

SENATE BILL No. 356

March 10, 2009, Introduced by Senators PATTERSON, GEORGE, WHITMER and BASHAM and referred to the Committee on Health Policy.

A bill to regulate certain activities of carriers with regard to medical benefit plans; to provide for the powers and duties of certain state and local governmental officers and entities; to provide for certain reports; and to prescribe certain penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Carrier" means a health, dental, or vision insurance
3 company authorized to do business in this state under, and a health
4 maintenance organization or multiple employer welfare arrangement
5 operating under, the insurance code of 1956, 1956 PA 218, MCL
6 500.100 to 500.8302; a system of health care delivery and financing
7 operating under section 3573 of the insurance code of 1956, 1956 PA
8 218, MCL 500.3573; a nonprofit dental care corporation operating

1 under 1963 PA 125, MCL 550.351 to 550.373; a nonprofit health care
2 corporation operating under the nonprofit health care corporation
3 reform act, 1980 PA 350, MCL 550.1101 to 550.1704; a voluntary
4 employees' beneficiary association described in section 501(c)(9)
5 of the internal revenue code, 26 USC 501; a pharmacy benefits
6 manager; and any other person providing a plan of health benefits,
7 coverage, or insurance in this state.

8 (b) "Drug" means that term as defined in section 17703 of the
9 public health code, 1978 PA 368, MCL 333.17703.

10 (c) "Health care professional" means an individual licensed,
11 registered, or otherwise authorized to engage in the practice of a
12 health profession under article 15 of the public health code, 1978
13 PA 368, MCL 333.16101 to 333.18838.

14 (d) "Health facility or agency" means that term as defined in
15 section 20106 of the public health code, 1978 PA 368, MCL
16 333.20106.

17 (e) "Medical benefit plan" means a plan, established and
18 maintained by a carrier or 1 or more employers, that provides for
19 the payment of medical, optical, or dental benefits, including, but
20 not limited to, hospital and physician services, prescription
21 drugs, and related benefits, to employees.

22 (f) "Pharmacist" means a person licensed or otherwise
23 authorized to engage in the practice of pharmacy under part 177 of
24 the public health code, 1978 PA 368, MCL 333.17701 to 333.17780.

25 (g) "Physician" means an individual licensed or otherwise
26 authorized to practice as a physician under part 170 or part 175 of
27 the public health code, 1978 PA 368, MCL 333.17001 to 333.17084 and

1 MCL 333.17501 to 333.17556.

2 (h) "Provider" means a health facility or agency or a
3 physician.

4 Sec. 2. A carrier or any person acting on a carrier's behalf
5 shall not do any of the following:

6 (a) Pay a physician or other health care professional to
7 prescribe a specific drug or type of drug.

8 (b) Pay a physician, pharmacist, or other health care
9 professional to switch a stable patient from 1 drug to another
10 specific drug or type of drug.

11 (c) Provide financial incentives to a physician or other
12 health care professional to prescribe a specific drug or type of
13 drug.

14 (d) Provide a cash bonus or other reward to a physician or
15 other health care professional for compliance with medical benefit
16 plan guidelines regarding drugs to be used.

17 (e) Withhold a portion of a physician's or other health care
18 professional's compensation or financially penalize a physician or
19 other health care professional in some other way for failure to
20 comply with specific medication use mandates.

21 (f) Provide incentives or other inducements to a physician or
22 other health care professional to prescribe a specific drug or type
23 of drug.

24 (g) Engage in any other activity that may be viewed as a
25 kickback for prescribing a specific drug or type of drug.

26 Sec. 3. (1) On or before February 1, May 1, August 1, and
27 November 1 every year, a carrier shall report all of the following

1 to the attorney general for the immediately preceding quarter:

2 (a) Any payments, financial incentives, or other inducements
3 to physicians or other health care professionals that may be viewed
4 as an inducement to a physician or other health care professional
5 to prescribe a specific drug or type of drug or to switch a stable
6 patient from 1 drug to another specific drug or type of drug.

7 (b) Any other information the attorney general requires.

8 (2) Except as otherwise provided in subsection (3), on or
9 before February 1, May 1, August 1, and November 1 every year, a
10 physician or other health care professional shall report all of the
11 following to the attorney general for the immediately preceding
12 quarter:

13 (a) The receipt of any payments, financial incentives, or
14 other inducements from carriers that may be viewed as an inducement
15 to prescribe a specific drug or type of drug. A physician or other
16 health care professional is not required under this subdivision to
17 report regular compensation that is paid for the health care or
18 consulting services of that physician or other health care
19 professional, unless it is tied to the prescribing of a specific
20 drug or type of drug.

21 (b) Any other information the attorney general requires.

22 (3) On or before February 1, May 1, August 1, and November 1
23 every year, a pharmacist shall report all of the following to the
24 attorney general for the immediately preceding quarter:

25 (a) Any payments, financial incentives, or other inducements
26 to physicians or other health care professionals that may be viewed
27 as an inducement to a physician or other health care professional

1 to switch a stable patient from 1 drug to another specific drug or
2 type of drug.

3 (b) Any other information the attorney general requires.

4 Sec. 4. The attorney general shall promptly investigate
5 possible violations of this act based upon information received
6 from any source, including tips submitted from the general public.

7 Sec. 5. A person who violates this act is subject to a civil
8 fine not to exceed \$25,000.00 for each violation.