) to ~~(14)~~, **(15)**, a physician,  
 5 hospital, clinic, or other person that renders treatment or  
 6 rehabilitative occupational training to an injured person for an  
 7 accidental bodily injury covered by personal protection insurance  
 8 ~~is not eligible for payment or reimbursement~~ **must be paid or**  
 9 **reimbursed** under this chapter ~~for more than the following:~~  
 10 **follows:**

11 (a) For treatment or training rendered after July 1, 2021 and  
 12 before July 2, 2022, 200% of the amount payable to the person for  
 13 the treatment or training under Medicare.

14 (b) For treatment or training rendered after July 1, 2022 and  
 15 before July 2, 2023, 195% of the amount payable to the person for  
 16 the treatment or training under Medicare.

17 (c) For treatment or training rendered after July 1, 2023,  
 18 190% of the amount payable to the person for the treatment or  
 19 training under Medicare.

20 (3) Subject to subsections (5) to ~~(14)~~, **(15)**, a physician,  
 21 hospital, clinic, or other person identified in subsection (4) that  
 22 renders treatment or rehabilitative occupational training to an  
 23 injured person for an accidental bodily injury covered by personal  
 24 protection insurance ~~is eligible for payment or reimbursement~~ **must**  
 25 **be paid or reimbursed** under this chapter ~~of not more than the~~  
 26 ~~following:~~ **as follows:**

27 (a) For treatment or training rendered after July 1, 2021 and  
 28 before July 2, 2022, 230% of the amount payable to the person for  
 29 the treatment or training under Medicare.

1 (b) For treatment or training rendered after July 1, 2022 and  
2 before July 2, 2023, 225% of the amount payable to the person for  
3 the treatment or training under Medicare.

4 (c) For treatment or training rendered after July 1, 2023,  
5 220% of the amount payable to the person for the treatment or  
6 training under Medicare.

7 (4) Subject to subsection (5), subsection (3) only applies to  
8 a physician, hospital, clinic, or other person if either of the  
9 following applies to the person rendering the treatment or  
10 training:

11 (a) On July 1 of the year in which the person renders the  
12 treatment or training, the person has 20% or more, but less than  
13 30%, indigent volume determined pursuant to the methodology used by  
14 the department of health and human services in determining  
15 inpatient medical/surgical factors used in measuring eligibility  
16 for Medicaid disproportionate share payments.

17 (b) The person is a freestanding rehabilitation facility. Each  
18 year the director shall designate not more than 2 freestanding  
19 rehabilitation facilities to qualify for payments under subsection  
20 (3) for that year. As used in this subdivision, "freestanding  
21 rehabilitation facility" means an acute care hospital to which all  
22 of the following apply:

23 (i) The hospital has staff with specialized and demonstrated  
24 rehabilitation medicine expertise.

25 (ii) The hospital possesses sophisticated technology and  
26 specialized facilities.

27 (iii) The hospital participates in rehabilitation research and  
28 clinical education.

29 (iv) The hospital assists patients to achieve excellent

1 rehabilitation outcomes.

2 (v) The hospital coordinates necessary post-discharge  
3 services.

4 (vi) The hospital is accredited by 1 or more third-party,  
5 independent organizations focused on quality.

6 (vii) The hospital serves the rehabilitation needs of  
7 catastrophically injured patients in this state.

8 (viii) The hospital was in existence on May 1, 2019.

9 (5) To qualify for a payment under subsection (4) (a), a  
10 physician, hospital, clinic, or other person shall provide the  
11 director with all documents and information requested by the  
12 director that the director determines are necessary to allow the  
13 director to determine whether the person qualifies. The director  
14 shall annually review documents and information provided under this  
15 subsection and, if the person qualifies under subsection (4) (a),  
16 shall certify the person as qualifying and provide a list of  
17 qualifying persons to insurers and other persons that provide the  
18 security required under section ~~3101(1)~~. **3101**. A physician,  
19 hospital, clinic, or other person that provides 30% or more of its  
20 total treatment or training as described under subsection (4) (a) is  
21 entitled to receive, instead of an applicable percentage under  
22 subsection (3), 250% of the amount payable to the person for the  
23 treatment or training under Medicare.

