

SUBSTITUTE FOR  
HOUSE BILL NO. 4351

A bill to amend 1984 PA 218, entitled  
"Third party administrator act,"  
by amending the title and section 2 (MCL 550.902) and by adding  
sections 26 and 27.

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

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TITLE

An act to provide for the regulation of third party  
administrators **and carriers**; to provide for the licensure of  
administrative service managers; to provide for certain powers and  
duties for certain state agencies and officers; to provide for the  
confidentiality of certain personal data; and to prescribe  
penalties for a violation of this act.

Sec. 2. As used in this act:

1 (a) "Administrative services manager" or "manager" means an  
2 individual responsible for conducting the daily operations of a  
3 third party administrator.

4 (b) "Benefit plan" or "plan" means a medical, surgical,  
5 dental, vision, or health care benefit plan and may include  
6 coverage under a policy or certificate issued by a carrier.

7 (c) "Board" means the TPA advisory board created under section  
8 19.

9 (d) "Carrier" means ~~any of the following:~~

10 ~~(i) An **an** insurer, which is **including a health maintenance**~~  
11 ~~**organization**, regulated pursuant to **under** the insurance code of~~  
12 ~~1956, Act No. 218 of the Public Acts of 1956, being sections **1956**~~  
13 ~~**PA 218, MCL** 500.100 to 500.8302, of the Michigan Compiled Laws.~~

14 ~~(ii) A medical care corporation regulated pursuant to Act No.~~  
15 ~~108 of the Public Acts of 1939, being sections 550.301 to 550.316~~  
16 ~~of the Michigan Compiled Laws.~~

17 ~~(iii) A hospital service corporation regulated pursuant to Act~~  
18 ~~No. 109 of the Public Acts of 1939, being sections 550.501 to~~  
19 ~~550.517 of the Michigan Compiled Laws.~~

20 ~~(iv) A health care corporation regulated pursuant to the~~  
21 ~~nonprofit health care corporation reform act, Act No. 350 of the~~  
22 ~~Public Acts of 1980, being sections 550.1101 to 550.1704 of the~~  
23 ~~Michigan Compiled Laws.~~

24 ~~(v) A health maintenance organization regulated under part 210~~  
25 ~~of the public health code, Act No. 368 of the Public Acts of 1978,~~  
26 ~~being sections 333.21001 to 333.21099 of the Michigan Compiled~~  
27 ~~Laws.~~

28 ~~(vi) A **or a** dental care corporation regulated pursuant to Act~~  
29 ~~No. 125 of the Public Acts of 1963, being sections **under 1963 PA**~~

1 **125, MCL 550.351 to 550.373. ~~of the Michigan Compiled Laws.~~**

2 (e) "Commissioner" means the ~~commissioner of insurance of this~~  
3 ~~state.~~ **director.**

4 (f) "Department" means the department of insurance and  
5 **financial services.**

6 (g) "Director" means the director of the department.

7 (h) ~~(f)~~ "ERISA" means the employee retirement income security  
8 act of 1974, ~~as amended, Public Law 93-406. , 88 Stat. 829.~~

9 (i) ~~(g)~~ "Person" means an individual, sole proprietorship,  
10 partnership, corporation, association, or any other legal entity.

11 (j) ~~(h)~~ "Personal data" means any record or information  
12 pertaining to the diagnosis, treatment, or health of an individual  
13 covered by a plan.

14 (k) "Pharmacy" means that term as defined in section 17707 of  
15 the public health code, 1978 PA 368, MCL 333.17707.

16 (l) "Pharmacy benefit manager" means a person that contracts  
17 with a pharmacy on behalf of an employer, multiple employer welfare  
18 arrangement, public employee benefit plan, state agency, insurer,  
19 managed care organization, or other third party payer to provide  
20 pharmacy health benefits services or administration, including  
21 reimbursement. Pharmacy benefit manager includes a carrier that  
22 administers the carrier's pharmacy benefit plan.

23 (m) ~~(i)~~ "Processes claims" means the administrative services  
24 performed in connection with a claim for benefits under a plan.

25 (n) ~~(j)~~ "Service contract" means the written agreement for the  
26 provision of administrative services between the TPA and a plan, a  
27 sponsor of a plan, or a carrier.

28 (o) ~~(k)~~ "Third party administrator" or "TPA" means a person  
29 ~~who that~~ processes claims pursuant to **under** a service contract and

1 ~~who~~**that** may also provide 1 or more other administrative services  
 2 ~~pursuant to~~**under** a service contract, other than under a worker's  
 3 compensation self-insurance program pursuant to section 611 of the  
 4 worker's disability compensation act of 1969, ~~Act No. 317 of the~~  
 5 ~~Public Acts of 1969, being section~~**1969 PA 317, MCL 418.611.** ~~of the~~  
 6 ~~Michigan Compiled Laws.~~**Third party administrator includes a**  
 7 **pharmacy benefit manager and carrier.** Third party administrator  
 8 does not include a ~~carrier or an~~ employer sponsoring a plan.

9       **Sec. 26. (1) A carrier or pharmacy benefit manager that**  
 10 **reimburses a 340B entity for drugs that are subject to an agreement**  
 11 **under 42 USC 256b shall not reimburse the 340B entity for pharmacy-**  
 12 **dispensed drugs or provider-administered drugs at a rate lower than**  
 13 **that paid for the same drug to pharmacies that are not 340B**  
 14 **entities or engage in any other discriminatory practices against**  
 15 **340B entities including adjustment, network exclusions, or**  
 16 **interference with patient choice of pharmacy or provider. As used**  
 17 **in this subsection:**

18           (a) "Covered entity" means that term as defined in 42 USC  
 19 256b.

20           (b) "340B entity" means a covered entity and any pharmacy with  
 21 which the covered entity has entered into a contract for the  
 22 delivery of pharmacy-related services by the pharmacy.

23           (2) A carrier or pharmacy benefit manager shall not require a  
 24 patient to pay a copay that is higher than the selling cost of the  
 25 drug dispensed to the patient.

26           (3) A carrier or pharmacy benefit manager shall not exclude or  
 27 discriminate against a pharmacy solely based on the carrier not  
 28 having a vested financial interest in the pharmacy. As used in this  
 29 subsection, "having a vested financial interest" means having

1 ownership, having co-ownership, being a shareholder, or having  
2 another connection from which financial gain or loss could be  
3 realized.

4       Sec. 27. A contract between a carrier or a pharmacy benefit  
5 manager and a pharmacy must not prohibit the pharmacy from  
6 disclosing the current selling price of a drug in accordance with  
7 section 17757 of the public health code, 1978 PA 368, MCL  
8 333.17757. This section applies to a contract described in this  
9 section executed, extended, or renewed on or after the effective  
10 date of the amendatory act that added this section.