

**SUBSTITUTE FOR
SENATE BILL NO. 1088**

A bill to amend 1984 PA 218, entitled
"Third party administrator act,"
by amending section 26 (MCL 550.926), as added by 2022 PA 12.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 26. (1) A carrier or third party administrator that is a
2 pharmacy benefit manager ~~shall~~**must** not prohibit a 340B Program
3 entity or a pharmacy that has a license in good standing in this
4 state under contract with a 340B Program entity from participating
5 in the carrier's or third party administrator that is a pharmacy
6 benefit manager's provider network solely because it is a 340B
7 Program entity or a pharmacy under contract with a 340B Program
8 entity. A carrier or third party administrator that is a pharmacy
9 benefit manager shall not reimburse a 340B Program entity or a



1 pharmacy under contract with a 340B Program entity differently than
2 other similarly situated pharmacies. As used in this subsection,
3 "340B Program entity" means an entity authorized to participate in
4 the federal 340B Program under section 340B of the public health
5 service act, 42 USC 256b.

6 (2) A carrier or other third party, or a third party
7 administrator that is a pharmacy benefit manager, shall not, except
8 as required by law to prevent a duplicate rebate, require a claim
9 for a drug to include a modifier or otherwise to indicate that the
10 drug is a 340B drug unless the claim is for payment, directly or
11 indirectly, by the Medicaid program. As used in this subsection:

12 (a) "Medicaid program" means the program for medical
13 assistance established under title XIX of the social security act,
14 42 USC 1396 to 1396w-6.

15 (b) "Rebate" means a formulary discount or remuneration
16 attributable to the use of prescription drugs that is paid by a
17 manufacturer or third party, directly or indirectly, to a pharmacy
18 benefit manager after a claim has been adjudicated at a pharmacy.
19 Rebate does not include a fee, including, but not limited to, a
20 bona fide service fee or administrative fee, that is not a
21 formulary discount or remuneration described in this subdivision.

22 (c) "Third party" does not include a pharmacy benefit manager
23 or carrier.

24 (d) "340B drug" means a covered drug as that term is defined
25 in 42 USC 256b.

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



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