24 (6) Subject to subsections (7) to ~~(14)~~, **(15)**, a hospital that  
25 is a level I or level II trauma center that renders treatment to an  
26 injured person for an accidental bodily injury covered by personal  
27 protection insurance, if the treatment is for an emergency medical  
28 condition and rendered before the patient is stabilized and  
29 transferred, ~~is not eligible for payment or reimbursement~~ **must be**

1 **paid or reimbursed** under this chapter ~~of more than the following:~~**as**  
 2 **follows:**

3 (a) For treatment rendered after July 1, 2021 and before July  
 4 2, 2022, 240% of the amount payable to the hospital for the  
 5 treatment under Medicare.

6 (b) For treatment rendered after July 1, 2022 and before July  
 7 2, 2023, 235% of the amount payable to the hospital for the  
 8 treatment under Medicare.

9 (c) For treatment rendered after July 1, 2023, 230% of the  
 10 amount payable to the hospital for the treatment under Medicare.

11 (7) If Medicare does not provide an amount payable for a  
 12 treatment or rehabilitative occupational training under subsection  
 13 (2), (3), (5), or (6), the physician, hospital, clinic, or other  
 14 person that renders the treatment or training ~~is not eligible for~~  
 15 ~~payment or reimbursement~~ **must be paid or reimbursed** under this  
 16 chapter ~~of more than the following, as applicable:~~**as follows:**

17 (a) **For treatment or training rendered through a residential**  
 18 **program, outpatient program, or home- and community-based**  
 19 **rehabilitation program, subject to subsection (16), 200% of any**  
 20 **rate payable for the treatment or training under the 2019**  
 21 **reimbursement schedule for brain injury rehabilitation services**  
 22 **under Medicaid.**

23 (b) **Subject to subsection (11), for treatment or training**  
 24 **rendered in the injured individual's home, subject to subsection**  
 25 **(16), 150% of any applicable amount that would be payable to a home**  
 26 **health agency for the treatment or training under the United States**  
 27 **Department of Veterans Affairs reimbursement schedule. If the**  
 28 **United States Department of Veterans Affairs discontinues**  
 29 **publication of a payable service and rate, the treatment or**

1 training must be reimbursed at 150% of the last known United States  
2 Department of Veterans Affairs rate.

3 (8) If Medicare does not provide an amount payable for a  
4 treatment or rehabilitative occupational training under subsection  
5 (2), (3), (5), or (6) and there is no applicable limitation for the  
6 treatment or training under subsection (7), the physician,  
7 hospital, clinic, or other person that renders the treatment or  
8 training must be paid or reimbursed under this chapter as follows:

9 (a) For a person to which subsection (2) applies, the  
10 applicable following percentage of the amount payable for the  
11 treatment or training under the person's charge description master  
12 in effect on January 1, 2019 or, if the person did not have a  
13 charge description master on that date, the applicable following  
14 percentage of the average amount the person charged for the  
15 treatment on January 1, 2019:

16 (i) For treatment or training rendered after July 1, 2021 and  
17 before July 2, 2022, 55%.

18 (ii) For treatment or training rendered after July 1, 2022 and  
19 before July 2, 2023, 54%.

20 (iii) For treatment or training rendered after July 1, 2023,  
21 52.5%.

22 (b) For a person to which subsection (3) applies, the  
23 applicable following percentage of the amount payable for the  
24 treatment or training under the person's charge description master  
25 in effect on January 1, 2019 or, if the person did not have a  
26 charge description master on that date, the applicable following  
27 percentage of the average amount the person charged for the  
28 treatment or training on January 1, 2019:

29 (i) For treatment or training rendered after July 1, 2021 and

1 before July 2, 2022, 70%.

2 (ii) For treatment or training rendered after July 1, 2022 and  
3 before July 2, 2023, 68%.

4 (iii) For treatment or training rendered after July 1, 2023,  
5 66.5%.

6 (c) For a person to which subsection (5) applies, 78% of the  
7 amount payable for the treatment or training under the person's  
8 charge description master in effect on January 1, 2019 or, if the  
9 person did not have a charge description master on that date, 78%  
10 of the average amount the person charged for the treatment on  
11 January 1, 2019.

