

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1341 Session of
2002

INTRODUCED BY WAGNER, O'PAKE, MELLOW, STACK, KUKOVICH, WOZNIAK,
LOGAN, MUSTO, STOUT, KASUNIC, TARTAGLIONE, SCHWARTZ, EARLL,
BOSCOLA, KITCHEN, BODACK, HUGHES, COSTA, FUMO, C. WILLIAMS,
LAVALLE AND A. WILLIAMS, MARCH 19, 2002

REFERRED TO AGING AND YOUTH, MARCH 19, 2002

AN ACT

1 Amending the act of August 26, 1971 (P.L.351, No.91), entitled
2 "An act providing for a State Lottery and administration
3 thereof; authorizing the creation of a State Lottery
4 Commission; prescribing its powers and duties; disposition of
5 funds; violations and penalties therefor; exemption of prizes
6 from State and local taxation and making an appropriation,"
7 further providing for excessive pharmaceutical price
8 inflation discount.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Section 706 of the act of August 26, 1971
12 (P.L.351, No.91), known as the State Lottery Law, added November
13 21, 1996 (P.L.741, No.134), is amended to read:

14 Section 706. Excessive pharmaceutical price inflation discount.

15 (a) General rule.--A discount shall be provided to the
16 department for all covered prescription drugs. The discount
17 shall be calculated as follows:

18 (1) For each quarter for which a rebate under section
19 705(a) and (b) is to be paid after December 31, 1991, and
20 before January 1, 1997, the average manufacturer price for

1 each dosage form and strength of a covered prescription drug
2 shall be compared to the average manufacturer price for the
3 same form and strength in the previous calendar year, and a
4 percentage increase shall be calculated.

5 (2) For each quarter under paragraph (1), the average
6 percentage increase in the Producer Price Index for
7 Pharmaceuticals over the same quarter in the previous
8 calendar year shall be calculated.

9 (3) If the calculation under paragraph (1) is greater
10 than the calculation under paragraph (2), the discount amount
11 for each quarter shall be equal to the product of:

12 (i) the difference between the calculations under
13 paragraphs (1) and (2); and

14 (ii) the total number of units of each dosage form
15 and strength reimbursed by PACE and General Assistance
16 and the average manufacturer price reported by the
17 manufacturer under section 704(c)(1).

18 (b) Revised general rule.--A discount shall be provided to
19 the department for all covered prescription drugs. The discount
20 shall be calculated as follows:

21 (1) For each quarter for which a rebate under section
22 705(a) and (c) is to be paid after December 31, 1996, and
23 before January 1, 2003, the average manufacturer price for
24 each dosage form and strength of a covered prescription drug
25 shall be compared to the average manufacturer price for the
26 same form and strength in the previous calendar year and a
27 percentage increase shall be calculated.

28 (2) For each quarter under paragraph (1), the average
29 percentage increase in the Consumer Price Index-Urban over
30 the same quarter in the previous calendar year shall be

1 calculated.

2 (3) If the calculation under paragraph (1) is greater
3 than the calculation under paragraph (2), the discount amount
4 for each quarter shall be equal to the product of:

5 (i) the difference between the calculations under
6 paragraphs (1) and (2); and

7 (ii) the total number of units of each dosage form
8 and strength reimbursed by PACE, PACENET and designated
9 pharmaceutical programs and the average manufacturer
10 price reported by the manufacturer under section
11 704(c)(1).

12 (b.1) Discount after December 31, 2002.--A discount shall be
13 provided to the department for all the covered prescription
14 drugs. The discount shall be calculated as provided under this
15 subsection. For each quarter for which a discount specified in
16 this subsection for a rebate under section 705(a) and (c) is
17 paid after December 31, 2002, with respect to each dosage form
18 and strength reimbursed by PACE, PACENET and designated
19 pharmaceutical programs:

20 (1) the amount shall be increased by an amount equal to
21 the product of:

22 (i) the total number of units of each dosage form
23 and strength reimbursed by PACE, PACENET and designated
24 pharmaceutical programs, for which payment was made under
25 section 705(a) and (c) for the rebate period; and

26 (ii) the amount, if any, by which the average
27 manufacturer price for the dosage form and strength of
28 the drug for the period, exceeds the average manufacturer
29 price for such dosage form and strength for the calendar
30 quarter beginning July 1, 2002, without regard to whether

1 or not the drug has been sold or transferred to an
2 entity, including a division or subsidiary of the
3 manufacturer, after the first day of such quarter,
4 increased by the percentage by which the Consumer Price
5 Index-Urban for the quarter before the quarter in which
6 the rebate period begins exceeds such index for September
7 2002; or

8 (2) in the case of covered prescription drugs that have
9 not been marketed before October 1, 2002, the amount shall be
10 increased by an amount equal to the product of:

11 (i) the total number of units of each dosage form
12 and strength reimbursed by PACE, PACENET and designated
13 pharmaceutical programs, for which payment was made under
14 section 705(a) and (c) for the rebate period; and

15 (ii) the amount, if any, by which the average
16 manufacturer price for the dosage form and strength of
17 the drug for the period, exceeds the average manufacturer
18 price for such dosage form and strength for the first
19 full calendar quarter after the day on which the drug was
20 first marketed, without regard to whether or not the drug
21 has been sold or transferred to an entity, including a
22 division or subsidiary of the manufacturer, after the
23 first day of such quarter, increased by the percentage by
24 which the Consumer Price Index-Urban for the quarter
25 before the quarter in which the rebate period begins
26 exceeds such index for the month prior to the first month
27 of the first full calendar quarter after the day on which
28 the drug was first marketed.

29 (c) New bemarketed drugs.--For covered prescription drugs
30 that have not been marketed for a full calendar year, subsection

1 (a) shall apply after the covered prescription drug has been on
2 the market for four consecutive quarters. The drug's initial
3 average manufacturer price shall be based on the first day of
4 the first quarter that the drug was marketed.

5 Section 2. This act shall take effect immediately.