

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1200

Session of
1983

INTRODUCED BY PETRONE, SEVENTY, TRELLO, DeWEESE, PISTELLA, LETTERMAN, MRKONIC, BOOK, MICOZZIE, MORRIS, CALTAGIRONE, KOWALYSHYN, MAIALE, ITKIN, BELOFF, CIMINI, PRESTON, MARKOSEK, AFFLERBACH, FATTAH, KASUNIC, MAYERNIK, JOHNSON, ALDERETTE, WOGAN, DEAL, GRUPPO, PRATT, DeLUCA, STEVENS, RYBAK, ANGSTADT, OLIVER, F. E. TAYLOR, WOZNIAK, COLAFELLA, CORDISCO, COWELL, EVANS, STEIGHNER, LUCYK, CIVERA, MISCEVICH, E. Z. TAYLOR, MERRY, FISCHER, BOWSER, GANNON, CARN, MARMION, CESSAR, GAMBLE, JAROLIN, McINTYRE, WILLIAMS, MICHLOVIC, HERMAN, RUDY, BOYES, LINTON, COHEN, HALUSKA, PUNT, WARGO, TELEK, W. W. FOSTER, MADIGAN, BURD AND MACKOWSKI, JUNE 14, 1983

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, SEPTEMBER 20, 1983

AN ACT

1 ~~Amending the act of March 11, 1971 (P.L.104, No.3), entitled, as~~ <—
2 ~~reenacted and amended, "An act providing property tax or rent~~
3 ~~rebate and inflation dividends to certain senior citizens,~~
4 ~~widows, widowers and permanently disabled persons with~~
5 ~~limited incomes; establishing uniform standards and~~
6 ~~qualifications for eligibility to receive rebates and~~
7 ~~dividends; providing for transportation assistance grants and~~
8 ~~grants to area agencies on aging for services to older~~
9 ~~persons; and imposing duties upon the Department of Revenue,"~~
10 ~~establishing a pharmaceutical, dental, hearing aid and vision~~
11 ~~assistance program for the elderly.~~
12 ESTABLISHING A PROGRAM OF PHARMACEUTICAL ASSISTANCE TO THE AGED; <—
13 PROVIDING FURTHER DUTIES OF THE DEPARTMENT OF REVENUE; AND
14 MAKING AN APPROPRIATION.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 ~~Section 1. The title and section 2 of the act of March 11,~~ <—
18 ~~1971 (P.L.104, No.3), known as the Senior Citizens Rebate and~~
19 ~~Assistance Act, reenacted and amended June 16, 1975 (P.L.7,~~

1 ~~No.4) and amended March 10, 1982 (P.L.177, No.56), are amended~~
2 ~~to read:~~

3 ~~AN ACT~~

4 ~~Providing property tax or rent rebate and inflation dividends to~~
5 ~~certain senior citizens, widows, widowers and permanently~~
6 ~~disabled persons with limited incomes; establishing uniform~~
7 ~~standards and qualifications for eligibility to receive~~
8 ~~rebates and dividends; providing for transportation~~
9 ~~assistance grants and grants to area agencies on aging for~~
10 ~~services to older persons; establishing a pharmaceutical,~~
11 ~~dental, hearing aid and vision assistance program for the~~
12 ~~elderly; and imposing duties upon the Department of Revenue~~
13 ~~and the Department of Aging.~~

