

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2263 Session of
2005

INTRODUCED BY McILHATTAN, HESS, THOMAS, GANNON, PYLE,
McNAUGHTON, CAPPELLI, ALLEN, ARGALL, ARMSTRONG, BAKER,
BALDWIN, BARRAR, BASTIAN, BEBKO-JONES, BELFANTI, BEYER,
BIRMELIN, BISHOP, BLAUM, BOYD, CALTAGIRONE, CASORIO, CAUSER,
CAWLEY, CIVERA, CLYMER, COHEN, CREIGHTON, CRUZ, CURRY, DALLY,
DeLUCA, DENLINGER, DeWEESE, DIVEN, ELLIS, D. EVANS, FABRIZIO,
FAIRCHILD, FEESE, FICHTER, FLEAGLE, FRANKEL, GABIG, GEIST,
GEORGE, GINGRICH, GOOD, GOODMAN, HABAY, HALUSKA, HARHART,
HARRIS, HASAY, HENNESSEY, HERMAN, HERSHEY, HICKERNELL,
HUTCHINSON, JAMES, KAUFFMAN, M. KELLER, KENNEY, KILLION, LEH,
MACKERETH, MAHER, MAITLAND, MAJOR, MANN, MARKOSEK, MANDERINO,
MARSICO, McGILL, McILHINNEY, METCALFE, MILLARD, R. MILLER,
S. MILLER, MUNDY, MUSTIO, NAILOR, OLIVER, O'NEILL, PALLONE,
PAYNE, PERZEL, PETRARCA, PETRI, PETRONE, PHILLIPS, PICKETT,
PISTELLA, QUIGLEY, RAPP, READSHAW, REED, REICHLEY, ROHRER,
RUBLEY, SAINATO, SATHER, SAYLOR, SCAVELLO, SCHRODER, SEMMEL,
SIPTROTH, S. H. SMITH, SONNEY, STABACK, STAIRS, STEIL, STERN,
R. STEVENSON, T. STEVENSON, SURRA, TANGRETTI, E. Z. TAYLOR,
J. TAYLOR, TIGUE, TRUE, WALKO, WATSON, WILT, WOJNAROSKI,
WRIGHT, YEWCIC, YOUNGBLOOD, McGEEHAN, LEDERER, DIGIROLAMO AND
GODSHALL, NOVEMBER 22, 2005

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
NOVEMBER 22, 2005

AN ACT

1 Establishing One Pennsylvania, a program to consolidate and
2 unify procedures and requirements for the administration of
3 all Commonwealth-funded, Commonwealth-administered and
4 Commonwealth-supported drug programs and for reimbursement
5 for pharmacy services.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the One

1 Pennsylvania Act.

2 Section 2. Definitions.

3 The following words and phrases when used in this act shall
4 have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Adjudication."

7 (1) Except as provided in paragraph (2), an action taken
8 by the Department of Aging, the Secretary of Aging or a
9 prescription drug plan pursuant to this act that constitutes
10 an adjudication as defined by 2 Pa.C.S. § 101 (relating to
11 definitions), including any of the following:

12 (i) A decision to allow a pharmacy to participate in
13 a prescription drug plan or to suspend, restrict or
14 revoke participation by a pharmacy in a prescription drug
15 plan.

16 (ii) A decision by the department to include or
17 exclude a medication from the formulary.

18 (iii) The establishment of pharmacy reimbursement
19 rates and formulas.

20 (iv) A decision to grant or deny prior authorization
21 for the dispensing of prescription drugs or to approve or
22 disapprove the dispensing of drugs not included on the
23 formulary.

24 (v) An action taken by the program based upon audits
25 of claims submitted for reimbursement by pharmacies.

26 (2) An action taken by the program with respect to
27 determining recipient eligibility shall not be deemed an
28 adjudication subject to this act.

29 "Alerts." Electronic communications between the Department
30 of Aging or the pharmacy benefits consolidation program and

pharmacies providing information pertaining to the
implementation of this act, including any of the following:

- (1) Information regarding formularies.
- (2) Drug utilization review.
- (3) Prior authorization.
- (4) Disease management programs.
- (5) Claims submission and adjudication procedures.
- (6) Audits.
- (7) Pharmacy and patient education.

"Best price." As defined under section 1927(c) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396r-8(c)).

"Department." The Department of Aging of the Commonwealth.

