

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1400 Session of
2002

INTRODUCED BY MURPHY, TOMLINSON, MOWERY, ERICKSON, BELL,
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ORIE, PICCOLA, PUNT, RHOADES, M. WHITE, MADIGAN, BOSCOLA AND
LEMMOND, APRIL 15, 2002

REFERRED TO AGING AND YOUTH, APRIL 15, 2002

AN ACT

1 Amending the act of August 26, 1971 (P.L.351, No.91), entitled
2 "An act providing for a State Lottery and administration
3 thereof; authorizing the creation of a State Lottery
4 Commission; prescribing its powers and duties; disposition of
5 funds; violations and penalties therefor; exemption of prizes
6 from State and local taxation and making an appropriation,"
7 further providing for definitions, for drug utilization
8 review system, for program generally and for supply;
9 providing for a mail order program for maintenance drugs;
10 further providing for reimbursement and for Pharmaceutical
11 Assistance Contract for the Elderly Needs Enhancement Tier;
12 providing for Pharmaceutical Assistance Contract for the
13 Elderly Needs Enhancement Tier Plus, for senior wellness
14 program, for prescription drug clearinghouse, for provider
15 assistance, for priority of prescription drug assistance;
16 defining "best price," "average wholesale cost" and "average
17 wholesale price"; further providing for terms of rebate
18 agreement, for amount of rebate, for excessive pharmaceutical
19 price inflation discount and for disposition of funds; and
20 providing for interstate bulk purchasing program.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 Section 1. The definition of "program" in section 502 of the
24 act of August 26, 1971 (P.L.351, No.91), known as the State
25 Lottery Law, added November 21, 1996 (P.L.741, No.134), is
26 amended and the section is amended by adding definitions to

1 read:

2 Section 502. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 * * *

7 "Mail order program." A program to dispense prescription
8 drugs by postal delivery service designated and administered by
9 the Department of Aging, and any entity with which it contracts,
10 upon an enrollee's submission of a prescription and the
11 applicable copayment.

12 "Maintenance drug." A prescription drug prescribed to an
13 individual for a chronic condition, the use of which is
14 medically necessary for a consecutive period of 16 days or
15 longer.

16 * * *

17 "PACENET Plus." The Pharmaceutical Assistance Contract for
18 the Elderly Needs Enhancement Tier Plus provided for in this
19 chapter.

20 * * *

21 "Program." The Pharmaceutical Assistance Contract for the
22 Elderly (PACE) [and], the Pharmaceutical Assistance Contract for
23 the Elderly Needs Enhancement Tier (PACENET) as established by
24 this chapter and the Pharmaceutical Assistance Contract for the
25 Elderly Needs Enhancement Tier Plus (PACENET Plus) as
26 established by this chapter, unless otherwise specified.

27 * * *

28 "Unreimbursed prescription drug expenses." This term does
29 not include enrollment fees paid under the program.

30 Section 2. Section 505 of the act, added November 21, 1996

1 (P.L.741, No.134), is amended to read:

2 Section 505. Drug utilization review system.

3 (a) General rule.--The department shall ensure that a state-
4 of-the-art therapeutic drug utilization review system is
5 established to monitor and correct misutilization of drug
6 therapies.

7 (b) Technical advisory committee.--The department shall
8 establish a technical advisory committee comprised of a
9 sufficient number of practicing pharmacists, physicians,
10 academic pharmacologists and at least one pharmacoeconomist to
11 recommend a list of preferred single-source drugs and preferred
12 innovator multiple-source drugs, based on medical efficacy and
13 cost and provide the department with technical assistance
14 related to drugs dispensed under the program.

15 (c) Preferred drug list.--From the list recommended by the
16 technical advisory committee, the secretary shall establish a
17 list of drugs to be reimbursed by the program.

