

Chapter 8

MENTAL HEALTH CODE (EXCERPT)

Act 258 of 1974

Chapter 8

FINANCIAL LIABILITY FOR MENTAL HEALTH SERVICES (330.1800...330.1844)

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CHAPTER 8
FINANCIAL LIABILITY FOR MENTAL HEALTH SERVICES

330.1800 Definitions.

Sec. 800. As used in this chapter, unless the context requires otherwise:

- (a) “Ability to pay” means the ability of a responsible party to pay for the cost of services, as determined by the department under sections 818 and 819.
- (b) “Cost of services” means the total operating and capital costs incurred by the department or a community mental health services program with respect to, or on behalf of, an individual. Cost of services does not include the cost of research programs or expenses of state or county government unrelated to the provision of mental health services.
- (c) “Individual” means the individual, minor or adult, who receives services from the department or a community mental health services program or from a provider under contract with the department or a community mental health services program.
- (d) “Inpatient services” means 24-hour care and treatment services provided by a state facility or a licensed hospital.
- (e) “Insurance benefits” means payments made in accordance with insurance coverage for the cost of health care services provided to an individual.
- (f) “Insurance coverage” means any policy, plan, program, or fund established or maintained for the purpose of providing for its participants or their dependents medical, surgical, or hospital benefits. Insurance coverage includes, but is not limited to, medicaid or medicare; policies, plans, programs, or funds maintained by nonprofit hospital service and medical care corporations, health maintenance organizations, and prudent purchaser organizations; and commercial, union, association, self-funded, and administrative service policies, plans, programs, and funds.
- (g) “Nonresidential services” means care or treatment services that are not inpatient or residential services.
- (h) “Parents” means the legal father and mother of an unmarried individual who is less than 18 years of age.
- (i) “Residential services” means 24-hour dependent care and treatment services provided by adult foster care facilities under contract to the department or a community mental health services program or provided directly by a community mental health services program.
- (j) “Responsible party” means a person who is financially liable for services furnished to the individual. Responsible party includes the individual and, as applicable, the individual's spouse and parent or parents of a minor.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1802 Establishment of financial liability.

Sec. 802. Financial liability for services provided to an individual by the department or by community mental health services programs is hereby established as provided in this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1804 Financial liability of responsible party.

Sec. 804. (1) A responsible party is financially liable for the cost of services provided to the individual directly by or by contract with the department or a community mental health services program.

(2) The department or a community mental health services program shall charge responsible parties for that portion of the financial liability that is not met by insurance coverage. Subject to section 814, the amount of the charge shall be whichever of the following is the least amount:

(a) Ability to pay determined under section 818 or 819.

(b) Cost of services as defined in section 800.

(c) The amount of coinsurance and deductible in accordance with the terms of participation with a payer or payer group.

(3) The department or community mental health services program shall waive payment of that part of a charge determined under subsection (2) that exceeds financial liability. The department or community mental health services program shall not impose charges in excess of ability to pay.

(4) Subject to section 114a, the department may promulgate rules to establish therapeutic nominal charges for certain services. The charges shall not exceed \$3.00 and shall be authorized in the recipient's individual plan of services.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1806 Single or married individual; determining insurance coverage and ability to pay.

Sec. 806. (1) If the individual is single, insurance coverage and ability to pay shall first be determined for the individual. If the individual is an unmarried minor and the individual's insurance coverage and ability to pay are less than the cost of the services, insurance coverage and ability to pay shall be determined for the parents.

(2) If the individual is married, insurance coverage and ability to pay shall be determined jointly for the individual and the spouse.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1808 Limitation on financial liability.

Sec. 808. The total combined financial liability of the responsible parties shall not exceed the cost of the services.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1810 Denial of services prohibited.

Sec. 810. An individual shall not be denied services because of the inability of responsible parties to pay for the services.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1812 Insurance coverage as part of ability to pay.

Sec. 812. (1) If an individual is covered, in part or in whole, under any type of insurance coverage, private or public, for services provided directly by or by contract with the department or a community mental health services program, the benefits from that insurance coverage are considered to be available to pay the individual's financial liability, notwithstanding that the insurance contract was entered into by a person other than the individual or notwithstanding that the insurance coverage was paid for by a person other than the individual.

(2) Insurance coverage is considered available to pay for the individual's financial liability for services provided by the department or a community mental health services program or its contractee in the amount and to the same extent that coverage would be available to cover the cost of services if the individual had received the services from a health care provider other than the department or a community mental health services program or its contractee.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1813 Subrogation.