"Medical assistance program." The program established pursuant to Subarticle (f) of Article IV of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Medicare recipient." An individual residing in this Commonwealth who receives benefits under Part A of Subchapter XVIII of Chapter 7 of the Social Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.) or who is enrolled under Part B, C or D of Subchapter XVIII.

"Pharmaceutical manufacturer." A manufacturer as defined by section 1927(k)(5) of the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396r-8(k)(5)).

"Pharmacy." A pharmacy licensed pursuant to the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

"Pharmacy Act." The act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

"Pharmacy services." The provision of health care services defined as the practice of pharmacy by the act of September 27,

1 1961 (P.L.1700, No.699), known as the Pharmacy Act.

2 "Prescription drug." A covered outpatient drug as defined by
3 section 1927(k)(2) of the Social Security Act (49 Stat. 620, 42
4 U.S.C. § 1396r-8(k)(2)).

5 "Prescription drug plan." A program that pays for
6 prescription drugs dispensed to individuals enrolled in the
7 program that is supported directly or indirectly, in whole or in
8 part, by public funds, including all of the following:

9 (1) The medical assistance program, the Special
10 Pharmaceutical Benefit Program in the Department of Public
11 Welfare and the End Stage Renal Program in the Department of
12 Health.

13 (2) The Pharmaceutical Assistance Contract for the
14 Elderly (PACE) and any other pharmacy program administered by
15 the Commonwealth that is recognized by the Centers for
16 Medicare and Medicaid as a State pharmaceutical assistance
17 program.

18 (3) Programs paying for prescription drugs dispensed to
19 public employees, including programs established by the
20 Public School Employees' Retirement System, the State
21 Employees' Retirement System and the State Employees' Benefit
22 Trust Fund.

23 (4) A program that utilizes funds of this Commonwealth,
24 including the State Lottery Fund, to provide assistance in
25 obtaining prescription drugs to Medicare recipients.

26 (5) Programs where the Commonwealth purchases or
27 reimburses affiliates or designees for a pharmacy benefit.
28 The programs shall include the Children's Health Insurance
29 Program, Workers' Compensation Program and any program
30 administered by the Department of Corrections.

1 "Program." The pharmacy benefits consolidation program
2 established pursuant to section 3.

3 "Public School Employees' Retirement System." The retirement
4 system established by 24 Pa.C.S. Part IV (relating to retirement
5 for school employees).

6 "Public Welfare Code." The act of June 13, 1967 (P.L.31,
7 No.21), known as the Public Welfare Code.

8 "Secretary." The Secretary of Aging of the Commonwealth.

9 "Social Security Act." The Social Security Act (49 Stat.
10 620, 42 U.S.C. § 301 et seq.). A reference to the Social
11 Security Act shall include regulations implementing the Social
12 Security Act adopted by the United States Department of Health
13 and Human Services or the Centers for Medicare and Medicaid
14 Services.

15 "State agency." Any of the following entities that purchases
16 or provides coverage for prescription medications:

17 (1) An agency under the jurisdiction of the Governor.

18 (2) An independent agency.

19 (3) The General Assembly.

20 (4) The unified judicial system.

21 "State Employees' Benefit Trust Fund." The trust fund
22 established to purchase health insurance coverage, including
23 coverage for prescription medications, for State employees.

24 "State Employees' Retirement System." The retirement system
25 established under 71 Pa.C.S. Part XXV (relating to retirement
26 for State employees and officers).

27 Section 3. One Pennsylvania.

28 (a) Establishment.--The department shall establish a
29 pharmacy benefits consolidation program to be known as One
30 Pennsylvania. The program shall administer all Commonwealth

1 prescription drug plans through an integrated system of plan
2 administration using uniform standards and requirements for the
3 reimbursement of pharmacies as provided by this act. To the
4 extent consolidation is prohibited by Federal law or
5 regulations, the department may exclude particular prescription
6 drug plans from consolidated administration if the prescription
7 drug plan will be subject to the uniform standards and
8 requirements of this act, including requirements for the
9 reimbursement of pharmacies.

10 (b) Requirements.--The department shall do all of the
11 following:

12 (1) Manage and implement a uniform formulary for the
13 program under this act. A formulary shall include all
14 prescription drugs for which a manufacturer has entered into
15 a rebate agreement pursuant to section 5 and the requirements
16 and restrictions, except for prior authorization, provided by
17 section 1927(d) of the Social Security Act. The list of drugs
18 included in the formulary shall be publicly available, posted
19 electronically on the Internet website of the department and
20 communicated to pharmacies through alerts.

