

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.111f Emergency action; order; circumstances; extension of emergency action; “most recent 12-month period” defined; consultation with peer review advisory committees, professionals, or experts; order for summary suspension of payments; hearings; decision; meeting not required.

Sec. 111f.

(1) The director may issue an order incorporating a finding that emergency action is required to protect the state's interest, as the state's interest is described in this subsection by the statement of circumstances warranting emergency action, in any of the following: the public health, welfare, or safety; medically indigent individuals; or public funds of the program of medical assistance. Circumstances that warrant emergency action include, but are not limited to, any of the following:

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

(b) A reasonable belief that the provider has violated the medicaid false claims act, Act No. 72 of the Public Acts of 1977, being sections 400.601 to 400.613 of the Michigan Compiled Laws, the health care false claims act, Act No. 323 of the Public Acts of 1984, being sections 752.1001 to 752.1011 of the Michigan Compiled Laws, or a substantially similar statute of another state or the federal government.

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

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

(e) A reasonable belief that 10% or \$10,000.00, whichever is less, for a noninstitutional provider, or 10% or \$50,000.00, whichever is less, for an institutional provider, of the provider's total program dollar amount for claims submitted at any time during the most recent 12-month period were medically unnecessary, inappropriate, or of inferior quality.

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

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

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

(2) If the director finds that emergency action is required under subsection (1) in a clinic, corporation, partnership, or other entity with multiple providers or locations, the director may extend any emergency action to the entire legal entity and its providers.

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

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

(5) Upon a determination that circumstances described in subsection (1) exist, the director may issue an order for the summary suspension of payments on pending or subsequent claims, in whole or in part, or for the summary suspension of a provider from participation in the program of medical assistance. The summary suspension shall be effective on the date specified in the order or on service of a certified copy of the order on the provider, whichever occurs later, and shall remain in effect during administrative or judicial proceedings on the suspension. Upon

request of a provider, a contested case hearing pursuant to chapter 4 and chapter 6 of the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.271 to 24.287 and 24.301 to 24.306 of the Michigan Compiled Laws, shall be commenced not later than 15 days after the summary suspension. If a contested case hearing is requested by a provider relative to an emergency suspension under this section, a hearing shall be held to determine whether the emergency suspension is supported by competent, material, and substantial evidence on the whole record. Under appropriate circumstances, the state department may hold or institute a hearing under section 111c(1), or take an action under section 111d at the same time an action is taken under this section, while an action under this section is pending, or after a decision on an action is made. The presiding officer may consolidate the 2 hearings into a single proceeding in the interest of economy. However, the director shall not make a final decision in a contested case under section 111c(1) or 111d arising from or related to an emergency action or the circumstances upon which an emergency action was taken.

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

History: Add. 1980, Act 321, Imd. Eff. Dec. 12, 1980 ;-- Am. 1982, Act 461, Imd. Eff. Dec. 30, 1982 ;-- Am. 1986, Act 227, Eff. Nov. 1, 1986

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