

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2761 Session of
2000

INTRODUCED BY VANCE, BROWNE, HARHART, RYAN, E. Z. TAYLOR,
ARGALL, ARMSTRONG, BUNT, CLARK, CLYMER, L. I. COHEN, CORNELL,
DAILEY, DALLY, DeLUCA, DEMPSEY, FAIRCHILD, FEESE, FLEAGLE,
GANNON, GEIST, HASAY, HENNESSEY, HERMAN, KENNEY, LAUGHLIN,
LAWLESS, LYNCH, MAITLAND, MARSICO, McGILL, McILHATTAN,
McNAUGHTON, MICOZZIE, S. MILLER, NAILOR, O'BRIEN, ORIE,
PHILLIPS, PIPPY, REINARD, ROSS, RUBLEY, SATHER, SCHRODER,
SCHULER, SCRIMENTI, B. SMITH, SNYDER, SOLOBAY, STAIRS, STERN,
STEVENSON, J. TAYLOR, TRUE, WILT, WRIGHT, ZIMMERMAN, ZUG,
R. MILLER, MAJOR, GODSHALL AND TIGUE, SEPTEMBER 26, 2000

REFERRED TO COMMITTEE ON AGING AND YOUTH, SEPTEMBER 26, 2000

AN ACT

1 Providing for the establishment, implementation and
2 administration of an extraordinary prescription drug
3 insurance program for the purchase of certain prescription
4 drugs; fixing income levels, deductibles and copayment
5 schedules; and imposing additional powers and duties on the
6 Department of Aging.

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

9 Section 1. Short title.

10 This act shall be known and may be cited as the Pennsylvania
11 Extraordinary Prescription Plan Act.

12 Section 2. Definitions.

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

16 "Acute illness." A medical condition for which prescription

1 drugs are likely to be included in the course of treatment
2 certified by a prescribing practitioner to have a likely
3 duration of less than six months.

4 "Categorically Needy Medical Assistance Program." The
5 medical assistance program which provides a prescription drug
6 benefit.

7 "Chronic illness." A medical condition certified by a
8 prescribing practitioner to have a likely duration of longer
9 than six months.

10 "Commission." The Prescription Drug Review Commission.

11 "Copayment." Cost sharing that requires an individual to pay
12 a fixed dollar amount for each prescription drug.

13 "Deductible." The amount that an individual pays under the
14 program each benefit year, in addition to the premium, before
15 prescription drug benefits can begin.

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

17 "Designated pharmaceutical programs." The Categorically
18 Needy Medical Assistance Program in the Department of Public
19 Welfare, the End Stage Renal Dialysis Program in the Department
20 of Health and PACE and PACENET in the Department of Aging.

21 "Formulary." A list of drugs, selected on the basis of
22 quality and cost, used by physicians when making decisions on
23 what medications to prescribe to individuals, which is subject
24 to periodic review and modification by the program.

25 "Generic drug." A drug product that the Commissioner of Food
26 and Drugs of the United States Food and Drug Administration has
27 approved to be as safe and effective as a brand-name drug.

28 "Household income." The income of the applicant and any
29 spouse living in the same household.

30 "Income." All income from whatever source derived,

1 including, but not limited to, salaries, wages, bonuses,
2 commissions, income from self-employment, alimony, support
3 money, cash public assistance and relief, the gross amount of
4 any pensions or annuities, including railroad retirement
5 benefits, except for Medicare benefits, all other benefits
6 received under the Social Security Act (49 Stat. 620, 42 U.S.C.
7 § 301 et. seq.), all benefits received under State unemployment
8 insurance laws and veterans' disability payments, all interest
9 received from the Federal Government or any state government or
10 any instrumentality or political subdivision thereof, realized
11 capital gains, rentals, workmen's compensation and the gross
12 amount of loss of time insurance benefits, life insurance
13 benefits and proceeds, except the first \$5,000 of the total of
14 death benefits payments, and gifts of cash or property, other
15 than transfers by gift between members of a household, in excess
16 of a total value of \$300, but does not include surplus food or
17 other relief in kind supplied by a government agency or property
18 tax rebate.

19 "PACE." The Pharmaceutical Assistance Contract for the
20 Elderly program.