21 (2) Ensure that any program of prior authorization
22 provides for all of the following exceptions:

23 (i) No prior authorization shall be required where
24 the pharmacist confirms that a prescription for the drug
25 has been filled for the recipient within the 30 to 90
26 days immediately preceding presentation of the
27 prescription for dispensing.

28 (ii) No prior authorization shall be required where
29 the prescriber has indicated "MEDICALLY NECESSARY" on the
30 prescription.

1 (3) Ensure that any pharmacy licensed in this
2 Commonwealth is eligible to provide pharmacy services
3 according to any regulations adopted by the department
4 pursuant to this act.

5 (4) (i) Except as provided in subparagraph (ii), make
6 provisions for generic substitutions in accordance with
7 the act of November 24, 1976 (P.L.1163, No.259), referred
8 to as the Generic Equivalent Drug Law.

9 (ii) Notwithstanding the provisions of the Generic
10 Equivalent Drug Law and the act of August 26, 1971
11 (P.L.351, No.91), known as the State Lottery Law, generic
12 substitutions shall only be dispensed when it is less
13 expensive for the program.

14 (5) Provide for a program of prospective drug
15 utilization review consistent with section 1927(g)(2) of the
16 Social Security Act.

17 (6) Provide for prior authorization consistent with the
18 requirements of section 1927(d)(5) of the Social Security Act
19 and in accordance with regulations of the department.

20 (7) Provide for a program of retrospective drug
21 utilization review and education consistent with section
22 1927(g)(2) of the Social Security Act and in accordance with
23 regulations of the department to ensure that prescriptions
24 are appropriate, medically necessary and not likely to result
25 in adverse medical results and to educate providers and
26 recipients of pharmacy services through the pharmacy
27 consolidated benefits program and to correct and report
28 misutilization and abuse by licensed prescribers and
29 recipients and provide for fraud and abuse audits,
30 coordinating its activities with the secretary to support

1 compliance with applicable laws and regulations. Pharmacies
2 shall not be denied payments for medications dispensed based
3 upon the results of retrospective drug utilization review or
4 audits, where the medication was dispensed in good faith by
5 the pharmacy without prior knowledge that the prescription of
6 a medication was not appropriate or necessary, was likely to
7 cause adverse medical results or constituted a fraudulent or
8 abusive practice by the prescriber.

9 (8) Establish a program of medication therapy management
10 consistent with section 1860D-4(c)(2) of the Social Security
11 Act.

12 (9) Provide educational materials for program recipients
13 of pharmacy services on disease and care management.

14 (10) In accordance with section 1927(a) through (d) of
15 the Social Security Act, bill, recoup and relay to the
16 medical assistance program manufacturers' drug rebates and
17 excessive consumer price inflation discounts and resolve
18 disputes. Upon the establishment of the program, all medical
19 assistance recipients shall be enrolled in prescription drug
20 programs for which rebates and discounts are collected
21 pursuant to section 1927(a) through (d) of the Social
22 Security Act.

23 (11) Adjudicate claims through an electronic claims
24 management system consistent with section 1927(h) of the
25 Social Security Act and which allows for an emergency supply
26 of prescribed medication in the event of equipment failures.

27 (12) Create a uniform audit and recoupment system for
28 all of the following:

29 (i) Providers and recipients.

30 (ii) Third-party medical resources.

1 (13) Provide for the reimbursement of all pharmacies
2 participating in prescription drug programs on a fee-for-
3 service basis.

4 (14) Allow pharmacists certified in medication therapy
5 management by a national accrediting body or by any other
6 certification process approved by the State Board of Pharmacy
7 to provide medication therapy management.

8 (c) Considerations.--In preparing and managing the uniform
9 formulary, the department shall enter into agreements with drug
10 manufacturers to collect and remit to the program discounts,
11 rebates or other concessions offered by manufacturers.

