

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1358

Session of
1983

INTRODUCED BY CORDISCO, COLAFELLA, CAPPABIANCA, GALLAGHER AND
KUKOVICH, JULY 15, 1983

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, JULY 15, 1983

AN ACT

1 Establishing a program of pharmaceutical assistance to the aged;
2 imposing powers and duties on the Department of Public
3 Welfare; and fixing penalties for violations of the act.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the
8 Pharmaceutical Assistance to the Aged Act.

9 Section 2. Definitions.

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

13 "Department." The Department of Public Welfare.

14 "Eligible claimant." Any resident of the Commonwealth 65
15 years of age and older, whose annual income is less than the
16 maximum annual income, and who is not otherwise qualified for
17 public assistance under the act of June 13, 1967 (P.L.31,
18 No.21), known as the Public Welfare Code.

1 "Income." All income from whatever source derived,
2 including, but not limited to, salaries, wages, bonuses,
3 commissions, income from self-employment, alimony, support
4 money, cash public assistance and relief, the gross amount of
5 any pensions or annuities including railroad retirement
6 benefits, all benefits received under the Federal Social
7 Security Act (except Medicare benefits), all benefits received
8 under State unemployment insurance laws and veterans' disability
9 payments, all interest received from the Federal Government or
10 any state government, or any instrumentality or political
11 subdivision thereof, realized capital gains, rentals, workmen's
12 compensation and the gross amount of loss of time insurance
13 benefits, life insurance benefits and proceeds (except the first
14 \$5,000 of the total of death benefits payments) and gifts of
15 cash or property (other than transfers by gift between members
16 of a household) in excess of a total value of \$300, but shall
17 not include surplus food or other relief in kind supplied by a
18 government agency or property tax rebate.

19 "Maximum annual income." Annual income as determined by the
20 department. The amount shall not exceed \$13,000 in the case of
21 single persons nor \$15,000 in the case of the combined annual
22 income of married persons but the amounts shall be reviewed
23 annually and adjusted to reflect any increases in the Consumer
24 Price Index.

25 "Pharmacy." Any pharmacy licensed by the Commonwealth.

26 "Program." The program of a prescription plan for the aging
27 as established by this act.

28 Section 3. Payments under program.

29 The program shall consist of payments to pharmacies on behalf
30 of eligible claimants for the average wholesale cost or the

1 usual and customary fee, whichever is lower of legend drugs,
2 insulin, insulin syringes and insulin needles which exceed \$2
3 per prescription paid by each eligible claimant. In no case
4 shall the State be charged more than the price of the drug at
5 the particular pharmacy on the date of the sale. For the purpose
6 of this act, the eligible claimant shall be liable to pay the
7 difference between the brand name drug and the generically
8 equivalent drug as approved under the provisions of the act of
9 November 24, 1976 (P.L.1163, No.259), referred to as the Generic
10 Equivalent Drug Law. Only the physician may prescribe a
11 nongeneric medication.

12 Section 4. Coordination of benefits.

13 Any otherwise eligible claimant whose prescription drug costs
14 are covered in part by any other plan of assistance or insurance
15 may be required to receive reduced assistance under the
16 provisions of this act at the discretion of the department.

17 Section 5. Payment system.

18 The department shall by regulation establish a system for
19 determining eligibility, including provisions for submission of
20 proof of actual and anticipated income, and evidence of complete
21 or partial coverage of prescription drug costs by any other
22 assistance or insurance plans and a system of payments to
23 eligible pharmacies. In lieu of a payment system, the department
24 may contract for the establishment of a system if the contract
25 would be economically advantageous to the Commonwealth. A fee
26 shall be paid to pharmacists which will vary according to the
27 services provided. The highest amount should go to those
28 pharmacists who maintain adequate records, advise users of
29 possible medicinal conflicts and provide emergency service. This
30 variable rate for services shall be included in the

1 specifications requesting proposals to administer the plan.
2 Experimental drugs are to be excluded from the program. The
3 company administering the plan shall be required to keep records
4 that include generic and nongeneric use both by pharmacy and by
5 the individual, refill orders and control drug frequency.
6 Prescriptions, the total cost of which are equal to or under the
7 copayment figure, shall be processed in the same manner as other
8 prescriptions even though the State is not required to pay. The
9 administering company shall not charge for these prescriptions.
10 Section 6. Duplication of benefits prohibited.

11 No person eligible for prescription benefits under any other
12 private, State or Federal program of medical insurance or
13 assistance which duplicate the benefits available under this act
14 shall be eligible under this act to the extent of the
15 duplication.

16 Section 7. Utilization review.

17 The department shall establish a system of utilization review
18 to effectively determine the cost of the program.

19 Section 8. Funds for payment of administrative expenses and
20 claims.

21 Expenses, salaries and other costs incurred in the
22 administration of this act and approved claims shall be paid
23 from the State Lottery Fund established by the act of August 26,
24 1971 (P.L.351, No.91), known as the State Lottery Law. In the
25 event that the total amount of administrative expenses and
26 claims exceeds the amount in the fund in any one year, then the
27 amounts allowed pursuant to this act shall be reduced in the
28 proportion that the amount of the fund bears to the total amount
29 of claims in that year. For the purposes of this section, the
30 amount in the State Lottery Fund shall include the June 30

1 ending lottery fund balance plus 80% of projected lottery fund
2 revenues after lottery fund administrative expenses for the
3 subsequent fiscal year.

4 Section 9. Regulations on eligibility and abuse.

5 The department shall adopt regulations relating to the
6 determination of eligibility of prospective claimants and the
7 determination and elimination of program abuse. The department
8 shall have the power to declare ineligible any claimant who
9 abuses or misuses the established prescription plan.

10 Section 10. Penalties.

11 Any person who submits a false or fraudulent claim under this
12 act, or who aids or abets another in the submission of a false
13 or fraudulent claim, or who is eligible under a private, State
14 or Federal program for prescription assistance and who claims or
15 receives duplicative benefits hereunder or who otherwise
16 violates any provision of this act, commits a misdemeanor of the
17 third degree.

18 Section 11. Effective date.

19 This act shall take effect in 180 days.