14 ~~Section 2. Declaration of Policy. (a) In recognition of~~
15 ~~the severe economic plight of certain senior citizens, widows,~~
16 ~~widowers and permanently disabled persons who are real property~~
17 ~~owners or renters with fixed and limited incomes who are faced~~
18 ~~with rising living costs and constantly increasing tax and~~
19 ~~inflation cost burdens which threaten their homesteads and self-~~
20 ~~sufficiency, the General Assembly, pursuant to the mandates of~~
21 ~~the Constitutional Convention of 1968, considers it to be a~~
22 ~~matter of sound public policy to make special provisions for~~
23 ~~property tax rebates or rent rebates in lieu of property taxes~~
24 ~~and inflation dividends to that class of senior citizens,~~
25 ~~widows, widowers and permanently disabled persons who are real~~
26 ~~property taxpayers or renters who are without adequate means of~~
27 ~~support to enable them to remain in peaceable possession of~~
28 ~~their homes and relieving their economic burden and to provide~~
29 ~~transportation assistance grants and to provide grants to area~~
30 ~~agencies on aging for services to older persons.~~

~~(b) In further recognition of the severe economic plight of certain senior citizens with fixed and limited incomes who are faced with rising pharmaceutical, dental, hearing aid and vision costs, the General Assembly, pursuant to the mandates of the Constitutional Convention of 1968, considers it to be a matter of sound public policy to make special provisions for pharmaceutical, dental, hearing aid and vision assistance benefits to that class of senior citizens who are without adequate means to pay for all or a portion of such costs.~~

~~Section 2. Section 3(8) of the act, amended December 21, 1979 (P.L.570, No.131), is amended and clauses are added to read:~~

~~Section 3. Definitions. As used in this act:~~

~~* * *~~

~~(8) "Department" means the Department of Revenue except in the case of the Pharmaceutical, Dental, Hearing Aid and Vision Assistance Program for the elderly where "department" shall mean the Department of Aging.~~

~~* * *~~

~~(10) "Pharmaceutical, dental, hearing aid and vision assistance claimant" means any resident of the Commonwealth sixty five years of age and over, whose annual income is less than the maximum annual income, and who is not otherwise qualified for public assistance under the act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code."~~

~~(11) "Maximum annual income" means annual income as determined by the Department of Aging. Such amount shall not exceed eight thousand dollars (\$8,000) in the case of single persons nor twelve thousand dollars (\$12,000) in the case of the combined annual income of married persons.~~

~~(12) "Pharmacy" means any pharmacy licensed by the Commonwealth.~~

~~(13) "Program" means the program of pharmaceutical, dental, hearing aid and vision assistance for the aging as established by this act.~~

~~(14) "Prescription drugs" means all legend drugs, insulin, insulin syringes and insulin needles.~~

~~(15) "Reasonable cost" insofar as it relates to prescriptions means the average wholesale price of the drug product plus a dispensing fee which shall be two dollars fifty cents (\$2.50).~~

~~(16) "Prescription drug, dental, hearing aid and vision expense" means the reasonable cost incurred for prescription drugs and dental, hearing aid and vision care for the personal use of the pharmaceutical, dental, hearing aid and vision assistance claimant.~~

~~Section 3. The act is amended by adding a section to read:~~

~~Section 6.1. Pharmaceutical, Dental, Hearing Aid and Vision Assistance Program. There is hereby created a pharmaceutical, dental, hearing aid and vision assistance program for the elderly to be administered by the Department of Aging and funded from the Lottery Fund.~~

~~(a) The program shall consist of payments to pharmacies, dentists, hearing aid and vision care providers on behalf of pharmaceutical, dental, hearing aid and vision assistance claimants for the reasonable cost of a prescription, dental, hearing aid or vision care which exceeds one dollar (\$1) copayment per prescription or visit paid by each pharmaceutical, dental, hearing aid and vision assistance claimant but the total of all payments to any claimant in any one year shall not exceed~~

~~\$200. For the purpose of this act, with respect to prescriptions, the pharmaceutical assistance claimant shall be liable to pay the difference between the brand name drug and the generically equivalent drug as approved under the provisions of the act of November 24, 1976 (P.L.1163, No.259), referred to as the Generic Equivalent Drug Law. The program shall be administered by the Department of Aging, which shall promulgate rules and regulations necessary for administration of the program.~~