21 "PACENET." The Pharmaceutical Assistance Contract for the
22 Elderly Needs Enhancement Tier.

23 "PEPP." The Pennsylvania Extraordinary Prescription Plan
24 program.

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

26 "Premium." A fee for coverage under the program.

27 "Prescribing practitioner." An individual licensed and
28 authorized to prescribe medication in this Commonwealth.

29 "Prescription drug." All drugs requiring a prescription in
30 this Commonwealth, insulin, insulin syringes and insulin

1 needles, excluding experimental drugs or drugs prescribed for
2 wrinkle removal or hair growth.

3 "Private contractor." A person, partnership or corporate
4 entity who enters into a contract with the Commonwealth to
5 provide services under the provisions of this act.

6 "Provider." A licensed pharmacy or dispensing practitioner
7 enrolled as a provider in PACE, PACENET, PEPP or designated
8 pharmaceutical program.

9 "Spendeddown." The deduction of paid prescription drug
10 expenses from household income in order to establish eligibility
11 for PEPP.

12 Section 3. Pennsylvania Extraordinary Prescription Plan
13 program.

14 There is hereby established within the department a program
15 to be known as the Pennsylvania Extraordinary Prescription Plan
16 (PEPP), which is a prescription drug program to assist people of
17 low to moderate income who have high prescription drug needs, by
18 means of reimbursement to pharmacies on behalf of the
19 participant for prescription drugs.

20 Section 4. PEPP eligibility.

21 (a) Requirements.--An applicant shall be eligible for
22 participation in PEPP if all of the following requirements are
23 met:

24 (1) The applicant is not currently covered and has not
25 been covered for 90 days prior to application by a health
26 insurance plan, a self-insurance plan or a self-funded plan
27 which covers prescription drugs or is not eligible for
28 designated pharmaceutical programs.

29 (2) The applicant is a current resident of this
30 Commonwealth for at least 90 days prior to enrollment.

1 (3) The applicant meets the citizenship requirements of
2 the Medicaid program administered by the Department of Public
3 Welfare.

4 (4) The applicant is an adult 19 years of age or older.

5 (5) The applicant is qualified based on the following
6 income guidelines:

7 (i) Single applicant, \$22,000.

8 (ii) Family of two, \$30,000.

9 (iii) Family of three, \$37,500.

10 (iv) Family of four or larger, \$45,000 plus \$7,600

11 for each additional family member.

12 (b) Spenddown.--For an applicant whose income exceeds the
13 amounts in subsection (a), the applicant's prescription drug
14 expenses shall be deducted from that applicant's income before
15 determining eligibility with eligibility for participants in the
16 spenddown system redetermined annually in the case of chronic
17 illness and bimonthly in the case of an acute illness.

18 Section 5. Monthly premium payments.

19 Participants in PEPP shall pay graduated monthly premiums
20 based on household income as follows:

21 (1) For annual household income under \$15,000, no
22 premium.

23 (2) For annual household income between \$15,001 and
24 \$19,999, \$20 monthly premium.

25 (3) For annual household income between \$20,000 and
26 \$24,999, \$25 monthly premium.

27 (4) For annual household income between \$25,000 and
28 \$34,999, \$30 monthly premium.

29 (5) For annual household income of \$35,000 and above,
30 \$35 monthly premium.

1 Section 6. Annual deductible.

2 Participants shall meet an annual deductible before their
3 PEPP benefits will begin which are fixed as follows:

4 (1) For annual household income under \$15,000, the
5 annual deductible shall be \$200.

6 (2) For annual household income between \$15,001 and
7 \$19,999, the annual deductible shall be \$300.

8 (3) For annual household income between \$20,000 and
9 \$24,999, the annual deductible shall be \$400.

10 (4) For annual household income between \$25,000 and
11 \$34,999, the annual deductible shall be \$500.

12 (5) For annual household income of \$35,000 and above,
13 the annual deductible shall be \$600.

14 Section 7. Copayment schedules.

15 (a) General rule.--Participants shall share in the cost of
16 their prescription medication by contributing a copayment. In no
17 case shall the participant be charged more than the actual costs
18 of the drug at the time of the sale.

