

HOUSE BILL NO. 4351

February 24, 2021, Introduced by Reps. Whitsett, Brann, Lightner, Rendon, Whiteford, Borton, Allor, Glenn, Farrington, Bellino, Yaroach, Wozniak, O'Malley, Calley and Aiyash and referred to the Committee on Health Policy.

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:

1 TITLE
2 An act to provide for the regulation of third party
3 administrators **and carriers**; to provide for the licensure of
4 administrative service managers; to provide for certain powers and

1 duties for certain state agencies and officers; to provide for the
2 confidentiality of certain personal data; and to prescribe
3 penalties for a violation of this act.

4 Sec. 2. As used in this act:

5 (a) "Administrative services manager" or "manager" means an
6 individual responsible for conducting the daily operations of a
7 third party administrator.

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

11 (c) "Board" means the TPA advisory board created under section
12 19.

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

14 ~~(i) An~~ **an** insurer, which is ~~including a health maintenance~~
15 **organization**, regulated ~~pursuant to~~ **under** the insurance code of
16 1956, Act No. 218 of the Public Acts of 1956, being sections ~~1956~~
17 **PA 218, MCL** 500.100 to 500.8302, of the Michigan Compiled Laws.

18 ~~(ii) A medical care corporation regulated pursuant to Act No.~~
19 ~~108 of the Public Acts of 1939, being sections 550.301 to 550.316~~
20 ~~of the Michigan Compiled Laws.~~

21 ~~(iii) A hospital service corporation regulated pursuant to Act~~
22 ~~No. 109 of the Public Acts of 1939, being sections 550.501 to~~
23 ~~550.517 of the Michigan Compiled Laws.~~

24 ~~(iv) A health care corporation regulated pursuant to the~~
25 ~~nonprofit health care corporation reform act, Act No. 350 of the~~
26 ~~Public Acts of 1980, being sections 550.1101 to 550.1704 of the~~
27 ~~Michigan Compiled Laws.~~

28 ~~(v) A health maintenance organization regulated under part 210~~
29 ~~of the public health code, Act No. 368 of the Public Acts of 1978,~~

1 ~~being sections 333.21001 to 333.21099 of the Michigan Compiled~~
 2 ~~Laws.~~

3 ~~(vi) A or a dental care corporation regulated pursuant to Act~~
 4 ~~No. 125 of the Public Acts of 1963, being sections under 1963 PA~~
 5 ~~125, MCL 550.351 to 550.373. of the Michigan Compiled Laws.~~

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

8 (f) "Department" means the department of insurance and
 9 **financial services.**

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

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

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

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

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

20 (l) "Pharmacy benefit manager" means a person that contracts
 21 with a pharmacy on behalf of an employer, multiple employer welfare
 22 arrangement, public employee benefit plan, state agency, insurer,
 23 managed care organization, or other third party payer to provide
 24 pharmacy health benefits services or administration, including
 25 reimbursement.

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

28 (n) ~~(j)~~—"Service contract" means the written agreement for the
 29 provision of administrative services between the TPA and a plan, a

1 sponsor of a plan, or a carrier.

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

12 **Sec. 26. (1) A pharmacy benefit manager that reimburses a 340B**
 13 **entity for drugs that are subject to an agreement under 42 USC 256b**
 14 **shall not reimburse the 340B entity for pharmacy-dispensed drugs at**
 15 **a rate lower than that paid for the same drug to pharmacies similar**
 16 **in prescription volume that are not 340B entities. As used in this**
 17 **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 shall not require a patient to pay a copay that
 24 is higher than the cost of the drug dispensed to the patient.

25 (3) A carrier shall not exclude or discriminate against a
 26 pharmacy solely based on the carrier not having a vested financial
 27 interest in the pharmacy. As used in this subsection, "having a
 28 vested financial interest" means having ownership, having co-
 29 ownership, being a shareholder, or having another connection from

1 which financial gain or loss could be realized.

2 Sec. 27. A contract between a pharmacy benefit manager and a
3 pharmacy must provide that the pharmacy may disclose the current
4 selling price of a drug as provided in section 17757 of the public
5 health code, 1978 PA 368, MCL 333.17757. This section applies to a
6 contract described in this section executed, extended, or renewed
7 on or after the effective date of the amendatory act that added
8 this section.