12 (d) For a person to which subsection (6) applies, the  
13 applicable following percentage of the amount payable for the  
14 treatment under the person's charge description master in effect on  
15 January 1, 2019 or, if the person did not have a charge description  
16 master on that date, the applicable following percentage of the  
17 average amount the person charged for the treatment on January 1,  
18 2019:

19 (i) For treatment or training rendered after July 1, 2021 and  
20 before July 2, 2022, 75%.

21 (ii) For treatment or training rendered after July 1, 2022 and  
22 before July 2, 2023, 73%.

23 (iii) For treatment or training rendered after July 1, 2023,  
24 71%.

25 (9) ~~(8)~~ For any change to an amount payable under Medicare as  
26 provided in subsection (2), (3), (5), or (6) that occurs after ~~the~~  
27 ~~effective date of the amendatory act that added this subsection,~~  
28 **June 11, 2019**, the change must be applied to the amount allowed for  
29 payment or reimbursement under that subsection. However, an amount

1 allowed for payment or reimbursement under subsection (2), (3),  
 2 (5), or (6) must not exceed the average amount charged by the  
 3 physician, hospital, clinic, or other person for the treatment or  
 4 training on January 1, 2019.

5 **(10) ~~(9) An~~ Subject to the limitations in this subsection, an**  
 6 amount that is to be applied under ~~subsection (7) or (8), that was~~  
 7 ~~in effect on January 1, 2019, this section~~, including any prior  
 8 adjustments to the amount made under this subsection, must be  
 9 adjusted annually by the percentage change in the medical care  
 10 component of the Consumer Price Index for the year preceding the  
 11 adjustment. **This subsection applies only to the following:**

12 **(a) An amount that is to be applied under subsection (7) (a)**  
 13 **that was in effect for 2019.**

14 **(b) If the United States Department of Veterans Affairs**  
 15 **discontinues publication of a payable service and rate as described**  
 16 **in subsection (7) (b), the applicable last known United States**  
 17 **Department of Veterans Affairs rate.**

18 **(c) An amount that is to be applied under subsection (8) or**  
 19 **(9) that was in effect on January 1, 2019.**

20 **(11) ~~(10)~~ For attendant care rendered in the injured person's**  
 21 home, an insurer is only required to pay benefits for attendant  
 22 care up to ~~the hourly limitation in section 315 of the worker's~~  
 23 ~~disability compensation act of 1969, 1969 PA 317, MCL 418.315.~~ **112**  
 24 **hours per week.** This subsection only applies if the attendant care  
 25 is provided directly, or indirectly through another person, by any  
 26 of the following:

27 **(a) An individual who is related to the injured person.**

28 **(b) An individual who is domiciled in the household of the**  
 29 **injured person.**



1 (c) An individual with whom the injured person had a business  
2 or social relationship before the injury.

3 (12) ~~(11)~~—An insurer may contract to pay benefits for  
4 attendant care for more than the hourly limitation under subsection  
5 ~~(10)~~. **(11)**.

6 (13) ~~(12)~~—A neurological rehabilitation clinic is not entitled  
7 to payment or reimbursement for a treatment, ~~or rehabilitative~~  
8 **occupational** training, ~~product, service, or accommodation~~ unless  
9 the neurological rehabilitation clinic is accredited by the  
10 Commission on Accreditation of Rehabilitation Facilities or a  
11 similar organization recognized by the director for purposes of  
12 accreditation under this subsection. This subsection does not apply  
13 to a neurological rehabilitation clinic that is in the process of  
14 becoming accredited as required under this subsection on July 1,  
15 2021, unless 3 years have passed since the beginning of that  
16 process and the neurological rehabilitation clinic is still not  
17 accredited.

18 (14) ~~(13)~~—Subsections (2) to ~~(12)~~ **(13)** do not apply to  
19 emergency medical services rendered by an ambulance operation. As  
20 used in this subsection:

21 (a) "Ambulance operation" means that term as defined in  
22 section 20902 of the public health code, 1978 PA 368, MCL  
23 333.20902.

24 (b) "Emergency medical services" means that term as defined in  
25 section 20904 of the public health code, 1978 PA 368, MCL  
26 333.20904.

27 (15) ~~(14)~~—Subsections (2) to ~~(13)~~ **(14)** apply to treatment or  
28 rehabilitative occupational training rendered after July 1, 2021.

