

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, ARTY,
PETRONE, BOOK AND BUNT, JUNE 29, 1983

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
OCTOBER 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

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~~ CASH 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 \$12,000 in the case of single persons and \$15,000 in
30 the case of the combined annual income of married persons.

1 "Monthly average prescription drug cost." The quotient
2 derived when the department divides the sum of the reasonable
3 cost of all prescription invoices submitted during that month by
4 the number of prescription invoices submitted that same month.

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

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

9 "Reasonable cost." The average wholesale cost of
10 prescription drugs AS DETERMINED BY THE DEPARTMENT plus a <—
11 dispensing fee, ~~as determined by the department~~ WHICH SHALL BE <—
12 INCREASED OR DECREASED ANNUALLY BASED UPON CHANGES IN THE
13 CONSUMER PRICE INDEX FOR THE COMMONWEALTH.

14 Section 3. Payments under program.

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

22 (b) Copayment increase or decrease.--Along with other fiscal
23 and program data published by the department on a monthly basis,
24 the department shall also publish the monthly average
25 prescription drug cost under this program. Whenever this
26 published monthly average prescription drug cost:

27 (1) Equals or exceeds by 20% the monthly average
28 prescription drug cost in the:

29 (i) first full calendar month in which prescription
30 invoices are filed after the effective date of this act

1 in which the initial copayment established by this
2 section applies; or

3 (ii) month in which the current copayment is fixed
4 pursuant to this section;

5 then the copayment shall be increased by 20% as prescribed in
6 subsection (c).

7 (2) Is less than 80% of the monthly average prescription
8 drug cost of the month in which the current copayment is
9 fixed pursuant to subsection (c), the copayment shall be
10 reduced by 20% as prescribed in subsection (c).

11 (c) Adjustments in copayment.--Whenever the published
12 monthly average prescription drug cost equals or exceeds by 20%
13 or is less than 20% as prescribed in subsection (b), notice to
14 that effect shall be jointly published by the Secretaries of
15 Aging, Budget and Revenue in the Pennsylvania Bulletin under 45
16 Pa.C.S. § 725(a)(3) (relating to additional contents of
17 Pennsylvania Bulletin). Concurrent with the publication of such
18 notice, the copayment shall be increased or reduced by 20%.

19 (d) Initial and minimum copayment.--The initial copayment
20 shall be \$4. The minimum copayment, which shall not be affected
21 by subsection (b) or (c), shall be \$4 per prescription.

22 Section 4. Use of generic drugs.

23 In order for payment to be made by the department, generic
24 equivalent drugs shall be utilized by pharmacists when filling
25 prescriptions written for a brand name legend drug, unless the
26 prescribing physician specifically orders the pharmacist to use
27 the brand name prescribed.

28 Section 5. Notice of nonparticipation.

29 Any pharmacy choosing not to participate in this program
30 shall post a conspicuous notice of nonparticipation at the

1 prescription counter of the pharmacy.

2 Section 6. Coordination of benefits.

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

10 Section 7. Payment system.

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

17 ~~regulations shall provide that no pharmacy shall accept a~~
18 ~~prescription from an eligible claimant unless included thereon~~
19 ~~is the claimant's social security number.~~ THE REGULATIONS SHALL <—

20 PROVIDE THAT NO PHARMACY SHALL ACCEPT A PRESCRIPTION FROM AN
21 ELIGIBLE CLAIMANT UNLESS INCLUDED THEREON IS THE CLAIMANT'S
22 SOCIAL SECURITY NUMBER. THE REGULATIONS SHALL ALSO PROVIDE THAT
23 PAYMENT TO PHARMACIES BE MADE WITHIN 30 DAYS OF THE DATE THE
24 PHARMACY REQUESTS PAYMENT FROM THE COMMONWEALTH. IN THE EVENT
25 THAT PAYMENT IS NOT MADE WITHIN 30 DAYS, SAID PAYMENT SHALL
26 ACCRUE INTEREST AT THE RATE PROVIDED BY SECTION 806 OF THE ACT
27 OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE,
28 FROM THE DATE THE PAYMENT WAS REQUESTED UNTIL THE DATE THE
29 PAYMENT IS MAILED. NO PHARMACY SHALL BE ENTITLED TO ANY INTEREST
30 PAYMENT PURSUANT TO THIS SECTION DURING ANY PERIOD IN WHICH AN

1 AMOUNT OF TAX IMPOSED PURSUANT TO ARTICLE II OF THE ACT OF MARCH
2 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS
3 DUE AND PAYABLE BY SAID PHARMACY, BUT IS OVERDUE, UNPAID OR
4 OUTSTANDING.

5 (b) Contract.--In lieu of a payment system established
6 pursuant to subsection (a), the department may contract for the
7 establishment of such a system, if such a contract would be
8 economically advantageous to the Commonwealth.

9 Section 8. Funding.

10 Notwithstanding section 12 of the act of August 26, 1971
11 (P.L.351, No.91), known as the State Lottery Law, funding for
12 the program provided for in this act, including administrative
13 costs as provided in section 12, shall be annually appropriated
14 from the State Lottery Fund. For fiscal year July 1, 1983
15 through June 30, 1984, the administrative costs for the program
16 as prescribed by section 12 are hereby appropriated from the
17 State Lottery Fund. For fiscal year July 1, 1983 through June
18 30, 1984, the program expenditures under this act shall not
19 exceed \$100,000,000. FOR ALL FUTURE YEARS THE EXPENDITURES FOR
20 THIS PROGRAM SHALL BE LIMITED TO THE AMOUNT APPROPRIATED BY THE
21 GENERAL ASSEMBLY FROM THE STATE LOTTERY FUND.

22 Section 9. Duplication of Benefits.

23 No person eligible for prescription benefits under any other
24 private, State or Federal program of medical insurance or
25 assistance which duplicate the benefits available under this act
26 shall be eligible under this act to the extent of the
27 duplication.

28 SECTION 10. LIMITATION ON PRESCRIPTION.

29 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, PRESCRIPTION
30 BENEFITS FOR ANY SINGLE PRESCRIPTION SHALL BE LIMITED TO A 30-

1 DAY SUPPLY OF THE PRESCRIPTION DRUG OR 100 DOSES, WHICHEVER IS
2 LESS, EXCEPT THAT IN THE CASE OF ACUTE DRUGS THE LIMITATION
3 SHALL BE A 15-DAY SUPPLY.

4 SECTION 11. ADVISORY BOARD.

5 AN ADVISORY BOARD WITHIN THE DEPARTMENT SHALL BE ESTABLISHED
6 TO MAKE RECOMMENDATIONS CONCERNING THE PROGRAM. THE BOARD SHALL
7 CONSIST OF THREE SENIOR CITIZENS APPOINTED BY THE SECRETARY OF
8 AGING, THREE ACTIVE, PRACTICING PHARMACISTS APPOINTED BY THE
9 SECRETARY OF AGING AND THE SECRETARY OF AGING OR HIS DESIGNEE.

10 Section ~~10~~ 12. Utilization review. <—

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

13 Section ~~11~~ 13. Regulations on eligibility and abuse. <—

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

19 Section ~~12~~ 14. Administrative costs. <—

20 Administrative costs shall not exceed 9% of the total State
21 Lottery Fund moneys expended for prescription drugs under
22 provisions of the plan.

23 Section ~~13~~ 15. Effective date. <—

24 This act shall take effect in 60 days.