

Legislative Analysis



ADMINISTRATION OF A DRUG

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 809 as reported from House committee

Sponsor: Sen. Jim Stamas

1st House Committee: Health Policy

2nd House Committee: Ways and Means

Senate Committee: Health Policy and Human Services

Complete to 12-16-20

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 317 of 2020)

SUMMARY:

Senate Bill 809 would amend the Health Care False Claim Act to exempt certain acts from being considered violations of the prohibition against kickbacks and bribes.

Section 4 of the act provides that a person who solicits, offers, pays, or receives a kickback or bribe in connection with furnishing 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 up to four years, a fine of up to \$50,000, or both.

Section 4a provides that the prohibition in section 4 does not apply to a rebate or discount from a drug manufacturer or from a company that licenses or distributes the drugs of a drug manufacturer to a consumer for the consumer's use of a drug manufactured or licensed or distributed by the drug manufacturer or company. The prohibition also 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 that the prescribing information of a qualified drug requires or recommends for initiating drug therapy.

The bill would amend the exception in section 4a to apply when the drugs are for the benefit of a consumer and to apply to the *administration* of a drug (in addition to use of a drug), including for consumer cost-sharing requirements for the administration or drug.

Administration, as used in that instance, would mean injection, infusion, or similar means of application.

MCL 752.1004

FISCAL IMPACT:

The bill would not have an appreciable fiscal impact on any unit of state or local government.

POSITIONS:

A representative of the Michigan Institute for Neurological Disorders testified in support of the bill. (12-2-20)

The National Multiple Sclerosis Society indicated support for the bill. (12-15-20)

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Marcus Coffin

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.