

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 1369** Session of  
1981

INTRODUCED BY KOWALYSHYN, RYBAK, ZWIKL, JOHNSON, WAMBACH, BROWN  
AND HALUSKA, MAY 4, 1981

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, MAY 4, 1981

AN ACT

1 Providing prescription drug rebates to certain senior citizens,  
2 widows, widowers and permanently disabled persons with  
3 limited incomes; establishing uniform standards and  
4 qualifications for eligibility and imposing powers and duties  
5 on the Department of Revenue.

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 "Prescription  
10 Drug Expense Rebate Act."

11 Section 2. Definitions.

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

15 "Claimant." A person who files a claim for prescription drug  
16 expense rebate and was 65 years of age or over, or whose spouse  
17 (if a member of the household) was 65 years of age or over,  
18 during a calendar year in which prescription drug expenses were  
19 incurred or was a widow or widower and was 50 years of age or

1 over during a calendar year or part thereof in which  
2 prescription drug expenses were incurred, or was a permanently  
3 disabled person during a calendar year or part thereof in which  
4 prescription drug expenses were incurred.

5 "Department." The Department of Revenue.

6 "Household income." All income received by the claimant and  
7 his spouse while residing in the homestead during a calendar  
8 year in which prescription drug expenses are incurred.

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

27 "Permanently disabled person." A person who is unable to  
28 engage in any substantial gainful activity by reason of any  
29 medically determinable physical or mental impairment which can  
30 be expected to continue indefinitely.

1 "Prescription drug." Any drug prescribed by a duly licensed  
2 physician, dentist or other practitioner authorized to write  
3 prescriptions for the treatment or prevention of human diseases.  
4 "Drug" shall have the meaning given it in the act of April 14,  
5 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug,  
6 Device and Cosmetic Act."

7 "Prescription drug expense." Expense incurred by a claimant  
8 for prescription drugs for the personal use of the claimant or  
9 his or her spouse during a calendar year. Such expense shall not  
10 include any costs paid or reimbursed by any private or public  
11 agency or body and shall represent the net expense to the  
12 claimant.

13 "Widow" or "widower." The surviving wife or the surviving  
14 husband, as the case may be, of a deceased individual and who  
15 has not remarried.

16 Section 3. Prescription drug expense rebate.

17 (a) The amount of any claim for prescription drug expense  
18 rebate for prescription drug expense during each calendar year  
19 shall be determined in accordance with the following schedule:

Percentage of Prescription		
	Household Income	Drug Expense Allowed as Rebate
21		
22	\$ 0 - \$4,499	100%
23	4,500 - 4,999	90
24	5,000 - 5,499	80
25	5,500 - 5,999	70
26	6,000 - 6,499	60
27	6,500 - 6,999	50
28	7,000 - 7,499	40
29	7,500 - 7,999	30
30	8,000 - 8,499	20

2 (b) No claim shall be allowed if the amount of prescription  
3 drug expense rebate computed in accordance with this section is  
4 less than \$10 and the maximum amount of rebate payable shall not  
5 exceed \$400.

6 Section 4. Filing of claim.

7 A claim for prescription drug expense rebate shall be filed  
8 with the department on or before June 30 of the year next  
9 succeeding the end of the calendar year in which prescription  
10 drug expenses were incurred. No reimbursement on a claim shall  
11 be made from the State Lottery Fund earlier than the day  
12 following the last day provided in this act on which that claim  
13 may be filed with the department. Claims may be made by more  
14 than one member of a household if each such claimant otherwise  
15 meets the requirements of this act and if the total income of  
16 all the members of the household does not exceed the limitations  
17 established in this act.

18 Section 5. Proof of claim.

19 Each claim shall include reasonable proof of income, receipts  
20 for the payment of prescription drugs, or other proof that  
21 prescription drug expenses have been incurred. If the claimant  
22 is a widow, or widower, an affidavit of such status shall be  
23 included. Proof that a claimant is eligible to receive  
24 disability benefits under the Federal Social Security Act shall  
25 constitute proof of disability under this act. No person who has  
26 been found not to be disabled by the social security  
27 administration shall be granted a rebate under this act. A  
28 claimant not covered under the Federal Social Security Act shall  
29 be examined by a physician designated by the department and such  
30 status determined using the same standards used by the social

1 security administration. The first claim filed shall include  
2 proof that the claimant or his spouse was age 65 or over or 50  
3 years or over in the case of a widow, or widower, during the  
4 calendar year in which prescription drug expenses were incurred.

5 Section 6. Incorrect claim.

6 Whenever on audit of any claim, the department finds the  
7 claim to have been incorrectly determined, it shall redetermine  
8 the correct amount of the claim and notify the claimant of the  
9 reason of the redetermination and the amount of the corrected  
10 claim.