~~(b) Any otherwise eligible pharmaceutical, dental, hearing aid and vision assistance claimant whose prescription drug, dental, hearing aid or vision care expenses are covered in part by any other plan of assistance or insurance may be required to receive reduced assistance under the provisions of this act at the discretion of the Department of Aging.~~

~~(c) The Department of Aging shall establish a system for determining eligibility including provisions for submission of proof of actual and anticipated income, and evidence of complete or partial coverage of prescription drug, dental, hearing aid or vision care expenses by any other assistance or insurance plans and a system of payments to eligible pharmacies, dentists, hearing aid and vision care providers. The Department of Aging may contract for the establishment of such a system, if such a contract would be economically advantageous to the Commonwealth. It is the intent of the General Assembly that any existing methods and applications used to determine eligibility for similar existing programs be utilized to the extent possible in operationalizing this system.~~

~~(d) The Department of Aging shall adopt regulations relating to the determination of eligibility of prospective~~

1 ~~pharmaceutical, dental, hearing aid and vision assistance~~
2 ~~claimants and the determination and elimination of program~~
3 ~~abuse. The Department of Aging shall have the power to declare~~
4 ~~ineligible any pharmaceutical, dental, hearing aid and vision~~
5 ~~assistance claimant who abuses or misuses the established~~
6 ~~pharmaceutical, dental, hearing aid and vision assistance~~
7 ~~program.~~

8 ~~(c) No person eligible for prescription, dental, hearing aid~~
9 ~~or vision benefits under any other private, State or Federal~~
10 ~~program of medical insurance or assistance which duplicates the~~
11 ~~benefits available under this act shall be eligible hereunder,~~
12 ~~to the extent of such duplication.~~

13 ~~(f) Any person who submits a false or fraudulent claim under~~
14 ~~this act, or who aids or abets another in the submission of a~~
15 ~~false or fraudulent claim, or who is eligible under a private,~~
16 ~~State or Federal program for prescription, dental, hearing aid~~
17 ~~or vision assistance and who claims or receives duplicative~~
18 ~~benefits hereunder or who otherwise violates any provision of~~
19 ~~this act, shall be guilty of a misdemeanor of the third degree.~~

20 ~~Section 4. This act shall take effect July 1, 1983.~~

21 SECTION 1. SHORT TITLE.

<—

22 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE
23 PHARMACEUTICAL ASSISTANCE PLAN TO THE AGED ACT.

24 SECTION 2. DEFINITIONS.

25 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
26 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
27 CONTEXT CLEARLY INDICATES OTHERWISE:

28 "COPAYMENT." THE SUM TO BE PAID BY ELIGIBLE CLAIMANTS FOR
29 PRESCRIPTION DRUGS.

30 "DEPARTMENT." THE DEPARTMENT OF REVENUE.

1 "ELIGIBLE CLAIMANT." ANY RESIDENT OF THE COMMONWEALTH 65
2 YEARS OF AGE AND OLDER, WHOSE ANNUAL INCOME IS LESS THAN THE
3 MAXIMUM ANNUAL INCOME, AND WHO IS NOT OTHERWISE QUALIFIED FOR
4 PUBLIC ASSISTANCE UNDER THE ACT OF JUNE 13, 1967 (P.L.31,
5 NO.21), KNOWN AS THE PUBLIC WELFARE CODE.