18 Section 3. Section 509(6) of the act, added November 21,
19 1996 (P.L.741, No.134), is amended and the section is amended by
20 adding paragraphs to read:

21 Section 509. Program generally.

22 The program shall include the following:

23 * * *

24 (6) [The] (i) Except as provided in subparagraph (ii),
25 the program shall consist of payments to pharmacies on behalf
26 of eligible claimants for 90% of the average wholesale costs
27 of prescription drugs which exceed the copayment, plus a
28 dispensing fee of at least \$3.50 or the dispensing fee
29 established by the department by regulation, whichever is
30 greater.

1 (ii) For A-rated generic therapeutically equivalent
2 drugs, the program shall consist of payments to
3 pharmacies on behalf of eligible claimants for the upper
4 limits established under 42 CFR § 447.332 (relating to
5 upper limits for multiple source drugs), plus a
6 dispensing fee of \$3.50, or the dispensing fee
7 established by the department by regulation, whichever is
8 greater.

9 This paragraph shall not apply to prescription drugs
10 dispensed under paragraph (9).

11 * * *

12 (8) The department shall establish a medical exception
13 process whereby a prescribing physician may provide, online
14 or otherwise, clinical justification for an eligible claimant
15 to receive a prescription drug that is not on the preferred
16 provider list established under section 505(c).

17 (9) (i) Except as provided in subparagraph (ii), in no
18 case shall an eligible claimant who is enrolled in
19 PACENET or PACENET Plus but who has not yet satisfied the
20 deductibles required by this chapter be charged more than
21 90% of the average wholesale costs of prescription drugs
22 which exceed the copayment, plus a dispensing fee of at
23 least \$3.50 or the dispensing fee established by the
24 department by regulation, whichever is greater.

25 (ii) For A-rated generic therapeutically equivalent
26 drugs, such eligible claimant shall not be charged more
27 than the upper limits established under 42 C.F.R. §
28 447.332, plus a dispensing fee of at least \$3.50 or the
29 dispensing fee established by the department by
30 regulation, whichever is greater.

1 (10) The Commonwealth shall make payments to pharmacies
2 for prescription drugs dispensed to eligible claimants under
3 paragraph (9) in an amount equal to the difference between
4 the total amount paid by the eligible claimant under
5 paragraph (9) and the price of the drug at the particular
6 pharmacy on the date of the sale.

7 Section 4. Section 511 of the act, added November 21, 1996
8 (P.L.741, No.134), is amended to read:

9 Section 511. Supply.

10 [Prescription] Except as may be provided in section 513.1 for
11 maintenance drugs, prescription benefits for any single
12 prescription shall be limited to a 30-day supply of the
13 prescription drug or 100 units, whichever is less, except that,
14 in the case of diagnosis for acute conditions, the limitation
15 shall be a 15-day supply. This limitation shall not apply to
16 topical ointments or gels that are not available in containers
17 which meet the size and supply restrictions set forth in this
18 section.

19 Section 5. The act is amended by adding a section to read:

20 Section 513.1. Mail order program for maintenance drugs.

21 (a) General rule.--The department may offer a mail order
22 program for the delivery of maintenance drugs under the program.

23 (b) Pharmacy participation.--A pharmacy enrolled as a
24 provider may participate in any mail order program offered by
25 the department. Participating pharmacies must offer mail order
26 program participants or the participant's designated
27 representative the opportunity for face-to-face consultation at
28 least once every 30 days. The department shall pay a
29 consultation fee of \$35 per hour on a prorated basis for
30 consultation services provided for selected prescription drugs

1 as determined by the technical advisory committee.

2 Section 6. Sections 515 and 519 of the act, amended or added
3 November 21, 1996 (P.L.741, No.134), are amended to read:

4 Section 515. Reimbursement.

5 For-profit third-party insurers, health maintenance
6 organizations and not-for-profit prescription plans shall be
7 responsible for any payments made by the program to a [providing
8 pharmacy] provider on behalf of a claimant covered by such a
9 third party.

10 Section 519. The Pharmaceutical Assistance Contract for the
11 Elderly Needs Enhancement Tier.

12 (a) Establishment.--There is hereby established within the
13 department a program to be known as the Pharmaceutical
14 Assistance Contract for the Elderly Needs Enhancement Tier
15 (PACENET).