29 (16) **A rate or amount is payable under subsection (7) if the**

1 applicable schedule provides a rate or amount for the treatment or  
2 training regardless of any requirements for reimbursement under the  
3 program to which the schedule applies.

4 (17) ~~(15)~~—As used in this section:

5 (a) "Charge description master" means a uniform schedule of  
6 charges represented by the person as its gross billed charge for a  
7 given service or item, regardless of payer type.

8 (b) "Consumer Price Index" means the most comprehensive index  
9 of consumer prices available for this state from the United States  
10 Department of Labor, Bureau of Labor Statistics.

11 (c) "Emergency medical condition" means that term as defined  
12 in section 1395dd of the social security act, 42 USC 1395dd.

13 (d) "Home health agency" means a person that provides  
14 treatment or training to individuals in their places of residence  
15 or their communities, other than in a hospital, nursing home, or  
16 county medical care facility, that includes 1 or more of the  
17 following services:

18 (i) Nursing services.

19 (ii) Therapeutic services.

20 (iii) Social work services.

21 (iv) Home health aide services.

22 (v) Other related services.

23 (e) ~~(d)~~—"Level I or level II trauma center" means a hospital  
24 that is verified as a level I or level II trauma center by the  
25 American College of Surgeons Committee on Trauma.

26 (f) ~~(e)~~—"Medicaid" means a program for medical assistance  
27 established under subchapter XIX of the social security act, 42 USC  
28 1396 to ~~1396w-5~~.1396w-6, and administered by the department of  
29 health and human services under section 105 of the social welfare

1 act, 1939 PA 280, MCL 400.105.

2 (g) ~~(f)~~—"Medicare" means fee for service payments under part  
3 A, B, or D of the federal Medicare program established under  
4 subchapter XVIII of the social security act, 42 USC 1395 to 1395lll,  
5 without regard to the ~~limitations unrelated to the rates in the fee~~  
6 ~~schedule such as limitation or supplemental payments adjustments~~  
7 related to ~~utilization, readmissions, recaptures, bad debt~~  
8 adjustments, or sequestration. **Medicare includes payment rates for**  
9 **facilities reimbursed under the prospective payment systems,**  
10 **including the inpatient acute, inpatient psychiatric, inpatient**  
11 **rehabilitation, long-term acute care, skilled nursing, hospice, and**  
12 **outpatient prospective payment systems and any other hospital**  
13 **payment system designated by the United States Department of Health**  
14 **and Human Services. Rates include all facility adjustments,**  
15 **including, but not limited to, adjustments for acuity, an area wage**  
16 **index, capital, direct and indirect graduate medical education, all**  
17 **disproportionate share components, new technology, low volume,**  
18 **organ acquisition cost, routine and ancillary cost for allied**  
19 **health programs, and outlier, and any future adjustments to**  
20 **Medicare payment policy as identified by the director. For sole**  
21 **community hospitals, rural referral centers, and critical access**  
22 **hospitals, Medicare means the equivalent hospital-specific payment**  
23 **for providing inpatient or outpatient services to Medicare**  
24 **beneficiaries.**

25 (h) ~~(g)~~—"Neurological rehabilitation clinic" means a person  
26 that provides post-acute brain and spinal rehabilitation care.

27 (i) ~~(h)~~—"Person", as provided in section 114, includes, but is  
28 not limited to, an institution.

29 (j) "Residential program" means services provided in a

1 residential setting that is owned, leased, or otherwise supported  
2 by the organization providing the services. The treatment or  
3 training rendered by a residential program includes rehabilitation  
4 or stability for the injured individual's function, social health,  
5 or safety needs. A residential program may be transitional or long  
6 term.

7 (k) ~~(i)~~—"Stabilized" means that term as defined in section  
8 1395dd of the social security act, 42 USC 1395dd.

9 (l) ~~(j)~~—"Transfer" means that term as defined in section 1395dd  
10 of the social security act, 42 USC 1395dd.

11 (m) ~~(k)~~—"Treatment" includes, but is not limited to, products,  
12 services, and accommodations.

13 Enacting section 1. This amendatory act applies retroactively  
14 to July 1, 2021.