



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

ANITA G. FOX
DIRECTOR

LANSING

July 30, 2021

Sen. Mike Shirkey
Senate Majority Leader
PO Box 30036
Lansing, MI 48909-7536

Sen. Jim Ananich
Democratic Leader
PO Box 30036
Lansing, MI 48909-7536

Rep. Jason Wentworth
Speaker of the House
Lansing, MI 48909-7514

Rep. Donna Lasinski
Democratic Leader
Lansing, MI 48909-7514

Dear Senate Majority Leader Shirkey, Senate Democratic Leader Ananich, Speaker of the House Wentworth, House Democratic Leader Lasinski:

Public Act 65 of 2021 (the Act) directs the Department of Insurance and Financial Services (DIFS) to provide a report to the Legislature 15 days before the application process opens for distributions from the Post-Acute Auto Injury Provider Relief Fund established under the Act. The report must "include a sample application and any corresponding guidance or rules promulgated by the department." Section 301(7)(e). This report is intended to comply with this directive.

A proposed, sample application is attached. It has also been posted to www.michigan.gov/providerfund. The application sets forth the requirements established by the Act for submission of an application for consideration and eligibility for a fund distribution. Subject to the Act, DIFS will begin accepting applications Aug. 13, 2021, 30 days after the effective date of the appropriation to the fund.

There is no provision in the Act for emergency rulemaking and no time was allotted for rulemaking.

The Act requires providers to demonstrate that they have suffered a "systematic deficit" as a result of the implementation of the changes to charges required by MCL 500.3157 and payments received in response to those charges. Section 301(5)(f) and (7)(h) of the Act. The term "systematic deficit" is not defined in the Act. A provider must also show that "fees under section 3157 of the insurance code of 1956, 1956 PA 218, MCL 500.3157, have caused the provider to bill at rates that are below the cost of providing the service." Section 301(5) of the Act. DIFS is establishing an RFP for professional accounting services to make these determinations, as well as to assist in determining whether applicants have demonstrated a "good-faith effort to alter business practices" to comply with MCL 500.3157. Section 301(5)(e) of the Act.

The Act does not specify the standard for determining the amount of a distribution from the fund if an applicant demonstrates the requisite "systematic deficit" and meets the other requirements under the Act. The Act requires applicants to submit evidence of charges and payments received in response for applicable services in 2019 prior to the enactment of PA 21 and PA 22 of 2019. Accordingly, DIFS intends to determine an eligible applicant's distribution amount by calculating the difference between the amount of reimbursement under Section 3157 that led to the systematic deficit and the average amount charged as of January 1, 2019, multiplied by the number of instances of the same billed amount and amount paid for dates of service starting July 2, 2021 through the date of the DIFS Utilization Review order upholding that the auto insurer's determination of the reimbursable amount complies with Section 3157.

Sincerely,



Anita Fox
Director

**POST-ACUTE AUTO INJURY PROVIDER RELIEF FUND
APPLICATION FOR DISTRIBUTION**

Michigan Department of Insurance and Financial Services
Office of Research, Rules, and Appeals
DIFS-ProviderFund@michigan.gov
Fax: 517-763-0305

Pursuant to [Public Act 65 of 2021](#) (the Act), the Department of Insurance and Financial Services (DIFS) is responsible for administering the statutory requirements of the Post-Acute Auto Injury Provider Relief Fund (Fund).

Instructions: The Legislature has directed that DIFS may only consider applications which are complete and which include all required information and supporting documentation. See Section 301(7)(d) of the Act. Providers must meet all of the requirements established under the Act and this application to be eligible for a distribution from the Fund. See Section 301(5) and (7)(a) of the Act.

If more space is needed, you may attach a separate document containing one or more of your responses. Please clearly label the document(s) with the corresponding question number.

Please send this completed application and attachments to the email or fax number listed above.

I. Provider Information

Provider (name of physician, hospital, clinic, or other person/entity):	Authorized Provider Contact (name of individual completing this application):
National Provider Identifier (NPI):	Phone Number:
Provider's SIGMA Vendor Customer ID Number: <i>NOTE: Registration of an account is required before you submit your application.</i>	
Provider Address:	Fax Number:
	Email Address:
Has this provider received a distribution from the Fund before? If so, please list the date and amount of the prior distribution(s)? <i>NOTE: A provider cannot be awarded more than \$500,000 in a calendar year. Section 301(7)(k) of the Act.</i>	



Michigan Department of Insurance and Financial Services

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II. Provider's Eligibility

a. You must meet the Act's definition of "provider." See Section 301(13)(d) of the Act.

Please check any of the following that apply to the provider as set forth in Section 301(13)(d):

- It is "a post-acute brain or spinal injury clinic or other person that renders treatment or training."
- It is "a post-acute brain or spinal injury attendant care provider."

Please provide an explanation addressing whether the provider meets this requirement. Please also specifically identify any supporting documentation you have attached to this application.

b. "A provider that enters this state as a new licensee or that reorganizes, reincorporates, or otherwise reestablishes itself in the same or similar business under a new name after January 1, 2019, is not eligible to receive money from the [F]und." Section 301(6) of the Act.

