

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1301

Session of
1983

INTRODUCED BY BARBER, WACHOB, HOFFEL, BELOFF, IRVIS, MILLER,
HARPER, FATTAH, WIGGINS, ITKIN, ZWIKL, F. E. TAYLOR, MRKONIC,
SALOOM, CIMINI, KOSINSKI, KASUNIC, MICHLOVIC, CIVERA,
ALDERETTE, ANGSTADT, MICOZZIE, MANDERINO, JOHNSON, GRUPPO,
LASHINGER, PRATT, DeLUCA, J. L. WRIGHT, MORRIS, HALUSKA,
FREEMAN, PRESTON, MAIALE, CALTAGIRONE, CLARK, COLE, BELFANTI,
KUKOVICH, GALLAGHER, JAROLIN, RYBAK, DOMBROWSKI, COY,
SHOWERS, PISTELLA, COHEN, STEIGHNER, RUDY, SEVENTY, FISCHER,
E. Z. TAYLOR, TRUMAN, McCALL, OLIVER, RICHARDSON, STUBAN,
DAWIDA, GODSHALL, OLASZ, RCWRIGHT, McINTYRE, BLAUM AND
ARTY, JUNE 29, 1983

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, OCTOBER 5, 1983

AN ACT

1 Establishing a program of pharmaceutical assistance to the aged;
2 providing further duties of the Department of Aging; and
3 making an appropriation.

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 Plan 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 "Co-payment." The sum to be paid by eligible claimants for

1 prescription drugs.

2 "Department." The Department of Aging.

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

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

26 "Legend drugs." Any drug bearing a label or legend which
27 prohibits dispensing the drug without a doctor's prescription.

28 "Maximum annual income." That annual income amount not in
29 excess of ~~\$9,000~~ \$12,000 in the case of single persons and <—
30 ~~\$12,000~~ \$15,000 in the case of the combined annual income of <—

1 married persons.

2 "MONTHLY AVERAGE PRESCRIPTION DRUG COST." THE QUOTIENT <—
3 DERIVED WHEN THE DEPARTMENT DIVIDES THE SUM OF THE REASONABLE
4 COST OF ALL PRESCRIPTION INVOICES SUBMITTED DURING THAT MONTH BY
5 THE NUMBER OF PRESCRIPTION INVOICES SUBMITTED THAT SAME MONTH.

6 "Prescription drugs." All legend drugs, insulin, insulin
7 syringes and insulin needles.

8 "Program." The program of pharmaceutical assistance to the
9 aged as established by this act.

10 "Reasonable cost." The average wholesale cost of
11 prescription drugs plus a dispensing fee, as determined by the
12 department.

13 Section 3. Payments under program.

14 (A) CONTENT OF PROGRAM.--The program shall consist of <—
15 payments to pharmacies on behalf of eligible claimants for the
16 reasonable cost of prescription drugs as determined by the
17 department which exceed the co-payment per prescription, or per
18 purchase of insulin, paid by each eligible claimant. Payments to
19 pharmacies pursuant to this section shall not exceed the funds
20 appropriated each fiscal year from the State Lottery Fund. If <—

21 ~~payments during any consecutive three month period exceed~~
22 ~~projected expenditures for that period, the Secretaries of~~
23 ~~Aging, Budget and Revenue may jointly determine to increase the~~
24 ~~amount of co payment. Any such increase shall take effect upon~~
25 ~~publication in the Pennsylvania Bulletin as a notice under 45~~
26 ~~Pa.C.S. § 725(a)(3) (relating to additional contents of~~
27 ~~Pennsylvania Bulletin). The initial co payment shall be \$4.~~

28 (B) COPAYMENT INCREASE OR DECREASE.--ALONG WITH OTHER FISCAL <—
29 AND PROGRAM DATA PUBLISHED BY THE DEPARTMENT ON A MONTHLY BASIS,
30 THE DEPARTMENT SHALL ALSO PUBLISH THE MONTHLY AVERAGE

1 PRESCRIPTION DRUG COST UNDER THIS PROGRAM. WHENEVER THIS
2 PUBLISHED MONTHLY AVERAGE PRESCRIPTION DRUG COST:

3 (1) EQUALS OR EXCEEDS BY 20% THE MONTHLY AVERAGE
4 PRESCRIPTION DRUG COST IN THE:

5 (I) FIRST FULL CALENDAR MONTH IN WHICH PRESCRIPTION
6 INVOICES ARE FILED AFTER THE EFFECTIVE DATE OF THIS ACT
7 IN WHICH THE INITIAL COPAYMENT ESTABLISHED BY THIS
8 SECTION APPLIES; OR

9 (II) MONTH IN WHICH THE CURRENT COPAYMENT IS FIXED
10 PURSUANT TO THIS SECTION;

11 THEN THE COPAYMENT SHALL BE INCREASED BY 20% AS PRESCRIBED IN
12 SUBSECTION (C).

13 (2) IS LESS THAN 80% OF THE MONTHLY AVERAGE PRESCRIPTION
14 DRUG COST OF THE MONTH IN WHICH THE CURRENT COPAYMENT IS
15 FIXED PURSUANT TO SUBSECTION (C), THE COPAYMENT SHALL BE
16 REDUCED BY 20% AS PRESCRIBED IN SUBSECTION (C).

