



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5947 (Substitute H-3 as passed by the House)
House Bill 5970 (Substitute H-2 as passed by the House)
Sponsor: Representative Brian Palmer (H.B. 5947)
Representative Gary A. Newell (H.B. 5970)
House Committee: Health Policy
Senate Committee: Health Policy

Date Completed: 10-6-04

CONTENT

House Bills 5947 (H-3) and 5970 (H-2) would amend the Health Care False Claim Act to provide that a rebate or discount to a consumer for specific health services would not violate a prohibition against giving or receiving a kickback or bribe, or receiving a rebate for referring an individual to a specific health insurer.

House Bill 5947 (H-3) would apply to a rebate or discount from a medical supply or device manufacturer, or from a company that licenses or distributes medical supplies or devices for a manufacturer to a consumer for his or her use of a medical supply or device manufactured, licensed, or distributed by that manufacturer or company. House Bill 5970 (H-2) would apply to a drug manufacturer or a company that licenses or distributes the drugs of a manufacturer to a consumer for his or her use of a drug manufactured, licensed, or distributed by that manufacturer or company. The bills are tie-barred to each other.

Under the Act, a person who solicits, offers, pays, or receives a kickback or bribe in connection with the furnishing of 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 and/or a maximum fine of \$50,000.

The bills state that they would not alter any copayment, deductible, coinsurance, or other cost-sharing requirements under a contract, certificate, or policy issued by a health care corporation or health care insurer.

Proposed MCL 752.1004b (H.B. 5947)
Proposed MCL 752.1004a (H.B. 5970)

Legislative Analyst: Julie Koval

FISCAL IMPACT

According to the Department of Corrections Statistical Report, in 2001 there was only one offender convicted of violating the applicable section prohibiting kickbacks or bribes. That offender received either a fine or a delayed or suspended sentence. Although there are no available data on whether the offender would have been exempt under the bills, if one assumes that future convictions will be similar to those of the past, the bill would have no significant fiscal impact on the State or local government.

Fiscal Analyst: Bethany Wicksall

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.