16 (b) PACENET eligibility.--

17 (1) A claimant with an annual income of not less than
18 \$14,000 and not more than [\$16,000] \$17,000 in the case of a
19 single person and of not less than \$17,200 and not more than
20 [\$19,200] \$20,200 in the case of the combined income of
21 persons married to each other shall be eligible for enhanced
22 pharmaceutical assistance under this section.

23 (2) A person may, in reporting income to the department,
24 round the amount of each source of income and the income
25 total to the nearest whole dollar, whereby any amount which
26 is less than 50¢ is eliminated.

27 (b.1) Enrollment fee.--

28 (1) An enrollment fee of \$50 shall be paid by an
29 eligible claimant to an enrolled pharmacy of choice at the
30 time of enrollment.

1 (2) The enrolled pharmacy of choice shall deduct an
2 amount from the fee that the department approves as the
3 administrative cost to the pharmacy and shall transmit the
4 balance of the fee to the department.

5 (c) Deductible.--

6 (1) Upon enrollment in PACENET, eligible claimants in
7 the income ranges set forth in subsection (b) shall be
8 required to meet an annual deductible in unreimbursed
9 prescription drug expenses [of \$500 per person.] per person
10 as follows:

<u>Deductible</u>	<u>Single Person Income</u>	<u>Married Couple Income</u>
<u>\$300</u>	<u>\$14,000-14,999</u>	<u>\$17,200-18,199</u>
<u>350</u>	<u>15,000-15,999</u>	<u>18,200-19,199</u>
<u>400</u>	<u>16,000-17,000</u>	<u>19,200-20,200</u>

15 (2) To qualify for the deductible set forth in this
16 subsection the prescription drug must be purchased for the
17 use of the eligible claimant from a provider as defined in
18 this chapter.

19 (3) The department, after consultation with the board,
20 may approve an adjustment in the deductible on an annual
21 basis.

22 (d) Copayment.--For eligible claimants under this section,
23 the copayment schedule, which may be adjusted by the department
24 on an annual basis after consultation with the board, shall be:

25 (i) eight dollars for noninnovator multiple source drugs
26 as defined in section 702; [or]

27 (ii) fifteen dollars for preferred single-source drugs
28 and preferred innovator multiple-source drugs as defined in
29 section 702[.];

30 (iii) twenty-five dollars for nonpreferred single source

1 drugs and nonpreferred innovator multiple-source drugs,
2 except as provided in paragraph (iv); or

3 (iv) fifteen dollars for nonpreferred single source
4 drugs and nonpreferred innovator multiple-source drugs where
5 a medical exception has been granted by the department.

6 Section 7. The act is amended by adding sections to read:

7 Section 519.1. Pharmaceutical Assistance Contract for the
8 Elderly Needs Enhancement Tier Plus.

9 (a) Establishment.--There is hereby established within the
10 department a program to be known as the Pharmaceutical
11 Assistance Contract for the Elderly Needs Enhancement Tier Plus
12 (PACENET Plus).

13 (b) PACENET Plus eligibility.--A claimant with an annual
14 income which is not less than \$17,001 and not more than \$20,999
15 in the case of a single person, and not less than \$20,201 and
16 not more than \$25,199 in the case of the combined income of
17 persons married to each other shall be eligible for
18 participation under this section. A person may, in reporting
19 income to the department, round the amount of each source of
20 income and the income total to the nearest whole dollar, whereby
21 any amount which is less than 50¢ is eliminated.

22 (c) Enrollment fee.--

23 (1) An enrollment fee of \$50 shall be paid by an
24 eligible claimant to an enrolled pharmacy of choice at the
25 time of enrollment.

26 (2) The enrolled pharmacy of choice shall deduct an
27 amount from the fee that the department approves as the
28 administrative cost to the pharmacy and shall transmit the
29 balance of the fee to the department.

