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Senate Bill 356 (as introduced 3-10-09)
Sponsor: Senator Bruce Patterson
Committee: Health Policy

Date Completed: 4-27-09

CONTENT

The bill would create a new act to do the following:

- **Prohibit health insurance carriers from providing payments or other incentives to physicians and other health care professionals for prescribing specific drugs or types of drugs.**
- **Require carriers, physicians and other health care professionals, and pharmacists to report to the Attorney General quarterly on any payments or incentives that could be viewed as inducements to prescribe specific drugs or types of drugs.**
- **Require the Attorney General to investigate possible violations of the proposed act.**
- **Prescribe a civil penalty for a violation.**

Specifically, the bill would prohibit a carrier or any person acting on a carrier's behalf from doing any of the following:

- Paying a physician or other health care professional to prescribe a specific drug or type of drug.
- Paying a physician, pharmacist, or other health care professional to switch a stable patient from one drug to another specific drug or type of drug.
- Giving financial incentives to a physician or other health care professional to prescribe a specific drug or type of drug.
- Providing a cash bonus or other reward to a physician or other health care professional for compliance with medical benefit plan guidelines regarding drugs to be used.
- Withholding a portion of a physician's or other health care professional's compensation or penalizing a physician or other health care professional financially in some other way for failure to comply with specific medication use mandates.
- Providing incentives or other inducements to a physician or other health care professional to prescribe a specific drug or type of drug.
- Engaging in any other activity that could be viewed as a kickback for prescribing a specific drug or type of drug.

("Carrier" would mean a health, dental, or vision insurance company authorized to do business in Michigan; a health maintenance organization or multiple employer welfare arrangement; a system of health care delivery and financing; a nonprofit dental care corporation; Blue Cross Blue Shield of Michigan; a tax-exempt voluntary employees' beneficiary association; a pharmacy benefits manager; and any other person providing a plan of health benefits, coverage, or insurance in Michigan.)

On or before the first of February, May, August, and November every year, a carrier would have to report all of the following to the Attorney General for the immediately preceding quarter: any payments, financial incentives, or other inducements to physicians or other health care professionals that could be viewed as an inducement to prescribe a specific drug or type of drug, or to switch a stable patient from one drug to another specific drug or type of drug.

Every year by the specified dates, a physician or other health care professional would have to report to the Attorney General for the immediately preceding quarter the receipt of any payments, financial incentives, or other inducements from carriers that could be viewed as an inducement to prescribe a specific drug or type of drug. A physician or other health care professional, however, would not have to report regular compensation that was paid for his or her health care or consulting services, unless it was tied to the prescribing of a specific drug or type of drug.

By the specified dates every year, a pharmacist would have to report to the Attorney General for the immediately preceding quarter any payments, financial incentives, or other inducements to physicians or other health care professionals that could be viewed as an inducement to a physician or health care professional to switch a stable patient from one drug to another specific drug or type of drug.

A carrier, physician or other health professional, or pharmacist also would have to report any other information the Attorney General required.

The Attorney General promptly would have to investigate possible violations of the proposed act based upon information received from any source, including tips submitted from the general public.

A person who violated the proposed act would be subject to a civil fine of up to \$25,000 for each violation.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The Attorney General would be able to perform any investigations required under the bill provided the number of cases was minimal. If the number of cases exceeded the capacities of the Office of Attorney General, additional appropriations could be required.

Any civil fines levied under the bill would benefit the General Fund.

Fiscal Analyst: Joe Carrasco

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.