

# HOUSE BILL NO. 4350

February 24, 2021, Introduced by Reps. Young, Brann, Whiteford, Borton, Lightner, Roth, Bezotte, Frederick, Allor, Glenn, Farrington, Bellino, Wozniak, Yaroch, O'Malley and Calley and referred to the Committee on Health Policy.

A bill to amend 1984 PA 323, entitled "The health care false claim act," by amending sections 2 and 4a (MCL 752.1002 and 752.1004a), section 4a as amended by 2016 PA 80.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 2. As used in this act:
- 2           (a) "Claim" means any attempt to cause a health care
- 3 corporation or health care insurer to make the payment of a health
- 4 care benefit.

1 (b) "Deceptive" means making a claim to a health care  
2 corporation or health care insurer ~~which~~**that** contains a statement  
3 of fact or ~~which~~ fails to reveal a material fact, which statement  
4 or failure leads the health care corporation or health care insurer  
5 to believe the represented or suggested state of affair to be other  
6 than it actually is.

7 (c) "False" means wholly or partially untrue or deceptive.

8 (d) "Health care benefit" means the right under a contract or  
9 a certificate or policy of insurance to have a payment made by a  
10 health care corporation or health care insurer for a specified  
11 health care service.

12 (e) "Health care corporation" means a nonprofit dental care  
13 corporation incorporated under ~~Act No. 125 of the Public Acts of~~  
14 ~~1963, being sections 550.351 to 550.373 of the Michigan Compiled~~  
15 ~~Laws; 1963 PA 125, MCL 550.351 to 550.373;~~ a hospital service  
16 corporation, medical care corporation, or a consolidated hospital  
17 service corporation and medical care corporation incorporated or  
18 reincorporated under ~~Act No. 350 of the Public Acts of 1980, being~~  
19 ~~sections 550.1101 to 550.1704 of the Michigan Compiled Laws, or~~  
20 ~~incorporated or consolidated under Act No. 108 or 109 of the Public~~  
21 ~~Acts of 1939; **the nonprofit health care corporation reform act,**~~  
22 **1980 PA 350, MCL 550.1101 to 550.1704;** or a health maintenance  
23 organization licensed under ~~Act No. 368 of the Public Acts of 1978,~~  
24 ~~being sections 333.1101 to 333.25211 of the Michigan Compiled~~  
25 ~~Laws.~~**chapter 35 of the insurance code of 1956, 1956 PA 218, MCL**  
26 **500.3501 to 500.3573.**

27 (f) "Health care insurer" means any insurance company  
28 authorized to provide health insurance in this state or any legal  
29 entity ~~which~~**that** is self-insured and providing health care

1 benefits to its employees.

2 (g) "Health facility or agency" means ~~a health facility or~~  
 3 ~~agency, as that term as~~ defined in section 20106 of the public  
 4 health code, ~~Act No. 368 of the Public Acts of 1978, being section~~  
 5 ~~333.20106 of the Michigan Compiled Laws. 1978 PA 368, MCL 333.20106.~~

6 (h) "Knowing" and "knowingly" means that a person is in  
 7 possession of facts under which he or she is aware or should be  
 8 aware of the nature of his or her conduct and that his or her  
 9 conduct is substantially certain to cause the payment of a health  
 10 care benefit. "Knowing" or "knowingly" does not include conduct  
 11 ~~which that~~ is an error or mistake unless the person's course of  
 12 conduct indicates a systematic or persistent tendency to cause  
 13 inaccuracies to be present.

14 (i) "Person" means an individual, corporation, partnership,  
 15 association, or any other legal entity.

16 Sec. 4a. (1) Neither of the following violates section 4:

17 (a) A rebate, ~~or~~ discount, **product voucher, or other reduction**  
 18 **in a consumer's out-of-pocket expenses, including a copayment or**  
 19 **deductible**, from a drug manufacturer or ~~from~~ a company that  
 20 licenses or distributes the drugs of a drug manufacturer to ~~a~~ **the**  
 21 consumer for the consumer's use of a drug manufactured, ~~or~~  
 22 licensed, or distributed by the drug manufacturer or company, **but**  
 23 **only if both of the following are met:**

24 (i) **The rebate, discount, product voucher, or other reduction**  
 25 **is not for a drug that has a lower-cost generically equivalent drug**  
 26 **product or biosimilar drug product, that a contract, certificate,**  
 27 **or policy issued by a health care insurer or health care**  
 28 **corporation covering the consumer provides coverage for on a lower**  
 29 **cost-sharing tier.**

1           (ii) **The rebate, discount, product voucher, or other reduction**  
 2 **is made available to all eligible individuals regardless of how the**  
 3 **drug is paid for when it is provided to the consumer.**

4           (b) A monetary payment from a drug manufacturer to a consumer,  
 5 the consumer's health professional, or a vendor that has a contract  
 6 with the drug manufacturer, for a health care service that the  
 7 prescribing information of a ~~qualified~~ drug requires or recommends  
 8 for initiating drug therapy.

9           (2) This section does not alter any copayment, deductible,  
 10 coinsurance, or other cost-sharing requirements under a contract,  
 11 certificate, or policy issued by a health care corporation or  
 12 health care insurer.

13           (3) As used in this section:

14           (a) "Consumer's health professional" means a health  
 15 professional who did not prescribe the ~~qualified~~ drug or who does  
 16 not have a financial relationship to the health professional who  
 17 prescribed the ~~qualified~~ drug.

18           (b) **"Eligible individual" means an individual who is not**  
 19 **otherwise prohibited under state or federal law from receiving or**  
 20 **using a rebate, discount, product voucher, or other reduction in**  
 21 **the individual's out-of-pocket expenses, including a copayment or**  
 22 **deductible.**

23           (c) ~~(b)~~—"Health care service" means any of the following:

24           (i) Monitoring for bradycardia or atrioventricular conduction.

25           (ii) Monitoring blood pressure.

26           (iii) An electrocardiogram.

27           (iv) A cardiac evaluation by a physician.

28           (v) A complete blood count test.

29           (vi) A liver function test.

1 (vii) An eye examination for macular edema.

2 (viii) A pulmonary function test, if clinically indicated.

3 (ix) A vaccination.

4 (x) An additional service included in the prescribing  
5 information by the United States Food and Drug Administration.

6 (d) ~~(e)~~ "Health professional" means an individual who is  
7 licensed or otherwise authorized to engage in a health profession  
8 under article 15 of the public health code, 1978 PA 368, MCL  
9 333.16101 to 333.18838.

10 (e) ~~(d)~~ "Physician" means an individual licensed or otherwise  
11 authorized to engage in the practice of medicine under part 170 of  
12 the public health code, 1978 PA 368, MCL 333.17001 to ~~333.17084,~~  
13 **333.17097**, or to engage in the practice of osteopathic medicine and  
14 surgery under part 175 of the public health code, 1978 PA 368, MCL  
15 333.17501 to 333.17556.

16 ~~(e) "Qualified drug" means a drug that has a United States~~  
17 ~~Food and Drug Administration approved indication to treat multiple~~  
18 ~~sclerosis.~~