17 (C) ADJUSTMENTS IN COPAYMENT.--WHENEVER THE PUBLISHED
18 MONTHLY AVERAGE PRESCRIPTION DRUG COST EQUALS OR EXCEEDS BY 20%
19 OR IS LESS THAN 20% AS PRESCRIBED IN SUBSECTION (B), NOTICE TO
20 THAT EFFECT SHALL BE JOINTLY PUBLISHED BY THE SECRETARIES OF
21 AGING, BUDGET AND REVENUE IN THE PENNSYLVANIA BULLETIN UNDER 45
22 PA.C.S. § 725(A)(3) (RELATING TO ADDITIONAL CONTENTS OF
23 PENNSYLVANIA BULLETIN). CONCURRENT WITH THE PUBLICATION OF SUCH
24 NOTICE, THE COPAYMENT SHALL BE INCREASED OR REDUCED BY 20%.

25 (D) INITIAL AND MINIMUM COPAYMENT.--THE INITIAL COPAYMENT
26 SHALL BE \$4. THE MINIMUM COPAYMENT, WHICH SHALL NOT BE AFFECTED
27 BY SUBSECTION (B) OR (C), SHALL BE \$4 PER PRESCRIPTION.

28 Section 4. Use of generic drugs.

29 In order for payment to be made by the department, generic
30 equivalent drugs shall be utilized by pharmacists when filling

1 prescriptions written for a brand name legend drug, unless the
2 prescribing physician specifically orders the pharmacist to use
3 the brand name prescribed.

4 Section 5. Notice of nonparticipation.

5 Any pharmacy choosing not to participate in this program
6 shall post a conspicuous notice of nonparticipation at the
7 prescription counter of the pharmacy.

8 Section 6. Coordination of benefits.

9 Any otherwise eligible claimant whose prescription drug costs
10 were wholly covered by any other plan of assistance or insurance
11 shall be ineligible for assistance under the provisions of this
12 act. Any otherwise eligible claimant whose prescription drug
13 costs are covered in part by any other plan of assistance or
14 insurance may be required to receive reduced assistance under
15 the provisions of this act at the discretion of the department.

16 Section 7. Payment system.

17 (a) Departmental regulations.--The department shall by
18 regulation establish a system of payments or reimbursements and
19 a system for determining eligibility, including provisions for
20 submission of proof of actual and anticipated annual income, and
21 evidence of complete or partial coverage of prescription drug
22 costs by any other assistance or insurance plans. The
23 regulations shall provide that no pharmacy shall accept a
24 prescription from an eligible claimant unless included thereon
25 is the claimant's social security number.

26 (b) Contract.--In lieu of a payment system established
27 pursuant to subsection (a), the department may contract for the
28 establishment of such a system, if such a contract would be
29 economically advantageous to the Commonwealth.

30 Section 8. Funding.

1 Notwithstanding section 12 of the act of August 26, 1971
2 (P.L.351, No.91), known as the State Lottery Law, funding for
3 the program provided for in this act, including administrative
4 costs as provided in section 12, shall be ~~allocated~~ ANNUALLY <—
5 APPROPRIATED from the State Lottery Fund., ~~not to exceed~~ <—
6 ~~\$100,000,000 per year, and such moneys as are necessary to carry~~
7 ~~out this act are hereby appropriated to the department from the~~
8 ~~State Lottery Fund on a continuing basis.~~ FOR FISCAL YEAR JULY <—
9 1, 1983 THROUGH JUNE 30, 1984, THE ADMINISTRATIVE COSTS FOR THE
10 PROGRAM AS PRESCRIBED BY SECTION 12 ARE HEREBY APPROPRIATED FROM
11 THE STATE LOTTERY FUND. FOR FISCAL YEAR JULY 1, 1983 THROUGH
12 JUNE 30, 1984, THE PROGRAM EXPENDITURES UNDER THIS ACT SHALL NOT
13 EXCEED \$100,000,000.

14 Section 9. Duplication of Benefits.

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

20 Section 10. Utilization review.

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

23 Section 11. Regulations on eligibility and abuse.

24 The department shall adopt regulations relating to the
25 determination of eligibility of prospective claimants and the
26 determination and elimination of plan abuse. The department
27 shall have the power to declare ineligible any claimant who
28 abuses or misuses the established plan.

29 Section 12. Administrative costs.

30 ~~The department shall receive from the State Lottery Fund~~ <—

1 ~~appropriate moneys to fund administrative costs.~~ Administrative
2 costs shall not exceed 9% of the total State Lottery Fund moneys
3 expended for prescription drugs under provisions of the plan.
4 Section 13. Effective date.

5 This act shall take effect ~~on October 1, 1983~~ IN 60 DAYS.

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