6 "INCOME." ALL INCOME FROM WHATEVER SOURCE DERIVED INCLUDING,
7 BUT NOT LIMITED TO, SALARIES, WAGES, BONUSES, COMMISSIONS,
8 INCOME FROM SELF-EMPLOYMENT, ALIMONY, SUPPORT MONEY, CASH PUBLIC
9 ASSISTANCE AND RELIEF, THE GROSS AMOUNT OF ANY PENSIONS OR
10 ANNUITIES INCLUDING RAILROAD RETIREMENT BENEFITS, ALL BENEFITS
11 RECEIVED UNDER THE FEDERAL SOCIAL SECURITY ACT (EXCEPT MEDICARE
12 BENEFITS), ALL BENEFITS RECEIVED UNDER STATE UNEMPLOYMENT
13 INSURANCE LAWS AND VETERANS' DISABILITY PAYMENTS, ALL INTEREST
14 RECEIVED FROM THE FEDERAL OR ANY STATE GOVERNMENT, OR ANY
15 INSTRUMENTALITY OR POLITICAL SUBDIVISION THEREOF, REALIZED
16 CAPITAL GAINS, RENTALS, WORKMEN'S COMPENSATION AND THE GROSS
17 AMOUNT OF LOSS OF TIME INSURANCE BENEFITS, LIFE INSURANCE
18 BENEFITS AND PROCEEDS (EXCEPT THE FIRST \$5,000 OF THE TOTAL OF
19 DEATH BENEFIT PAYMENTS), GIFTS OF CASH OR PROPERTY (OTHER THAN
20 TRANSFERS BY GIFT BETWEEN MEMBERS OF A HOUSEHOLD) IN EXCESS OF A
21 TOTAL VALUE OF \$300, BUT SHALL NOT INCLUDE SURPLUS FOOD OR OTHER
22 RELIEF IN KIND SUPPLIED BY A GOVERNMENTAL AGENCY OR PROPERTY TAX
23 OR RENT REBATE OR INFLATION DIVIDEND.

24 "LEGEND DRUGS." ANY DRUG BEARING A LABEL OR LEGEND WHICH
25 PROHIBITS DISPENSING THE DRUG WITHOUT A DOCTOR'S PRESCRIPTION.

26 "MAXIMUM ANNUAL INCOME." THAT ANNUAL INCOME AMOUNT NOT IN
27 EXCESS OF \$9,000 IN THE CASE OF SINGLE PERSONS AND \$12,000 IN
28 THE CASE OF THE COMBINED ANNUAL INCOME OF MARRIED PERSONS.

29 "PHARMACY." ANY PHARMACY LICENSED BY THE COMMONWEALTH.

30 "PRESCRIPTION DRUGS." ALL LEGEND DRUGS, INSULIN, INSULIN

1 SYRINGES AND INSULIN NEEDLES.

2 "PROGRAM." THE PROGRAM OF PHARMACEUTICAL ASSISTANCE TO THE
3 AGED AS ESTABLISHED BY THIS ACT.

4 "REASONABLE COST." THE AVERAGE WHOLESALE COST OF
5 PRESCRIPTION DRUGS PLUS A DISPENSING FEE OF \$2.50.

6 SECTION 3. PAYMENTS UNDER PROGRAM.

7 THE PROGRAM SHALL CONSIST OF PAYMENTS TO PHARMACIES ON BEHALF
8 OF ELIGIBLE CLAIMANTS FOR THE REASONABLE COST OF PRESCRIPTION
9 DRUGS AS DETERMINED BY THE DEPARTMENT WHICH EXCEED THE COPAYMENT
10 PER PRESCRIPTION, OR PER PURCHASE OF INSULIN, SYRINGES OR
11 NEEDLES PAID BY EACH ELIGIBLE CLAIMANT. PAYMENTS TO PHARMACIES
12 PURSUANT TO THIS SECTION SHALL NOT EXCEED THE FUNDS APPROPRIATED
13 EACH FISCAL YEAR FOR THAT PURPOSE FROM THE STATE LOTTERY FUND.
14 IF PAYMENTS DURING ANY CONSECUTIVE THREE-MONTH-PERIOD EXCEED
15 PROJECTED EXPENDITURES FOR THAT PERIOD, THE SECRETARIES OF
16 AGING, BUDGET AND REVENUE SHALL JOINTLY DETERMINE TO INCREASE
17 THE AMOUNT OF COPAYMENT. ANY SUCH INCREASE SHALL TAKE EFFECT
18 UPON PUBLICATION IN THE PENNSYLVANIA BULLETIN AS A NOTICE UNDER
19 45 PA.C.S. § 725(A)(3) (RELATING TO ADDITIONAL CONTENTS OF
20 PENNSYLVANIA BULLETIN). THE INITIAL COPAYMENT SHALL BE 25% OF
21 THE REASONABLE COST OF THE PRESCRIPTION DRUG.