Please check any of the following that apply to the provider:

- It entered Michigan as a new licensee after January 1, 2019.
- It reorganized, reincorporated, or otherwise reestablished in the same or similar business under a new name after January 1, 2019.

Please provide an explanation addressing whether the provider meets this requirement. Please also specifically identify any supporting documentation you have attached to this application.



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c. The fees under MCL 500.3157 must “have caused the provider to bill at rates that are below the cost of providing the service.” Section 301(5) of the Act.

Please provide an explanation addressing whether the provider meets this requirement. Please also specifically identify any supporting documentation you have attached to this application.

d. The provider must submit “[d]ocumentation, including full financial statements, indicating a systematic deficit caused by changes to charges, as required by [MCL 500.3157], and payments received in response to those charges.” Section 301(5)(f) of the Act.

As set forth in the Act, lost profits alone are not enough to demonstrate eligibility for a distribution from the Fund; the provider must show it is “experiencing a systematic deficit with respect to services offered to persons injured in motor vehicle accidents.” Section 301(7)(h) of the Act. Note that audited financial statements may be given greater weight.

Please provide an explanation addressing whether the provider meets this requirement. Please also specifically identify any supporting documentation you have attached to this application.

e. The provider must submit “[d]ocumentation indicating a good-faith effort to alter business practices to adhere to [MCL 500.3157].” Section 301(5)(e) of the Act.

Please provide an explanation addressing whether the provider meets this requirement. Please also specifically identify any supporting documentation you have attached to this application.



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III. Additional Required Information and Documentation

For each requirement below, provide the required information and specifically identify any supporting documentation you have attached to this application.

a. “The total number of patients treated by the provider and the entities billed for each patient.”
Section 301(5)(a) of the Act.

b. “A full list of charges and payments received in response to those charges and supporting invoices for all charges that were charged to and paid by auto insurers for motor-vehicle-accident-related care in 2019.” Section 301(5)(b) of the Act.

c. “A full list of charges and payments received in response to those charges and supporting invoices for all charges that were charged to and paid by other forms of insurance or other entities for non-motor-vehicle-accident-related care in 2019.” Section 301(5)(c) of the Act.

d. “[M]etrics on all charges and payments received in response to those charges under [MCL 500.3157]” that are believed to be “inadequate.” See Section 301(5)(g) and (8)(d).



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IV. Eligible Provider’s Charges

Please fill out the table below for *each charge*.

Date(s) of Service	Service Provided	Does the Service have a Medicare Code? (answer “no” or “yes” and provide code)	Amount of Attempted Billed Charge**	Amount Paid at the Charged Rate or Otherwise Reimbursed**	Cost of Providing the Service	DIFS Utilization Review Case Number***

***a. The service pertaining to the charge for which a distribution from the Fund is being sought must lack a “Medicare code.”** Section 301(5) of the Act.

Please provide an explanation addressing whether the provider meets this requirement. Please also specifically identify any supporting documentation you have attached to this application.

****b. The provider must submit “[e]vidence to demonstrate that the provider attempted to bill for a service” (that lacks a “Medicare code”) and “has not been paid at the charged rate or otherwise reimbursed.”** Section 301(5)(d) of the Act.

Please provide an explanation addressing whether the provider meets this requirement. Please also specifically identify any supporting documentation you have attached to this application.

*****c. The provider must submit “[e]vidence to demonstrate ... that adjustment has been upheld by [DIFS] during the utilization review process” under MCL 500.3157a and the Utilization Review Rules, R 500.61 to R 500.69. Section 301(5)(d) of the Act.**

Please enter in the above chart the Provider Appeal Case Number assigned by DIFS for the purposes of the provider’s appeal under MCL 500.3157a that corresponds to each charge listed.

V. Acknowledgements and Signature

By signing below, I understand, acknowledge, and agree to all of the following:

- The provider shall comply with DIFS’ requests for information relating to this application and any distributions from the Fund that the provider may receive.
- The information contained in this application and attachment(s) is correct and complete to the best of my knowledge and belief.
- I am authorized to sign this application on behalf of the provider or as the provider.
- Any fraudulent activity related to the fund constitutes fraud for purposes of the Insurance Code of 1956, MCL 500.100 to 500.8302, see Section 301(7)(b) of the Act, and submitting false or misleading information may result in the rejection of this application and subject me and/or the provider to any penalties provided by law.
- The provider’s eligibility for a distribution from the Fund does not entitle the provider to a distribution. Fund distributions are awarded “on a first-come, first-served basis.” See Section 301(7)(j) of the Act.
- The provider agrees that if it receives a distribution from the Fund, such distribution is the exclusive remedy, and the provider forgoes all other forms of recovery for the charges for which reimbursement is sought. See Section 301(11) of the Act.
- The provider agrees that if it receives a distribution from the Fund, any distribution is inadmissible for any purposes outside of claims made with DIFS. See Section 301(11) of the Act.
- DIFS is not responsible for the provider’s compliance with any applicable law providing for the privacy or confidentiality of the information relating to or included within this application and/or attachment(s) submitted to DIFS, and DIFS remains subject to any applicable law relating to the disclosure of information or documents.

Authorized Signature:	Date:
Printed Name / Title:	Email Address:



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