12 (d) Biennial study.--Within 12 months of the effective date
13 of this section and biennially thereafter, the department shall
14 conduct a study considering the comprehensive cost of providing
15 pharmacy services, including any unique costs associated with
16 participating in each prescription drug plan, including the
17 providing of medication therapy management, prospective and
18 retrospective utilization review, managing prior authorization
19 requirements and implementing drug therapy protocols pursuant to
20 section 9.1 of the Pharmacy Act, to determine whether pharmacy
21 reimbursement under this chapter should be adjusted. The study
22 shall establish, for an efficiently and economically operated
23 independent pharmacy, a reasonable profit to provide a return on
24 investment based upon a nationwide review of pharmacy economics,
25 and based upon the results of the study the department shall
26 establish payment rates for prescription drug plans pursuant to
27 section 4 adequate to maintain the rate of return. The full
28 results of the study and the data collected and evaluated,
29 excluding any information that discloses the identity of any
30 particular pharmacy, shall be made publicly available and shall

1 be reported to the General Assembly.

2 (e) Advisory committee.--

3 (1) An advisory committee to the department shall be
4 established consisting of the following members:

5 (i) Three members appointed by the Governor.

6 (ii) Two members appointed by each of the following:

7 (A) The President pro tempore of the Senate.

8 (B) The Minority Leader of the Senate.

9 (C) The Speaker of the House of Representatives.

10 (D) The Minority Leader of the House of
11 Representatives.

12 (2) Each legislative appointing authority shall appoint
13 one member pursuant to paragraph (1)(ii) involved in the
14 ownership or operation of independent pharmacies and one
15 member involved in the ownership or operation of chain
16 pharmacies.

17 (3) Members of the committee shall serve without
18 compensation but shall be reimbursed for their reasonable and
19 necessary expenses by the department.

20 (4) Members of the committee shall serve for indefinite
21 terms at the will of their respective appointing authorities.

22 (5) Action by the committee shall require a vote by at
23 least seven members.

24 (6) Members of the committee shall annually elect a
25 chairperson.

26 (f) Fees.--The program shall deduct from payments made to
27 retail pharmacies and remit to the department a fee for each
28 prescription reimbursed in an amount sufficient to conduct the
29 studies required by subsection (d) and to monitor the
30 implementation of the fee schedule established by the department

pursuant to the studies. The department shall establish and administer the fee based upon the recommendations and approval of the advisory committee in the same manner as provided for nursing facility assessments pursuant to section 805-A of the Public Welfare Code.

Section 4. Reimbursement.

(a) General rule.--

(1) Pharmacies reimbursed under this act on and after the effective date of this section shall be paid at fee-for-service rates no less than the rate for reimbursement under the PACE program in effect on December 31, 2004, until reimbursement rates are established based on the results of the study conducted pursuant to section 3(d).

(2) Upon the establishment of reimbursement rates, pharmacies shall earn a rate of return at least equivalent to the rate of return earned by participation in the PACE program as of December 31, 2004, taking into consideration the changes in the composition of drugs dispensed pursuant to the formulary and any incremental costs associated with obtaining prior authorizations.

(b) Components.--Reimbursement to pharmacies shall include all of the following:

(1) Payment for prescription product costs adequate to cover the reasonable and necessary costs associated with all of the following:

(i) Acquisition and delivery to the pharmacy.

(ii) Inventory management.

(iii) Storage and security.

(iv) Quality assurance.

(v) Compliance with regulatory requirements.

(vi) Reasonable profit to generate a return on the investment associated with reasonable and necessary costs.

(2) Payment for dispensing costs adequate to cover costs associated with all of the following:

(i) Professional services provided.

(ii) Wages and salaries.

(iii) Patient counseling.

(iv) Drug utilization review.

(v) Licensing fees.

(vi) Taxes.

(vii) Insurance.

(viii) Other direct and indirect costs of operating a pharmacy.

(ix) A reasonable profit to generate a return on the investment associated with the costs.

(3) An additional dispensing cost payment associated with dispensing drugs other than single source drugs as defined by section 1927(k)(7)(A)(iv) of the Social Security Act.

(4) Additional payment for:

(i) Medication therapy management.

(ii) Concurrent and retrospective utilization review.

(iii) Managing prior authorization requirements.

(iv) To the extent authorized by section 9.1 of the Pharmacy Act, implementing drug therapy protocols.

(c) Prompt payment.--Pharmacies shall be paid within 21 days of the department's receipt of appropriate substantiation of the transaction. Pharmacies shall be entitled to interest at the

1 rate provided by section 806 of the act of April 9, 1929
2 (P.L.343, No.176), known as The Fiscal Code, for any payment not
3 made within the 21-day period.

