

Legislative Analysis



REBATE FOR MULTIPLE SCLEROSIS TREATMENT NOT PROHIBITED

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Senate Bill 502 (S-3) as passed by the Senate
Sponsor: Sen. Jim Marleau
House Committee: Health Policy
Senate Committee: Health Policy
Complete to 3-3-16

SUMMARY:

The Health Care False Claim Act contains exceptions to the general prohibition against kickbacks, bribes, and rebates for furnishing health care goods, services, and benefits. Senate Bill 502 would amend the act to include among those exceptions a payment from a drug manufacturer for a health care service associated with the use of a multiple sclerosis drug ("qualified drug" in the bill).

Section 4 of the act states that it is a felony to solicit, offer, pay, or receive a kickback or bribe in connection to provision of health services, or receive a rebate in return for referring one person to another for the furnishing of health care benefits. Certain rebates, discounts, and monetary payments are excepted from the prohibition, and Senate Bill 502 would add a category to the list of exceptions.

Specifically, Section 4 states:

A person who solicits, offers, pays, or receives a kickback or bribe in connection with the furnishing of goods or services for which payment is or may be made in whole or in part by a health care corporation or health care insurer, or who receives a rebate of a fee or charge for referring an individual to another person for the furnishing of health care benefits, is guilty of a felony, punishable by imprisonment for not more than four years, or by a fine of not more than \$50,000.00, or both.

Senate Bill 502 provides that the prohibition does not apply to a monetary payment from a drug manufacturer to a consumer, the consumer's health professional, or a vendor that has a contract with the drug manufacturer, for a health care service required or recommended in conjunction with use of the multiple sclerosis drug. The bill also lists the applicable services that may be recommended or required along with the multiple sclerosis drugs.

"Qualified drug" refers to a drug that has a U.S. Food and Drug Administration-approved indication to serve multiple sclerosis. **"Consumer's health professional"** refers to a health professional who did not prescribe the qualified drug or who did not have a financial relationship to the health professional who prescribed it.

The bill would take effect 90 days after enactment.

MCL 752.1004a

FISCAL IMPACT:

This bill would have no fiscal impact on state or local government.

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