**South Carolina General Assembly**

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**H. 4305**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Herbkersman

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Introduced in the House on April 3, 2025

Currently residing in the House Committee on **Labor, Commerce and Industry**

Summary: Wellness reimbursement program

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/3/2025 House Introduced and read first time ([House Journal‑page 21](h:\hj\20250403.docx))

4/3/2025 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 21](h:\hj\20250403.docx))

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=4305&session=126&summary=B)  at the website

**VERSIONS OF THIS BILL**

[04/03/2025](https://www.scstatehouse.gov/sess126_2025-2026/prever/4305_20250403.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ADDING ARTICLE 25 TO CHAPTER 71, TITLE 38 ENTITLED “WELLNESS REIMBURSEMENT PROGRAMS” SO AS TO DEFINE TERMS, PROHIBIT CERTAIN ACTS BY WELLNESS REIMBURSEMENT PROGRAMS, REQUIRE REGISTRATION INCLUDING AN APPLICATION AND FEES WITH THE SECRETARY OF STATE, EXEMPT BROKERS FROM REGISTERING, AND TO PROVIDE FINES FOR FAILING TO REGISTER WHEN REQUIRED.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 71, Title 38 of the S.C. Code is amended by adding:

Article 25

Wellness Reimbursement Programs

Section 38‑71‑2510. As used in this article:

(1) “Wellness reimbursement program” means an insurer that has issued a contract to provide services, and pay claims pertaining to reimbursements of qualified medical expenses relating to Section 213(d) of the Internal Revenue Code. This definition includes all employer group self‑funded wellness programs.

(2) “Broker” means an independent health insurance agent licensed in this State.

(3) “End‑user” means an employee acquiring or proposing to acquire preventative health measures from a wellness reimbursement program company.

(4) “Dependents” means an end‑user’s spouse and minor children and all other persons for whom the end‑user claims on their tax return for the year the end‑user is enrolled in a wellness reimbursement program.

(5) “Qualified medical expense” means an expense within the meaning of Section 213(d) of the Internal Revenue Code.

(6) “Secretary” means the Secretary of State.

(7) “Third‑party administrator” means the licensed entity.

Section 38‑71‑2520. A wellness reimbursement program company and an employee or other representative of a wellness reimbursement program company must not:

(1) pursue or complete a contract with an employee group without complying with all applicable provisions in this article;

(2) define themselves as a wellness reimbursement program without being a certified Section 125 Health and Accident Plan either by way of compliance with the Affordable Care Act as an HMO plan approved to be made available on the marketplace or by way of compliance with the Department of Labor having a fully completed ERISA wrap document;

(3) conduct business in this State as a wellness reimbursement program without being fully and exclusively funded by employee contributions;

(4) conduct business in this State as a wellness reimbursement program that utilizes a fixed‑indemnity style program of any kind;

(5) conduct business in this State without also being a third‑party administrator that is directly licensed with this State and can maintain that license on a yearly basis;

(6) conduct business in this State without any monies related to the administrative responsibilities of the wellness reimbursement program being collected directly by the third‑party administrator licensed with this State. Wellness reimbursement program companies cannot outsource third‑party administration services as it pertains to the collection of funds of any kind. The wellness reimbursement program company and the third‑party administrator must be one entity;

(7) require the end‑user to spend their tax savings on fixed‑indemnity products or instruct the end‑user to spend their tax savings on any additional insurance services;

(8) profit from third‑party supplemental insurance offerings made during enrollment of a wellness reimbursement program, whether by themselves or by the broker representing their services;

(9) embed or offer additional indemnity, critical illness, specific disease, accident, long‑term disability, short‑term disability, permanent life, term life, or any other supplemental insurances deemed a conflict of interest by this State;

(10) reimburse any monies to the end‑user without being able to prove to the IRS any qualified medical expense as it pertains to the end‑user or their dependents in a tax‑return audit;

(11) intentionally advertise materially false or misleading information regarding its products or services;

(12) attempt to defraud the end‑user or their dependents by any means including, but not limited to, forgery or false identification.

Section 38‑71‑2530. A person may not provide any preventative health measures or provide wellness reimbursements to any employees in this State unless the person is registered with the Secretary to do business in this State as a wellness reimbursement program company.

Section 38‑71‑2540. A person may apply with the Secretary for registration to do business in this State as a wellness reimbursement program company. An application for an initial or renewed registration must be submitted on a form prescribed by the Secretary. An initial or renewed registration is valid for one year from the date it is issued and expires one year after the date it was issued. The registration may be renewed annually by the registrant on or before the expiration date. If a wellness reimbursement company fails to file with the Secretary a renewal application on or before the expiration date, then it will be required to file another initial application with the Secretary and pay the application fee for an initial application pursuant to this chapter.

Section 38‑71‑2550. An applicant must remit to the Secretary a fee of five thousand dollars for an initial registration and five hundred dollars for a renewed registration. This fee must be retained by the Secretary to offset the costs of processing and maintaining the registration of wellness reimbursement program companies required by the chapter.

Section 38‑71‑2560. A broker is not required to register as a wellness reimbursement program company to acquire commissions paid by such company. A broker is not an employee of the wellness reimbursement program company and is only necessary to facilitate the partnership of the wellness reimbursement program company and the respective employee group enrolling in the wellness reimbursement program being that the services of the wellness reimbursement program are not straight‑to‑market services.

Section 38‑71‑2570. (A) If a person fails to file with the Secretary an application for registration as a wellness reimbursement program as required by this article, the Secretary must notify the person of this delinquency by mailing a notice by certified mail, with return receipt requested, to the person’s last known address. If the required registration application is not filed within fifteen days after receipt of the notice, the Secretary may assess an administrative fine of twenty thousand dollars against the person.

(B) If the person does not claim a notice sent by certified mail, or the notice is returned to the Secretary by the United States Postal Service as undeliverable, then the Secretary must serve the notice upon the person as provided by law.

(C) A registration application required to be filed with the Secretary pursuant to this article which contains false or misleading statements, or which is incomplete, may be rejected by the Secretary and returned to the submitting party without being filed.

(D) A person who is assessed an administrative fine or who is denied registration has thirty days from receipt of certified notice or formal service of the notice from the Secretary to pay the fine or request an evidentiary hearing before the administrative law court. If a person fails to remit fines or request a hearing after the required notice is given and after thirty days from the date of receipt of certified notice or service of the notice has elapsed, then the Secretary may bring an action before the administrative law court to enjoin the person from engaging in further activities related to the purchase or transfer of structured settlements in this State. The decision of the administrative law court may be appealed as provided in Section 1‑23‑610.

(E) Any administrative fine revenue received pursuant to this chapter in a fiscal year may be retained by the Secretary to offset the expenses of enforcing this article.

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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