



STATE OF MICHIGAN  
JOCELYN BENSON, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

June 24, 2021

**NOTICE OF FILING**

**ADMINISTRATIVE RULES**

To: Secretary of the Senate  
Clerk of the House of Representatives  
Joint Committee on Administrative Rules  
Michigan Office of Administrative Hearings and Rules (Administrative Rule #20-113-IF)  
Legislative Service Bureau (Secretary of State Filing #21-06-09)  
Department of Insurance and Financial Services

In accordance with the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Office of Administrative Hearings and Rules filed Administrative Rule #2020-113-IF (Secretary of State Filing #21-06-09) on this date at 12:06 P.M. for the Department of Insurance and Financial Services entitled, "Surprise Medical Billing".

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

Sincerely,

Jocelyn Benson  
Secretary of State

Melissa Malerman, Departmental Supervisor  
Office of the Great Seal

Enclosure



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

June 24, 2021

The Honorable Jocelyn Benson  
Secretary of State  
Office of the Great Seal  
Richard H. Austin Building – 1<sup>st</sup> Floor  
430 W. Allegan  
Lansing, MI 48909

Dear Secretary Benson:

Re: Administrative Rules – Michigan Office of Administrative Hearings and Rules  
Administrative Rules #: 2020-113 IF

The Michigan Office of Administrative Hearings and Rules received administrative rules, dated April 22, 2021 for the Department of Insurance and Financial Services “**Surprise Medical Billing**”. We are transmitting these rules to you pursuant to the requirements of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6.

Sincerely,

Michigan Office of Administrative Hearings and Rules



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES  
LANSING

ANITA G. FOX  
DIRECTOR

## CERTIFICATE OF ADOPTION

By authority conferred on the Director of the Department of Insurance and Financial Services by section 24517 of the Public Health Code, 1978 PA 368, MCL 333.24517, the Director of the Department of Insurance and Financial Services formally adopts:

R 500.241, R 500.242, R 500.243, R 500.244, and R 500.245 are added to the Michigan Administrative Code.

Date: May 13, 2021

A handwritten signature in cursive script that reads "Anita Fox".

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Anita G. Fox, Director



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

## LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated April 22, 2021, in which the Department of Insurance and Financial Services proposes to modify a portion of the Michigan Administrative Code entitled “**Surprise Medical Billing**” by:


- ◆ Adding R 500.241, R 500.242, R 500.243, R 500.244, and R 500.245.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: May 10, 2021

Michigan Office of Administrative Hearings and Rules

By:   
Katie Wienczewski,  
Attorney



Since 1941

**Legal Division**

**Kevin H. Studebaker, Director**

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the proposed rules of the Department of Insurance and Financial Services dated April 22, 2021, adding R 500.241, R 500.242, R 500.243, R 500.244, and R 500.245 of the Department's rules entitled "Surprise Medical Billing." I approve the rules as to form, classification, and arrangement.

Dated: May 7, 2021

LEGISLATIVE SERVICE BUREAU

By

Elizabeth R. Edberg,  
Legal Counsel

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

INSURANCE

SURPRISE MEDICAL BILLING

Filed with the secretary of state on June 24, 2021

These rules take effect immediately upon filing with the secretary of state unless adopted under section 33, 44, or 45a(6) of the administrative procedures act of 1969, 1969 PA 306, MCL 24.233, 24.244, or 24.245a. Rules adopted under these sections become effective 7 days after filing with the secretary of state.

(By authority conferred on the director of the department of insurance and financial services by section 24517 of the public health code, 1978 PA 368, MCL 333.24517)

R 500.241, R 500.242, R 500.243, R 500.244, and R 500.245 are added to the Michigan Administrative Code, as follows:

R 500.241 Definitions.

Rule 1. (1) As used in these rules:

(a) "Act" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(b) "Median amount" means the median amount negotiated by the carrier for the region and provider specialty, excluding any in-network coinsurance, copayments, or deductibles. The carrier shall determine the region and provider specialty.