4 (d) Source of pricing information.--Pricing information
5 utilized in reimbursement formulas shall be based upon a
6 published compendium of prices, selected by the advisory
7 committee and approved and designated by the department by
8 regulation. The information shall be updated weekly.

9 (e) Copayments.--Except for services which are excluded
10 under the Commonwealth's medical assistance program, the
11 department may require pharmacies to collect a copayment in an
12 amount set by the department. To the extent a pharmacy is
13 required by Federal or State law to dispense prescriptions to
14 persons unable to satisfy copayment obligations, the pharmacy
15 shall be reimbursed for uncollectible copayment amounts. The
16 department shall neither require copayments from beneficiaries
17 nor deduct copayment amounts from pharmacy reimbursements for
18 any particular classes of drugs or prescription drug plan
19 recipients to the extent there is good cause to conclude that
20 copayment requirements will result in noncompliance with
21 prescription drug treatment protocols and will increase overall
22 health care costs or result in imminent and substantial risk of
23 harm or injury to recipients or other persons. Except to the
24 extent prohibited by Federal law, the department may accept
25 compensation for the purpose of reducing or eliminating
26 copayments from drug manufacturers, distributors, health care
27 plans, or other persons or organizations for the purpose of
28 encouraging therapeutically desirable compliance with
29 prescription drug treatment protocols.

30 (f) Maximum allowable cost limits.--Except as otherwise

1 required by Federal law or State regulation, to the extent
2 reimbursement formulas adopted by the department limit payments
3 to pharmacies for any class or group of prescription drugs
4 unrelated to published prices for the particular drug dispensed,
5 the maximum allowable cost limits established by the department
6 shall:

7 (1) apply only to multiple source drugs as defined by
8 section 1927(k)(7)(A)(i) of the Social Security Act and for
9 which there are no fewer than three nationally available
10 sources of supply, and which are available for distribution
11 in Pennsylvania;

12 (2) be determined pursuant to regulations adopted by the
13 department that set forth the specific formulas used to
14 calculate the limits and specify the sources of information
15 used in the calculations;

16 (3) be publicly disclosed, posted electronically to the
17 department's Internet website, distributed to pharmacies
18 using alerts and regularly and periodically updated;

19 (4) include a minimum payment for each prescription
20 dispensed to provide reasonable compensation for the costs
21 associated with acquiring and dispensing the medications; and

22 (5) not apply to a prescription for which the dispensing
23 of a particular product is determined by the prescriber to be
24 medically necessary.

25 Section 5. Rebate agreement.

26 (a) Required agreements.--Except as provided in subsection
27 (b), the department shall not include on the formulary
28 established pursuant to section 3(b)(1) any prescription drug
29 unless the department and the pharmaceutical manufacturer have
30 entered into a rebate agreement covering that prescription drug

1 on terms comparable to agreements executed pursuant to section
2 1927(a), (b), (c) and (d) of the Social Security Act. The rebate
3 agreement shall provide that, unless prohibited by Federal law,
4 the rebate shall be based on the best price and that additional
5 rebates shall be paid if the pharmaceutical manufacturer
6 increases the price of the drug by an amount greater than the
7 increase in the Consumer Price Index for All Urban Consumers.
8 Nothing in this act shall prevent the department from
9 negotiating agreements for the payment of additional rebates and
10 discounts for the benefit of the medical assistance program or
11 from entering into rebate and discount agreements for other
12 plans which have been consolidated into the program for greater
13 rebates and discounts than are required pursuant to section
14 1927(c) of the Social Security Act.

15 (b) Exceptions.--Subsection (a) shall not apply if the
16 availability of the drug is essential to the health of members
17 of the pharmacy consolidated benefits program, as determined by
18 the department.

19 (c) Contracts.--Pharmaceutical manufacturers must enter into
20 a rebate agreement with the department to obtain reimbursement
21 for prescription drugs included under this act. The rebate shall
22 be paid by the manufacturer not later than 30 days after the
23 date of receipt of information necessary to calculate the amount
24 of the rebate. The department shall have the authority to levy a
25 15% surcharge penalty on any rebate, not in dispute, that
26 remains unpaid for 90 or more days.

27 (d) Past-due rebates.--The department shall have the
28 authority to levy a 15% surcharge penalty on any rebate, not in
29 dispute, that is more than one year past due, upon notification
30 to the manufacturer. The surcharge penalty shall be in addition

1 to any interest and penalties authorized by law or by provisions
2 of any contracts. The notice shall afford the manufacturer 90
3 days to satisfy the past-due rebate claim.