30 (d) Deductible.--

(1) Upon enrollment in PACENET Plus, eligible claimants in the income ranges set forth in subsection (b) shall be required to meet an annual deductible in unreimbursed prescription drug expenses per person as follows:

<u>Deductible</u>	<u>Single Person Income</u>	<u>Married Couple Income</u>
<u>\$450</u>	<u>\$17,001-17,999</u>	<u>\$20,201-21,199</u>
<u>500</u>	<u>18,000-18,999</u>	<u>21,200-22,199</u>
<u>550</u>	<u>19,000-19,999</u>	<u>22,200-23,199</u>
<u>600</u>	<u>20,000-20,999</u>	<u>23,200-24,199</u>
<u>650</u>	<u>_____</u>	<u>24,200-25,199</u>

(2) To qualify for the deductible set forth in this subsection the prescription drug must be purchased for the use of the eligible claimant from a provider as defined in this chapter.

(3) The department, after consultation with the board, may approve an adjustment in the deductible on an annual basis.

(e) Copayment.--For eligible claimants under this section, the copayment schedule shall be the same as provided under section 519(d).

Section 523. Senior wellness program.

The department shall provide eligible claimants with educational materials to maintain physical and mental health.

Section 524. Prescription drug clearinghouse.

The department shall directly or by contract, establish, implement and administer a prescription drug clearinghouse which is easily accessible to senior citizens by means of a toll-free telephone number and electronic and other mechanisms that:

(1) Facilitates access by senior citizens to prescription drugs.

1 (2) Identifies alternatives for securing or purchasing
2 prescription drugs through public or private programs.

3 (3) Provides information resources relating to the
4 costs, coverage, policy and access to the programs under
5 paragraph (2).

6 (4) Provides such additional information which will
7 enable senior citizens to make informed reasonable choices
8 related to the purchase of prescription drugs.

9 Section 525. Provider assistance.

10 (a) General rule.--The department shall:

11 (1) Encourage and facilitate physician use of online
12 technology.

13 (2) Provide secure online and other technical assistance
14 to physicians related to prescription drugs dispensed to
15 claimants through the program, including contraindications,
16 therapeutic interchange, cost and medical exception
17 processing.

18 (b) Administration.--The department in carrying out its
19 duties under this section may enter into a contract with a
20 private contractor.

21 Section 526. Priority of prescription drug assistance.

22 If the Federal Government provides for a prescription drug
23 assistance program and participants utilizing the programs
24 offered by the Commonwealth are also qualified for coverage
25 under the Federal program, then each participant shall first
26 utilize the Federal program and may not seek Commonwealth
27 assistance until Federal eligibility is exhausted.

28 Section 8. The definitions of "covered prescription drug"
29 and "provider" in section 702 of the act, added November 21,
30 1996 (P.L.741, No.134), are amended and the section is amended

1 by adding definitions to read:

2 Section 702. Definitions.

3 The following words and phrases when used in this chapter
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 * * *

7 "Average wholesale cost." The cost of a dispensed drug based
8 upon the price published in a national drug pricing system in
9 current use by the Department of Aging as the average wholesale
10 price of a prescription drug in the most common package size.

11 "Average wholesale price." Average wholesale cost.

12 "Best price." As defined under section 1927 of the Social
13 Security Act (49 Stat. 620, 42 U.S.C. § 301 et seq.).

14 * * *

15 "Covered prescription drug." A legend drug, insulin, an
16 insulin syringe or an insulin needle eligible for payment by the
17 Commonwealth under PACE, PACENET, PACENET Plus or designated
18 pharmaceutical programs.

19 * * *

20 "PACENET Plus." The program established under section 519.1.

21 * * *

22 "Provider." A licensed pharmacy or dispensing physician
23 enrolled as a provider in PACE, PACENET, PACENET Plus or
24 designated pharmaceutical programs.

