

(ii) The deduction of applicable attorney fees and litigation costs under paragraph (1) of this subsection may not be considered as payment for or contribution to those fees or costs by the Department.

(D) ANY ACTION BROUGHT UNDER THIS SECTION IS NOT EXCLUSIVE AND IS INDEPENDENT OF AND IN ADDITION TO ANY RIGHT, REMEDY, OR CAUSE OF ACTION AVAILABLE TO THE STATE, THE DEPARTMENT, ANY OTHER STATE AGENCY, OR A PROGRAM RECIPIENT OR ANY OTHER INDIVIDUAL.

(E) (1) (I) IN THIS SUBSECTION, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(II) "CIGARETTE" MEANS ANY ROLL OF TOBACCO WRAPPED IN:

1. PAPER;
2. A SUBSTANCE NOT CONTAINING TOBACCO; OR
3. A SUBSTANCE CONTAINING TOBACCO WHICH BECAUSE OF ITS APPEARANCE, THE TYPE OF TOBACCO USED IN THE FILLER, OR ITS PACKAGING AND LABELING, IS LIKELY TO BE USED BY THE CONSUMERS OF ORDINARY PAPER-WRAPPED CIGARETTES.

(III) 1. "MANUFACTURER OF A TOBACCO PRODUCT" MEANS A DESIGNER, PRODUCER, OR PROCESSOR OF A TOBACCO PRODUCT ENGAGED IN THE MARKETING OR PROMOTION OF A TOBACCO PRODUCT.

2. "MANUFACTURER OF A TOBACCO PRODUCT" INCLUDES AN ENTITY NOT OTHERWISE A MANUFACTURER OF A TOBACCO PRODUCT THAT IMPORTS A TOBACCO PRODUCT OR OTHERWISE HOLDS ITSELF OUT AS A MANUFACTURER OF A TOBACCO PRODUCT.

3. "MANUFACTURER OF A TOBACCO PRODUCT" DOES NOT INCLUDE:

A. A GROWER, BUYER, DEALER, DISTRIBUTOR, OR WHOLESALER OF LEAF TOBACCO; OR

B. A RETAILER, DISTRIBUTOR, OR WHOLESALER OF A TOBACCO PRODUCT.

(IV) "SMOKELESS TOBACCO" MEANS A PRODUCT THAT CONSISTS OF CUT, GROUND, POWDERED, OR LEAF TOBACCO THAT IS INTENDED TO BE PLACED IN THE ORAL CAVITY.

(V) "TOBACCO PRODUCT" MEANS CIGARETTES OR SMOKELESS TOBACCO.

(2) IN ANY ACTION UNDER THIS SECTION OR PURSUANT TO ANY OTHER RIGHT, REMEDY, OR CAUSE OF ACTION BROUGHT BY THE STATE AGAINST A MANUFACTURER OF A TOBACCO PRODUCT, THE CAUSATION AND THE AMOUNT OF MEDICAL ASSISTANCE EXPENDITURES ATTRIBUTABLE TO THE USE OF A TOBACCO PRODUCT MAY BE ~~PROVEN BY USE~~ PROVED OR DISPROVED BY EVIDENCE OF