

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,
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SHOWERS, PISTELLA, COHEN, STEIGHNER, RUDY, SEVENTY, FISCHER,
E. Z. TAYLOR, TRUMAN, McCALL, OLIVER, RICHARDSON, STUBAN AND
DAWIDA, JUNE 29, 1983

AS REPORTED FROM COMMITTEE ON HEALTH AND WELFARE, HOUSE OF
REPRESENTATIVES, AS AMENDED, JULY 12, 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
14 prescription drugs.

1 "Department." The Department of Aging.

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

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

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

27 "Maximum annual income." That annual income amount not in
28 excess of \$9,000 in the case of single persons and \$12,000 in
29 the case of the combined annual income of married persons.

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 and PLUS a dispensing fee, as determined by <—
6 the department.

7 Section 3. Payments under program.

8 ~~The program shall consist of payments to pharmacies on behalf~~ <—
9 ~~of eligible claimants for the reasonable cost of prescription~~
10 ~~drugs which exceed a \$4 co payment per prescription, or per~~
11 ~~purchase of insulin, paid by each eligible claimant.~~ THE PROGRAM <—
12 SHALL CONSIST OF PAYMENTS TO PHARMACIES ON BEHALF OF ELIGIBLE
13 CLAIMANTS FOR THE REASONABLE COST OF PRESCRIPTION DRUGS AS
14 DETERMINED BY THE DEPARTMENT WHICH EXCEED THE CO-PAYMENT PER
15 PRESCRIPTION, OR PER PURCHASE OF INSULIN, PAID BY EACH ELIGIBLE
16 CLAIMANT. PAYMENTS TO PHARMACIES PURSUANT TO THIS SECTION SHALL
17 NOT EXCEED THE FUNDS APPROPRIATED EACH FISCAL YEAR FROM THE
18 STATE LOTTERY FUND. IF PAYMENTS DURING ANY CONSECUTIVE THREE-
19 MONTH-PERIOD EXCEED PROJECTED EXPENDITURES FOR THAT PERIOD, THE
20 SECRETARIES OF AGING, BUDGET AND REVENUE MAY JOINTLY DETERMINE
21 TO INCREASE THE AMOUNT OF CO-PAYMENT. ANY SUCH INCREASE SHALL
22 TAKE EFFECT UPON PUBLICATION IN THE PENNSYLVANIA BULLETIN AS A
23 NOTICE UNDER 45 PA.C.S. § 725(A)(3) (RELATING TO ADDITIONAL
24 CONTENTS OF PENNSYLVANIA BULLETIN). THE INITIAL CO-PAYMENT SHALL
25 BE \$4.

26 Section 4. Use of generic drugs.

27 In order for payment to be made by the department, generic
28 equivalent drugs shall be utilized by pharmacists when filling
29 prescriptions written for a brand name legend drug, unless the
30 prescribing physician specifically orders the pharmacist to use

1 the brand name prescribed.

2 Section 5. Notice of nonparticipation.

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

6 Section 6. Coordination of benefits.

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

14 Section 7. Payment system.

15 (a) Departmental regulations.--The department shall by
16 regulation establish a system of payments or reimbursements and
17 a system for determining eligibility, including provisions for
18 submission of proof of actual and anticipated annual income, and
19 evidence of complete or partial coverage of prescription drug
20 costs by any other assistance or insurance plans. THE

<—

21 REGULATIONS SHALL PROVIDE THAT NO PHARMACY SHALL ACCEPT A
22 PRESCRIPTION FROM AN ELIGIBLE CLAIMANT UNLESS INCLUDED THEREON
23 IS THE CLAIMANT'S SOCIAL SECURITY NUMBER.

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

28 Section 8. Funding.

29 Notwithstanding section 12 of the act of August 26, 1971
30 (P.L.351, No.91), known as the State Lottery Law, funding for

1 the program provided for in this act, including administrative
2 costs as provided in section 12, shall be allocated from the
3 State Lottery Fund, NOT TO EXCEED \$100,000,000 PER YEAR, and <—
4 such moneys as are necessary to carry out this act are hereby
5 appropriated to the department from the State Lottery Fund on a
6 continuing basis.

7 Section 9. Duplication of Benefits.

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

13 Section 10. Utilization review.

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

16 Section 11. Regulations on eligibility and abuse.

17 The department shall adopt regulations relating to the
18 determination of eligibility of prospective claimants and the
19 determination and elimination of plan abuse. The department
20 shall have the power to declare ineligible any claimant who
21 abuses or misuses the established plan.

22 Section 12. Administrative costs.

23 The department shall receive from the State Lottery Fund
24 appropriate moneys to fund administrative costs. Administrative
25 costs shall not exceed 9% of the total State Lottery Fund moneys
26 expended for prescription drugs under provisions of the plan.

27 Section 13. Effective date.

28 This act shall take effect on October 1, 1983.