(2) A term defined in the act for the purposes of article 18 of the act, MCL 333.24501 to 333.24517, has the same meaning when used in these rules.

R 500.242 Scope and applicability.

Rule 2. These rules do the following:

(a) Establish procedures for the department to review and resolve requests for calculation review submitted pursuant to section 24510 of the act, MCL 333.24510.

(b) Establish procedures for approving arbitrators to provide binding arbitration pursuant to section 24511 of the act, MCL 333.24511.

R 500.243 Requests for calculation review.

Rule 3. (1) A nonparticipating provider must make a request for a review of the calculation described in section 24510(1) of the act, MCL 333.24510, on a form provided by the department.

(2) In response to a request from a nonparticipating provider for a calculation review under section 24510 of the act, MCL 333.24510, the department shall do the following within 14 days of the date of the request:

(a) Notify the carrier of the request for a calculation review.

(b) Request data on the carrier's median amount or any documents, materials, or other information the department believes is necessary to assist in reviewing the calculation described in section 24510(1) of the act, MCL 333.24510.

(3) A carrier must respond within 14 days of the date of the department's request under subrule (2)(b) of this rule. If the information provided is incomplete, the department may, at its discretion, request additional information, or issue a determination based solely on the information provided as of the date on which the carrier's response was due. If the department makes 1 or more requests for additional information, the carrier must respond within 14 days of the date of the department's request.

(4) The department shall issue a determination resolving the request for a calculation review no later than 14 days after the carrier submits a timely and complete response under subrule (3) of this rule or after the expiration of the time period within which the carrier was required to respond, including any extensions provided following the department's request for additional information under subrule (3) of this rule.

R 500.244 Median amount; access to database.

Rule 4. (1) Subject to subrule (3) of this rule, a carrier may satisfy the requirement under R 500.243 by providing the department with access to a database that contains all of the carrier's median amounts. The database must meet all of the following requirements:

- (a) Be updated no less frequently than quarterly.
- (b) Be searchable by region, provider specialty, and health care service.
- (c) Include negotiated rates for all health care services covered by the carrier.
- (d) Be continuously accessible to the department.

(2) For the purposes of conducting a calculation review under section 24510 of the act, MCL 333.24510, the department may, at its discretion, consult any external database described under section 24510(2) of the act, MCL 333.24510, without regard to whether a carrier made the database accessible to the department or whether the database otherwise meets the requirements under subrule (1) of this rule.

(3) A carrier's provision of access to a database under this rule does not preclude the department from requesting any documents, materials, or other information the department believes is necessary to assist in reviewing the calculation described in section 24510(1) of the act, MCL 333.24510.

R 500.245 Approval of arbitrators.

Rule 5. (1) The department shall create and maintain a list of arbitrators trained by the American Arbitration Association or American Health Lawyers Association and approved by the director. This list must be updated no less frequently than annually and must be posted on the department's website.

(2) Arbitrators seeking to be included in the list under subrule (1) of this rule must apply on a form prescribed by the department.

(3) The department shall approve or disapprove an application no later than 60 days after the date of receipt of the application. Applicants whose application has been disapproved may reapply at any time.

(4) If approved for inclusion in the list under subrule (1) of this rule, arbitrators must annually provide to the department, on a form prescribed by the department, an attestation acknowledging that the information provided to the department in the arbitrator's application under subrule (2) of this rule remains complete and accurate.

(5) Arbitrators included on the department's list under subrule (1) of this rule must notify the department of any changes to the information contained in the arbitrator's application

under subrule (2) of this rule within 30 days of the change. An arbitrator's failure to inform the department of these changes may result in revocation of the arbitrator's approval and removal from the list under subrule (1) of this rule.



FILED WITH SECRETARY OF STATE

ON 6/24/21 AT 12:06 P.M.