Sec. 813. The department or a community mental health services program shall be subrogated to a responsible party's right of recovery for insurance benefits for the cost of services to the individual.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1814 Willful refusal to apply for insurance benefits or provide information.

Sec. 814. Notwithstanding any other provision of this chapter, if a responsible party willfully fails to provide relevant insurance coverage information to the department or the community mental health services program, or if a responsible party willfully fails to apply to have insurance benefits that cover the cost of services provided to the individual paid to the department or community mental health services program, the responsible party's ability to pay shall be determined to include the amount of insurance benefits that would be available. If the amount of

insurance benefits is not known in a case described in this section, the responsible party's ability to pay shall be determined to be the full cost of services.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1816 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed section pertained to cost of services.

330.1817 Insurance coverage and ability to pay; determination to be made after admittance or start of services.

Sec. 817. (1) For an individual who receives inpatient or residential services on a voluntary or involuntary basis, the department or community mental health services program shall determine the responsible parties' insurance coverage and ability to pay as soon as practical after the individual is admitted.

(2) For an individual who receives nonresidential services, the department or community mental health services program shall determine the responsible parties' insurance coverage and ability to pay before, or as soon as practical after, the start of services.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1818 Adult inpatient psychiatric services less than 61 days, nonresidential services, and services to minors; provisions applicable to ability to pay; rules.

Sec. 818. (1) The department and community mental health services programs shall determine an adult responsible party's ability to pay for adult inpatient psychiatric services of less than 61 days, all nonresidential services, and all services to minors, on the basis of the adult responsible party's income in accordance with all of the following:

(a) The department or community mental health services program shall consider the adult responsible party's income to be taxable income as set forth in the adult responsible party's most recently filed state income tax return. If the parents of an individual, or the individual and spouse, are members of the same household but file separate income tax returns, the department or community mental health services program shall add together the separate taxable incomes to determine the ability to pay. If the parents or the individual and spouse are not members of the same household and they file separate tax returns, the ability to pay of each parent or of the individual and his or her spouse shall be determined separately.

(b) If an adult responsible party has not filed a state income tax return, the department or community mental health services program shall determine the adult responsible party's income from those financial documents that are legally available, based on the same factors that determine taxable income under subdivision (a).

(c) Relying upon an adult responsible party's income as determined under subdivision (a) or (b), the department and community mental health services programs shall determine ability to pay based on an ability-to-pay schedule developed under subsection (2).

(d) An adult responsible party's ability to pay for a calendar month or any part of a calendar month is the amount specified as the monthly amount in the applicable ability-to-pay schedule.

(e) A parent shall not be determined to have an ability to pay for more than 1 individual at any 1 time, and a parent's total liability for 2 or more individuals shall not exceed 18 years.

(f) If either parent or either spouse has been made solely responsible for an individual's medical and hospital expenses by a court order, the other parent or spouse shall be determined to have no ability to pay. The ability to pay of the parent or spouse made solely responsible by court order shall be determined in accordance with this section. The ability to pay of a parent made solely responsible by court order shall be reduced by the amount of child support the parent pays for the individual.

(g) If an individual receives services for more than 1 year, the department or community mental health services program shall annually redetermine the adult responsible parties' ability to pay on the basis of the most recently filed state income tax return or as provided in subdivision (b).

(2) The department shall promulgate rules to establish an ability-to-pay schedule that is fair and equitable. The schedule may take into consideration geographic cost-of-living differences. The department shall review the ability-to-pay schedule at least every 3 years and shall update the schedule as necessary. The department shall submit proposed rules under this subsection within 6 months after the effective date of the amendatory act that added section 819.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1981, Act 91, Imd. Eff. July 2, 1981 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1819 Residential services and inpatient services other than psychiatric services less than 61 days; provisions applicable to ability to pay; minor's ability to pay.

Sec. 819. (1) The department or a community mental health services program shall determine an adult responsible party's ability to pay for residential services and inpatient services other than psychiatric inpatient services of less than 61 days by taking into consideration the adult responsible party's total financial circumstances, including, but not limited to, income, expenses, number and condition of dependents, assets, and liabilities.

(2) The department and community mental health services programs shall determine a minor's ability to pay for the cost of services by considering the minor's total financial circumstances, including, but not limited to, income, expenses, number and condition of dependents, assets, and liabilities.

History: Add. 1995, Act 290, Eff. Mar. 28, 1996

330.1820 Spouse's ability to pay.

Sec. 820. Except with respect to inpatient psychiatric services of less than 61 days, the department or a community mental health services program shall determine a spouse's ability to pay for the first 730 days of inpatient or residential services during the individual's lifetime.