19 (b) Copayment for 30-day supply.--After the annual
20 deductible has been met, a participant shall contribute
21 copayments on the following schedule for a 30-day supply from a
22 pharmacy:

23 (1) For generic drugs, the copayment shall be \$10.

24 (2) For preferred drugs as defined by the formulary, the
25 copayment shall be \$25.

26 (3) For nonpreferred drugs, the copayment shall be the
27 greater of \$25 or 50% of the cost of the nonpreferred drug.

28 (c) Copayment for 90-day supply.--After the annual
29 deductible has been met, a participant shall contribute
30 copayments on the following schedule for a 90-day supply from a

1 pharmacy:

2 (1) For generic drugs, the copayment shall be \$20.

3 (2) For preferred drugs as defined by the formulary, the
4 copayment shall be \$50.

5 (3) For nonpreferred drugs, the copayment shall be the
6 greater of \$50 or 50% of the cost of the nonpreferred drug.

7 Section 8. Maximum yearly benefit.

8 The maximum allowable benefit in PEPP shall be \$5,000 per
9 participant per year.

10 Section 9. Duties of department.

11 The department shall administer the program and shall have
12 the following duties relating to the PEPP program:

13 (1) Establish a customized incentive drug formulary
14 using nationally recognized prescribing guidelines.

15 (2) Clearly delineate the drugs that are preferred and
16 the drugs that are nonpreferred.

17 (3) Assist providers with formulary education,
18 compliance guidelines and consultation.

19 (4) Establish an efficient and fair process to
20 accommodate clinical exceptions requested by the prescribing
21 practitioner.

22 (5) Establish prospective, concurrent and retrospective
23 drug utilization review management protocols to insure that
24 prescription drugs are used appropriately, safely and
25 effectively.

26 (6) Initiate an aggressive marketing plan to reach out
27 to potentially eligible participants, providers and
28 contractors, which marketing component shall, at a minimum,
29 provide information about eligibility and available benefits
30 in ways that will be understandable for the target audience.

1 (7) May, in the discretion of the department, utilize
2 private contractors for the administration of this act.

3 Section 10. Prescription Drug Review Commission.

4 (a) Establishment.--There is hereby established the
5 Prescription Drug Review Commission to provide operational and
6 financial oversight to determine how well PEPP is operating and
7 whether changes may be necessary.

8 (b) Composition.--The commission shall be comprised of the
9 following nine persons who shall elect their chairman at the
10 first meeting of the commission:

11 (1) Four legislative members, one appointed by the
12 President pro tempore of the Senate, one appointed by the
13 Minority Leader of the Senate, one appointed by the Speaker
14 of the House of Representatives and one appointed by the
15 Minority Leader of the House of Representatives.

16 (2) Five public members, one appointed by the President
17 pro tempore of the Senate, one appointed by the Minority
18 Leader of the Senate, one appointed by the Speaker of the
19 House of Representatives, one appointed by the Minority
20 Leader of the House of Representatives and one appointed by
21 the Governor.

22 (c) Public members.--The public members appointed by the
23 General Assembly shall include two individuals who have not been
24 a part of the pharmaceutical industry to serve as consumer
25 advocates, and two representatives of the pharmaceutical
26 industry, one of whom is a practicing Pennsylvania pharmacist.
27 The individual appointed by the Governor must be a practicing
28 physician.

29 (d) Replacement.--Any member of the commission who misses
30 two consecutive meetings without good cause acceptable to the

1 chairman shall be replaced by the appointing authority.

2 Section 11. Duties of commission.

3 The commission shall meet at least twice a year with
4 officials from the department and any contractor they may choose
5 to achieve the following objectives:

6 (1) Review performance of and recommend change to the
7 PEPP.

8 (2) Examine current and projected cost trends for the
9 PEPP and examine the fiscal integrity of the program.

10 (3) Analyze current and future information systems and
11 pharmaceutical technology advancements to determine if such
12 advances will affect projected cost trends.

13 (4) Review the designated formulary for the PEPP.

14 Section 12. Request for proposal.

15 If the department determines to use a private contractor to
16 administer the provisions of this act, it shall select that
17 contractor by using a solicitation for requests for proposals.

18 Section 13. Expiration.

19 This act shall expire three years following the date of its
20 implementation by the department.

21 Section 14. Effective date.

22 This act shall take effect immediately.