22 SECTION 4. USE OF GENERIC DRUGS.

23 IN ORDER FOR PAYMENT TO BE AUTHORIZED BY THE DEPARTMENT,
24 GENERIC EQUIVALENT DRUGS SHALL BE UTILIZED BY PHARMACISTS WHEN
25 FILLING PRESCRIPTIONS WRITTEN FOR A BRAND NAME LEGEND DRUG,
26 UNLESS THE PRESCRIBING PHYSICIAN SPECIFICALLY ORDERS THE
27 PHARMACIST TO USE THE BRAND NAME PRESCRIBED.

28 SECTION 5. COORDINATION AND DUPLICATION OF BENEFITS.

29 ANY OTHERWISE ELIGIBLE CLAIMANT WHOSE PRESCRIPTION DRUG COSTS
30 ARE ELIGIBLE TO BE WHOLLY COVERED BY ANY OTHER PLAN OF

1 ASSISTANCE OR INSURANCE SHALL BE INELIGIBLE FOR ASSISTANCE UNDER
2 THE PROVISIONS OF THIS ACT. ANY OTHERWISE ELIGIBLE CLAIMANT
3 WHOSE PRESCRIPTION DRUG COSTS ARE ELIGIBLE TO BE COVERED IN PART
4 BY ANY OTHER PLAN OF ASSISTANCE OR INSURANCE SHALL BE REQUIRED
5 TO RECEIVE REDUCED ASSISTANCE UNDER THE PROVISIONS OF THIS ACT
6 TO THE EXTENT OF THE DUPLICATION. ANY CHARGE IN EXCESS OF THE
7 REASONABLE COST OF A PRESCRIPTION DRUG MUST BE BORNE BY THE
8 CLAIMANT.

9 SECTION 6. PAYMENT SYSTEM.

10 (A) DEPARTMENTAL REGULATIONS.--THE DEPARTMENT SHALL BY
11 REGULATION ESTABLISH A SYSTEM OF PAYMENTS OR REIMBURSEMENTS AND
12 A SYSTEM FOR DETERMINING ELIGIBILITY, INCLUDING PROVISIONS FOR
13 SUBMISSION OF PROOF OF ANNUAL INCOME, AND EVIDENCE OF COMPLETE
14 OR PARTIAL COVERAGE OF PRESCRIPTION DRUG COSTS BY ANY OTHER
15 ASSISTANCE OR INSURANCE PLANS. IT IS THE INTENT OF THE GENERAL
16 ASSEMBLY THAT APPLICATIONS USED TO DETERMINE ELIGIBILITY FOR THE
17 PROPERTY TAX AND RENT REBATE PROGRAM ESTABLISHED BY THE ACT OF
18 MARCH 11, 1971 (P.L.104, NO.3), KNOWN AS THE SENIOR CITIZENS
19 REBATE AND ASSISTANCE ACT, BE UTILIZED TO THE EXTENT POSSIBLE IN
20 IMPLEMENTING AND ADMINISTERING THE PROGRAM ESTABLISHED BY THIS
21 ACT. THE REGULATIONS SHALL PROVIDE THAT NO PHARMACY SHALL ACCEPT
22 A PRESCRIPTION FROM AN ELIGIBLE CLAIMANT UNLESS INCLUDED THEREON
23 IS THE CLAIMANT'S SOCIAL SECURITY NUMBER. THE REGULATIONS SHALL
24 ALSO PROVIDE THAT PAYMENT TO PHARMACIES BE MADE WITHIN 30 DAYS
25 OF THE DATE THE PHARMACY REQUESTS PAYMENT FROM THE COMMONWEALTH.
26 IN THE EVENT THAT PAYMENT IS NOT MADE WITHIN 30 DAYS, SAID
27 PAYMENT SHALL ACCRUE INTEREST AT THE RATE PROVIDED BY SECTION
28 806 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE
29 FISCAL CODE, FROM THE DATE THE PAYMENT WAS REQUESTED UNTIL THE
30 DATE THE PAYMENT IS MAILED. NO PHARMACY SHALL BE ENTITLED TO ANY

