

SENATE BILL No. 594

June 19, 2003, Introduced by Senator EMERSON and referred to the Committee on Appropriations.

A bill to amend 1978 PA 368, entitled
"Public health code,"
(MCL 333.1101 to 333.25211) by adding section 17744.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17744. (1) The department of community health shall
2 establish a medicaid pharmacy advisory committee for the purpose
3 of monitoring, evaluating, and providing input to the department
4 of community health regarding the prescription drug dispensing
5 assessment plan implemented under this section. The medicaid
6 pharmacy advisory committee shall consist of actively practicing
7 individuals who are representative of all areas of pharmacy
8 practice, including, but not limited to, the Michigan pharmacists
9 association, the Michigan retailers association, and the long
10 term care pharmacy alliance or their successor organizations.

11 (2) The department of community health shall assess a

1 prescription drug dispensing assessment fee on a quarterly basis
2 as provided in this section for prescription dispensing
3 transactions involving covered outpatient drugs that are
4 dispensed by a pharmacy licensed under section 17741 regardless
5 of the physical location of the pharmacy or the method of
6 delivery of the prescription to the individual. The prescription
7 drug dispensing assessment fee shall be based on the number of
8 original and refill prescriptions for covered outpatient drugs
9 that are dispensed and delivered directly to individuals within
10 this state. The prescription drug dispensing assessment fee
11 shall be based upon the following fee schedule unless otherwise
12 provided in a general or supplemental appropriations act for the
13 department of community health enacted after the effective date
14 of the amendatory act that added this section:

15 (a) In accordance with federal law and regulations, the
16 prescription drug dispensing assessment fee shall be assessed on
17 a per prescription fee basis ranging from 4 cents to \$3.00 as
18 determined by the department of community health to assure that
19 the prescription drug dispensing assessment fee does not disrupt
20 access to pharmaceuticals or negatively affect the market.

21 (b) The medicaid pharmaceutical dispensing fee established
22 under 2002 PA 519 shall be increased by \$3.30.

23 (3) The prescription drug dispensing assessment fee does not
24 apply to either of the following:

25 (a) A dispensing prescriber who holds a drug control license
26 and dispenses the prescriptions in accordance with section
27 17745.

1 (b) A pharmacy that dispenses a prescription without
2 receiving reimbursement for either the cost of the drug or the
3 cost of dispensing the drug.

4 (4) The prescription drug assessment fee collected under
5 subsection (2) shall be used only for the following purposes and
6 under the following circumstances:

7 (a) The prescription drug assessment fee shall be implemented
8 and assessed on the effective date of the amendatory act that
9 added this section and on the first day of each subsequent
10 quarter. The first payment is due 90 days after the effective
11 date of the amendatory act that added this section.

12 (b) Except as otherwise provided in this subdivision, the
13 department of community health shall no longer assess or collect
14 the prescription drug assessment fee after September 30, 2006.
15 If the prescription drug assessment fee or the medicaid
16 pharmaceutical dispensing fee established under subsection (2) is
17 changed by a subsequent general or supplemental appropriations
18 act for the department of community health, the department of
19 community health shall cease assessing or collecting the
20 prescription drug assessment fee on the effective date of that
21 subsequent general or supplemental appropriations act and the
22 medicaid pharmaceutical dispensing fee shall immediately revert
23 to the amount established under 2002 PA 519 unless specified
24 otherwise in that appropriations act.

25 (c) If a pharmacy fails to pay the assessment fee required
26 under subsection (2) or knowingly misrepresents the data required
27 under subsection (5), the department of community health may

1 assess the pharmacy a penalty of 5% of the calculated assessment
2 for each month that the assessment and penalty are not paid up to
3 a maximum of 50% of the assessment. The department of community
4 health may also refer for collection to the department of
5 treasury past due amounts consistent with section 13 of 1941 PA
6 122, MCL 205.13.

7 (d) The medicaid prescription drug dispensing assessment fund
8 is established in the state treasury. The department of
9 community health shall deposit the revenue raised through the
10 prescription drug dispensing assessment fee with the state
11 treasurer for deposit in the medicaid prescription drug
12 dispensing assessment fund.

13 (e) Neither the department of consumer and industry services
14 nor the department of community health shall implement this
15 section in a manner that conflicts with 42 U.S.C. 1396b(w).

16 (f) The prescription drug dispensing assessment fee shall be
17 assessed, collected, and administered in accordance with 1941 PA
18 122, MCL 205.1 to 205.31.

19 (g) The increase under subsection (2)(b) shall be used to
20 reimburse a pharmacy for the dispensing of covered outpatient
21 drugs to medicaid recipients enrolled in a health maintenance
22 organization established under chapter 35 of the insurance code
23 of 1956, 1956 PA 218, MCL 500.3501 to 500.3580. The
24 reimbursement rate shall be the equivalent of the increase under
25 subsection (2)(b) times the number of original and refill
26 prescriptions for covered outpatient drugs dispensed to a
27 medicaid recipient enrolled in a health maintenance

1 organization. If requested by the pharmacy, the department of
2 community health may offset the assessment fee owed by a pharmacy
3 against the reimbursement provided for under this subdivision.

4 (5) By January 15, April 15, July 15, and October 15 of each
5 year, a pharmacy licensed under section 17741 that dispenses and
6 delivers original and refill prescriptions for covered outpatient
7 drugs shall submit a report to the department of community health
8 on a form developed by the department of community health that
9 includes each of the following:

- 10 (a) The name of the pharmacy.
11 (b) The address of the place of practice.
12 (c) The name of the licensed pharmacist or contact person.
13 (d) The telephone number of the pharmacy.
14 (e) The pharmacy's federal tax identification number.
15 (f) The pharmacy identification number.
16 (g) The number of original and refill prescriptions for
17 covered outpatient drugs that were dispensed and delivered within
18 this state by the pharmacy for the previous calendar quarter.
- 19 (6) The department of community health shall determine the
20 amount of the prescription drug assessment fee to be assessed
21 quarterly to each pharmacy based upon the report submitted under
22 subsection (5) by that pharmacy.

23 (7) As used in this section:

- 24 (a) "Covered outpatient drug" means that term as defined
25 under 42 U.S.C. 1396r-8(k)(2) to (4).
26 (b) "Medicaid" means that term as defined in section 22207.

27 Enacting section 1. This amendatory act does not take

1 effect until October 1, 2003 and unless each of the following
2 conditions is satisfied:

3 (a) The United States department of health and human services
4 approves the increase of the pharmaceutical dispensing fee and
5 does not prohibit the implementation of the prescription drug
6 assessment fee as established in this amendatory act.

7 (b) The secretary of health and human services approves the
8 department of community health's application for a waiver of the
9 uniform fee requirement under 42 U.S.C. 1396b(w).