11 Section 7. Funds for payment of administrative expenses and  
12 claims.

13 Expenses, salaries and other costs incurred in the  
14 administration of this act and approved claims shall be paid  
15 from the State Lottery Fund established by the act of August 26,  
16 1971 (P.L.351, No.91), known as the "State Lottery Law." In the  
17 event that the total amount of administrative expenses and  
18 claims for the purposes set forth and in any other act providing  
19 for payment from the fund exceeds the amount in such fund, in  
20 any one year, then the amounts allowed as rebates for whatever  
21 purpose authorized shall be reduced in the same proportion that  
22 the amount of funds available bears to the total amount of  
23 claims for the year.

24 Section 8. Claim forms and rules and regulations.

25 The department shall prescribe necessary rules and  
26 regulations and shall make available suitable forms for filing  
27 a claim.

28 Section 9. Fraudulent claim; conveyance to obtain benefits.

29 In any case in which a claim is excessive and was filed with  
30 fraudulent intent, the claim shall be disallowed in full and a

1 penalty of 25% of the amount claimed shall be imposed. The  
2 penalty and the amount of the disallowed claim, if the claim has  
3 been paid, shall bear interest at the rate of one-half of one  
4 per cent per month from the date of the claim until repaid. The  
5 claimant and any person who assisted in the preparation or  
6 filing of a fraudulent claim shall be guilty of a misdemeanor of  
7 the third degree.

8 Section 10. Petition for redetermination.

9 (a) Any claimant whose claim for prescription drug expense  
10 is either denied, corrected or otherwise adversely affected by  
11 the department, may file with the department a petition for  
12 redetermination on forms supplied by the department within 90  
13 days after the date of mailing of written notice by the  
14 department of such action. Such petition shall set forth the  
15 grounds upon which claimant alleges that such departmental  
16 action is erroneous or unlawful, in whole or part, and shall be  
17 accompanied by an affidavit or affirmation that the facts  
18 contained therein are true and correct. An extension of time for  
19 filing the petition may be allowed for cause but not to exceed  
20 120 days. The department shall hold such hearings as may be  
21 necessary for the purpose of redetermination, and each claimant  
22 who has duly filed such petition for redetermination shall be  
23 notified by the department of the time when, and the place  
24 where, such hearing in his case will be held.

25 (b) It shall be the duty of the department, within six  
26 months after receiving a filed petition for redetermination, to  
27 dispose of the matters raised by such petition and mail notice  
28 of the department's decision to the claimant.

29 Section 11. Review by Board of Finance and Revenue.

30 Within 90 days after the date of official receipt by the

1 claimant of notice mailed by the department of its decision on  
2 any petition for redetermination filed with it, the claimant who  
3 is adversely affected by such decision may by petition request  
4 the Board of Finance and Revenue to review such action. The  
5 failure of the department to officially notify the claimant of a  
6 decision within the six-month period provided for by section 10  
7 shall act as a denial of such petition, and a petition for  
8 review may be filed with the Board of Finance and Revenue within  
9 120 days after written notice is officially received by the  
10 claimant that the department has failed to dispose of the  
11 petition within the six-month period prescribed by section 10.  
12 Every petition for redetermination filed hereunder shall state  
13 the reasons upon which the claimant relies, or shall incorporate  
14 by reference the petition for redetermination in which such  
15 reasons shall have been stated. The petition shall be supported  
16 by affidavit that the facts set forth therein are correct and  
17 true. The Board of Finance and Revenue shall act in disposition  
18 of such petitions filed with it within six months after they  
19 have been received, and in the event of failure of said board to  
20 dispose of any such petition within six months, the action taken  
21 by the department upon the petition for redetermination shall be  
22 deemed sustained. The Board of Finance and Revenue may sustain  
23 the action taken by the department on the petition for  
24 redetermination or it may take such other action as it shall  
25 deem is necessary and consistent with provisions of this act.  
26 Notice of the action of the Board of Finance and Revenue shall  
27 be given by mail to the department and to the claimant.

28 Section 12. Appeal to the Commonwealth Court.

29 Any claimant, aggrieved by the decision of the Board of  
30 Finance and Revenue may, within 30 days, after receipt by

1 claimant of official board notice appeal to the Commonwealth  
2 Court from the decision of the Board of Finance and Revenue, in  
3 the manner now or hereafter provided by law for appeals from  
4 decisions of said board in tax cases.

5 Section 13. Effective date.

6 This act shall take effect July 1, 1981 and shall apply to  
7 all prescription drug expenses incurred on and after such date.