1 INTEREST PAYMENT PURSUANT TO THIS SECTION DURING ANY PERIOD IN
2 WHICH AN AMOUNT OF TAX IMPOSED PURSUANT TO ARTICLE II OF THE ACT
3 OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF
4 1971, IS DUE AND PAYABLE BY SAID PHARMACY, BUT IS OVERDUE,
5 UNPAID OR OUTSTANDING.

6 (B) CONTRACT.--IN LIEU OF ESTABLISHING A PAYMENT SYSTEM
7 ESTABLISHED PURSUANT TO SUBSECTION (A), THE DEPARTMENT MAY
8 CONTRACT FOR THE ESTABLISHMENT OF SUCH A SYSTEM, IF SUCH A
9 CONTRACT WOULD BE ECONOMICALLY ADVANTAGEOUS TO THE COMMONWEALTH.

10 SECTION 7. FUNDING.

11 NOTWITHSTANDING SECTION 12 OF THE ACT OF AUGUST 26, 1971
12 (P.L.351, NO.91), KNOWN AS THE STATE LOTTERY LAW, FUNDING FOR
13 THE PROGRAM PROVIDED FOR IN THIS ACT SHALL BE ALLOCATED FROM THE
14 STATE LOTTERY FUND, NOT TO EXCEED \$100,806,350 PER YEAR, AND
15 SUCH MONEYS AS ARE NECESSARY TO CARRY OUT THIS ACT ARE HEREBY
16 APPROPRIATED TO THE DEPARTMENT FROM THE STATE LOTTERY FUND.

17 SECTION 8. UTILIZATION REVIEW.

18 THE DEPARTMENT SHALL ESTABLISH A SYSTEM OF UTILIZATION REVIEW
19 TO EFFECTIVELY DETERMINE THE COST OF THE PROGRAM AND SHALL
20 SUBMIT SUCH INFORMATION MONTHLY AND ANNUALLY TO THE MAJORITY AND
21 MINORITY CHAIRMEN OF THE HOUSE AND SENATE FINANCE COMMITTEES.

22 SECTION 9. REGULATIONS ON ELIGIBILITY AND ABUSE.

23 THE DEPARTMENT SHALL ADOPT REGULATIONS RELATING TO THE
24 DETERMINATION OF ELIGIBILITY OF PROSPECTIVE CLAIMANTS AND THE
25 DETERMINATION AND ELIMINATION OF PLAN ABUSE. THE DEPARTMENT
26 SHALL HAVE THE POWER TO DECLARE INELIGIBLE ANY CLAIMANT OR
27 PHARMACY WHO OR WHICH ABUSES OR MISUSES THE ESTABLISHED PLAN.

28 SECTION 10. ADMINISTRATIVE COSTS.

29 THE DEPARTMENT SHALL RECEIVE FROM THE STATE LOTTERY FUND
30 APPROPRIATE MONEYS TO FUND ADMINISTRATIVE COSTS. ADMINISTRATIVE

1 COSTS SHALL NOT EXCEED 5% OF THE TOTAL STATE LOTTERY FUND MONEYS
2 EXPENDED FOR PRESCRIPTION DRUGS UNDER PROVISIONS OF THE PLAN.
3 SECTION 11. EFFECTIVE DATE.
4 THIS ACT SHALL TAKE EFFECT OCTOBER 1, 1983.