After the first 730 days, the department or community mental health services program shall determine ability to pay solely for the individual.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1822 Financial information.

Sec. 822. All responsible parties shall make available to the department or community mental health services program any relevant financial information that the department or community mental health services program is not prohibited by law from seeking and obtaining, and that the department or community mental health services program considers essential for the purpose of determining ability to pay. Willful failure to provide the relevant financial information may result in a determination of ability to pay up to the full cost of services received by the individual.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1824 Undue financial burden prohibited.

Sec. 824. (1) No determination of ability to pay that is made by the department or community mental health services program shall impose an undue financial burden on the individual or the individual's family members.

(2) In an instance where through no fault of the individual or the individual's family members the department or community mental health services program has not billed for services in a timely manner, an undue financial burden has been created. The department or community mental health services program shall only obligate an individual or the individual's family to pay for services based on their ability to pay when the initial bill for services is presented within 2 years from the date the services were provided.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1826 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed section pertained to limitation on exhaustion of net worth.

330.1828 Annual determination of insurance coverage and ability to pay; new determination.

Sec. 828. The department or community mental health services program shall annually determine the insurance coverage and ability to pay of each individual who continues to receive services and of each additional responsible party, if applicable. The department or community mental health services program shall also complete a new determination of insurance coverage and ability to pay if informed of a significant change in a responsible party's ability to pay.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1830 Change in ability to pay; notice of right to request new determination.

Sec. 830. The department and community mental health services programs shall inform responsible parties that if their ability to pay has undergone a change, they may request the department or community mental health services program to make a new determination of ability to pay, and the department or community mental health services program shall be required to do so. The new determination of ability to pay shall be made in accordance with this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1832 Ability to pay; utilization of inappropriate income figure; notice of right to request new determination; basis of determination.

Sec. 832. The department and community mental health services programs shall inform responsible parties whose ability to pay was determined under section 818 that if they believe that the income figure being utilized to determine their ability to pay is not appropriate to their current income status or does not appropriately reflect their ability to pay, they may request the department or community mental health services program to make a new determination of ability to pay, and the department or community mental health services program shall be required to do so. If a responsible party has stated that the income figure being utilized is not appropriate to his or her current income status, the department or community mental health services program shall make a new determination of ability to pay based on the responsible party's current annualized Michigan taxable income. If this is not available, other documentation of income as described in section 818(1)(b) shall be used. If a responsible party has stated that the income figure being utilized does not appropriately reflect his or her ability to pay, the department or community mental health services program shall make a new determination of ability to pay based on a consideration of the responsible party's total financial situation as described in section 819. In neither instance, however, shall the new determination of ability to pay be for an amount greater than the original determination.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1834 Administrative hearing to contest ability to pay determination.

Sec. 834. The department or community mental health services program shall inform the responsible parties that they have a right, by means of an administrative hearing, to contest an ability to pay determination that has been made by the department or community mental health services program. If the responsible party desires an administrative hearing, the following procedures apply:

(a) The responsible party shall notify the department or community mental health services program in writing or on a form provided by the department or community mental health services program.

(b) An administrative hearing shall be held and the department or community mental health services program shall make a redetermination of ability to pay.

(c) A redetermination of ability to pay pursuant to subdivision (b) shall be made in accordance with this chapter.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1836 Appeal of redetermination of ability to pay.

Sec. 836. A responsible party may appeal a redetermination of ability to pay made under section 834(b) to the probate court of the county in which he or she resides.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1838 Redetermination of ability to pay; charge for higher amount.

Sec. 838. If the department or a community mental health services program redetermines a responsible party's ability to pay and the amount the responsible party is determined to be able to pay is higher than the amount under previous determinations, the department or community mental health services program shall charge the higher amount only for financial liability that is incurred after the date of the redetermination.

History: 1974, Act 258, Eff. Nov. 6, 1974 ;-- Am. 1995, Act 290, Eff. Mar. 28, 1996

330.1840 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed section pertained to liability for services provided under criminal statute.

330.1842 Rules; procedures for determining ability to pay.

Sec. 842. The department shall develop and promulgate rules, pursuant to Act No. 306 of the Public Acts of 1969, as amended, which shall implement the provisions of this chapter. Such rules shall include particularized procedures for determining ability to pay, and such procedures shall be applied uniformly throughout the state.

History: 1974, Act 258, Eff. Nov. 6, 1974

330.1844 Repealed. 1995, Act 290, Eff. Mar. 28, 1996. Compiler's Notes: The repealed section pertained to rules.