4 Section 6. Pharmacies and dispensing physicians.

5 (a) General rule.--Pharmacies and dispensing physicians
6 participating in the PACE program shall, as a condition of
7 participation in that program, agree to the conditions set forth
8 in this section.

9 (b) Medicare recipients.--Any pharmacy or dispensing
10 physician participating in the PACE program shall, as a
11 condition of participation in that program, agree to sell
12 prescription drugs to Medicare recipients participating in the
13 prescription drug discount care program pursuant to section
14 1860D-21 of the Social Security Act at the PACE program price.
15 In no case shall a Medicare recipient be charged more than the
16 price of the drug to a cash-paying customer receiving the same
17 or similar services at the particular pharmacy on the date of
18 the sale.

19 (c) Limitation on participation.--Any pharmacist, pharmacy
20 or dispensing physician that is precluded or excluded for cause
21 from the medical assistance program shall be precluded or
22 excluded from participation in this act.

23 Section 7. Regulations and adjudications.

24 (a) Regulations.--The department shall seek recommendations
25 of the advisory committee prior to promulgating rules and
26 regulations, as necessary, to carry out the provisions of this
27 act.

28 (b) Policies.--The department, acting in consultation with
29 the advisory committee, shall promulgate statements of policy,
30 as necessary, to carry out the provisions of this act. No

1 statement of policy adopted by the department shall have the
2 force and effect of law or regulation or may modify the
3 provisions of any regulations adopted by the department. All
4 statements of policy adopted by the department shall, except in
5 emergency circumstances, be published for notice and comment
6 prior to adoption and shall be published in the Pennsylvania
7 Bulletin and the Pennsylvania Code.

8 (c) Audit manual.--Based upon its regulations and policies,
9 the department shall adopt a manual setting forth procedures,
10 guidelines and standards to be utilized by prescription drug
11 plans in audits of pharmacies participating in the pharmacy
12 consolidation benefits program. Decisions regarding audits shall
13 conform to the requirements of the manual and shall not involve
14 the imposition of sanctions upon pharmacies for minor, isolated
15 or good-faith errors and omissions in the processing of claims
16 and shall not require the recoupment or restitution of
17 overpayments made to pharmacies based upon errors or omissions
18 of prescription drug plans in implementing payment reimbursement
19 formula, unless the payments are clearly and obviously excessive
20 or are the result of incorrect actions taken by pharmacies in
21 submitting claims for processing.

22 (d) Adjudications.--Adjudications conducted by the
23 department shall be subject to 2 Pa.C.S. Ch. 5 Subch. A
24 (relating to practice and procedure of Commonwealth agencies)
25 and Ch. 7 Subch. A (relating to judicial review of Commonwealth
26 agency action). The department shall adopt rules of procedure
27 regarding the conduct of adjudications involving pharmacies
28 consistent with the provisions of 67 Pa.C.S. §§ 1102 (relating
29 to hearings before the bureau) through 1105 (relating to
30 determinations, review, appeal and enforcement).

1 Section 8. Applicability.

2 This act shall apply to the medical assistance program unless
3 the secretary, in consultation with the Department of Public
4 Welfare, determines that the application is a violation of
5 Federal law or an existing contractual agreement. Nothing in
6 this act shall supersede or impede an existing contractual
7 agreement. Contractual agreements in effect on the effective
8 date of this section shall not be renewed or extended to the
9 extent inconsistent with the requirements of this act, and the
10 department shall promptly enter into negotiations to modify any
11 contractual agreements inconsistent with this act to conform to
12 the requirements of this act.

13 Section 9. Prohibited activities.

14 It shall be unlawful for any individual, partnership or
15 corporation to solicit, receive, offer or pay any kickback,
16 bribe or rebate in cash or in kind from or to any person in
17 connection with the furnishing of services under this act to the
18 same extent as prohibited with respect to Federal health
19 programs by paragraphs (1) and (2) of section 1128 (b)(1) and
20 (2) of the Social Security Act, subject to the safe harbors from
21 sanctions provided by sections 1877(a)(1) and 1860D-4(e)(6) of
22 the Social Security Act. Violations of this section shall be
23 subject to the sanctions, penalties and remedies under section
24 1407 of the Public Welfare Code.

25 Section 40. Effective date.

26 This act shall take effect in 60 days.