SB-1037, As Passed Senate, December 20, 2018

HOUSE SUBSTITUTE FOR SENATE BILL NO. 1037

A bill to amend 1939 PA 280, entitled "The social welfare act,"

(MCL 400.1 to 400.119b) by adding section 111n.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 111N. (1) IF THE DEPARTMENT ISSUES A NEW INTERPRETATION 2 OF EXISTING MEDICAID PROVIDER POLICY DIRECTLY AFFECTING NURSING 3 FACILITY MEDICAID COST REPORTS, THAT CHANGE IN POLICY MUST HAVE A 4 PROSPECTIVE EFFECTIVE DATE. A POLICY MAY HAVE A RETROSPECTIVE 5 EFFECTIVE DATE AS PART OF A STATE PLAN AMENDMENT APPROVAL OR WAIVER 6 APPROVAL, OR IF REQUIRED BY STATE LAW, FEDERAL LAW, OR JUDICIAL 7 RULING.

8 (2) BY JULY 1, 2019, BUT NO LATER THAN OCTOBER 1, 2019, THE
9 DEPARTMENT SHALL REVISE THE MEDICAID NONAVAILABLE BED PLAN POLICY

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1 TO ALLOW A NURSING FACILITY TO REMOVE BEDS FROM SERVICE FOR UP TO 5 2 YEARS. AS PART OF THE REVISED NONAVAILABLE BED PLAN POLICY, ALL OF 3 THE FOLLOWING APPLY:

4 (A) A NURSING FACILITY IS NOT REQUIRED TO REMOVE ALL BEDS FROM 5 A ROOM.

6 (B) THE BEDS PLACED IN A NONAVAILABLE BED PLAN MAY BE FROM
7 NONCONTIGUOUS ROOMS.

8 (C) THE DEPARTMENT SHALL ALLOW THE ENTIRE NURSING FACILITY TO 9 BE UTILIZED DURING THE PERIOD WHEN THE NURSING FACILITY HAS A BED 10 IN THE NONAVAILABLE BED PLAN, BUT THE SQUARE FOOTAGE ASSOCIATED 11 WITH EACH NONAVAILABLE BED IS NONREIMBURSABLE ON THE MEDICAID COST 12 REPORT.

13 (3) THE DEPARTMENT SHALL ESTABLISH A PROCESS TO AUTOMATICALLY CHANGE THE PROGRAM ENROLLMENT TYPE AND MANAGED CARE ENROLLMENT 14 15 STATUS IN THE COMMUNITY HEALTH AUTOMATED MEDICAID PROCESSING SYSTEM 16 (CHAMPS) IMMEDIATELY WHEN A FILING HAS BEEN MADE BY A HEALTH 17 MAINTENANCE ORGANIZATION TO DISENROLL A NURSING FACILITY RESIDENT 18 FROM A HEALTH MAINTENANCE ORGANIZATION AND THE RESIDENT HAS 19 COMPLETED 45 DAYS OF SKILLED CARE AT A NURSING FACILITY. THE 20 DEPARTMENT MAY UTILIZE A FILING TO DISENROLL A NURSING FACILITY 21 RESIDENT FROM A HEALTH MAINTENANCE ORGANIZATION, ADMISSION AND 22 DISCHARGE DATA ENTERED BY A NURSING FACILITY IN CHAMPS, OR 23 AUTOMATED ADMISSION, DISCHARGE, AND TRANSFER TRANSACTIONS TO VERIFY 24 THE 45-DAY LIMIT.

(4) WITHIN 60 DAYS AFTER RECEIPT OF A REQUEST FROM A NURSING
FACILITY, THE DEPARTMENT SHALL PERFORM A SECONDARY REVIEW OF A
DENIED RATE EXCEPTION, INCLUDING, BUT NOT LIMITED TO, RATE RELIEF,

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OR APPLICATION OF A CLASSWIDE AVERAGE RATE. THE SECONDARY REVIEW
 MUST BE PERFORMED BY DEPARTMENT STAFF WHO ARE SEPARATE FROM THE
 DEPARTMENT STAFF WHO PERFORMED THE INITIAL REVIEW DETERMINATION.

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4 (5) THE DEPARTMENT SHALL OFFER A QUARTERLY MEETING AND INVITE APPROPRIATE NURSING FACILITY STAKEHOLDERS. APPROPRIATE STAKEHOLDERS 5 6 SHALL INCLUDE AT LEAST 1 REPRESENTATIVE FROM EACH NURSING FACILITY PROVIDER TRADE ASSOCIATION, THE STATE LONG-TERM CARE OMBUDSMAN, AND 7 ANY OTHER REPRESENTATIVES. INDIVIDUALS WHO PARTICIPATE IN THESE 8 9 QUARTERLY MEETINGS, IN CONJUNCTION WITH THE DEPARTMENT, MAY DESIGNATE ADVISORY WORKGROUPS TO DEVELOP RECOMMENDATIONS ON THE 10 11 DISCUSSION TOPICS THAT SHOULD INCLUDE, AT A MINIMUM, THE FOLLOWING: 12 (A) SEEKING QUALITY IMPROVEMENT TO THE COST REPORT AUDIT AND 13 SETTLEMENT PROCESS, INCLUDING CLARIFICATION TO PROCESS-RELATED 14 POLICIES AND PROTOCOLS THAT INCLUDE, BUT ARE NOT LIMITED TO, THE 15 FOLLOWING:

16 (*i*) IMPROVING THE AUDITORS' AND PROVIDERS' QUALITY AND
17 PREPAREDNESS.

18 (*ii*) ENHANCED COMMUNICATION BETWEEN APPLICABLE PARTIES SUCH AS
 19 DEPARTMENT STAFF, CONSULTANTS, AND PROVIDERS.

20 (*iii*) IMPROVING MEDICAID PROVIDERS' ABILITY TO PROVIDE
21 AUDITABLE DOCUMENTATION ON A TIMELY BASIS.

(B) PROMOTING TRANSPARENCY BETWEEN PROVIDERS AND DEPARTMENT
STAFF, INCLUDING, BUT NOT LIMITED TO, APPLYING REGULATIONS AND
POLICY IN AN ACCURATE, CONSISTENT, AND TIMELY MANNER AND EVALUATING
CHANGES THAT HAVE BEEN IMPLEMENTED TO RESOLVE ANY IDENTIFIED
PROBLEMS AND CONCERNS.

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Enacting section 1. This amendatory act takes effect 180 days

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1 after the date it is enacted into law.