25 * * *

26 Section 9. Sections 703 and 704(a) and (b) of the act, added
27 November 21, 1996 (P.L.741, No.134), are amended to read:

28 Section 703. Rebate agreement.

29 (a) Requirement.--PACE, PACENET, PACENET Plus and designated
30 pharmaceutical programs shall not reimburse for any covered

1 prescription drug without a rebate agreement between the
2 department and the manufacturer of the covered prescription
3 drug.

4 (b) Exception.--Subsection (a) shall not apply if the
5 availability of the drug is essential to the health of eligible
6 claimants as determined by the department.

7 (c) Agreements.--Manufacturers of prescription drugs
8 reimbursed under PACE, PACENET, PACENET Plus and designated
9 pharmaceutical programs must enter into a rebate agreement with
10 the department under this chapter to obtain such reimbursement.
11 Nothing in this chapter shall be deemed to affect or impair any
12 agreement made under the former provisions of Chapter 6 of the
13 act of August 14, 1991 (P.L.342, No.36), known as the Lottery
14 Fund Preservation Act.

15 (d) Notice.--The department shall notify enrolled providers
16 of PACE, PACENET, PACENET Plus and designated pharmaceutical
17 programs on an annual basis and, as appropriate, of all
18 manufacturers who have entered into a rebate agreement.

19 (e) Drug formulary.--Except as provided in section 512,
20 there shall be no drug formulary, prior or retroactive approval
21 system or any similar restriction imposed on the coverage of
22 outpatient drugs made by manufacturers who have agreements in
23 effect with the Commonwealth to pay rebates for drugs utilized
24 in PACE [and], PACENET and PACENET Plus, provided that such
25 outpatient drugs were approved for marketing by the Food and
26 Drug Administration. This subsection shall not apply to any act
27 taken by the department pursuant to its therapeutic drug
28 utilization review program under section 505.
29 Section 704. Terms of rebate agreement.

30 (a) Quarterly basis.--A rebate agreement shall require any

1 manufacturer of covered prescription drugs to provide to the
2 department a rebate each calendar quarter [in an amount
3 specified in section 705] in an amount which shall give the
4 department the best price for the drugs provided under PACE,
5 PACENET and PACENET Plus, for covered prescription drugs of the
6 manufacturer reimbursed during the quarter. The rebate shall be
7 paid by the manufacturer not later than 30 days after the date
8 of receipt of the information described in subsection (b) for
9 the period involved.

10 (b) Information.--

11 (1) The department shall report to each manufacturer,
12 not later than 60 days after the end of each calendar
13 quarter, information by zip code of provider on the total
14 number of dosage units of each covered prescription drug
15 reimbursed under PACE, PACENET, PACENET Plus and designated
16 pharmaceutical programs during the quarter.

17 (2) A manufacturer may review the information provided
18 under paragraph (1) and verify information. Adjustments to
19 rebates shall be made to the extent that information
20 indicates that utilization was greater or less than the
21 amount previously specified.

22 (3) In the event that in any quarter a material
23 discrepancy in the department's information is certified by
24 the manufacturer prior to the due date of the rebate, the
25 department and the manufacturer shall, in good faith, attempt
26 to resolve the discrepancy. If resolution is not reached
27 within 30 days of receipt of the manufacturer's certification
28 by the department, the manufacturer may appeal the
29 department's decision under the department's formal fair
30 hearings and appeals process. The manufacturer shall pay the

1 department that portion of the rebate amount which is not
2 disputed within the required time frame under this chapter.
3 Any balance due, plus statutory interest, shall be paid or
4 credited by the manufacturer or the department by the due
5 date of the next quarterly payment after resolution of the
6 dispute.

7 * * *

8 Section 10. Section 705 (a) and (c) of the act, added
9 November 21, 1996 (P.L.741, No.134), are amended and the section
10 is amended by adding a subsection to read:

11 Section 705. Amount of rebate.

12 (a) Single-source drugs and innovator multiple-source
13 drugs.--With respect to single-source drugs and innovator
14 multiple-source drugs, each manufacturer shall remit a rebate to
15 the Commonwealth. Except as otherwise provided in this section,
16 the amount of the rebate to the Commonwealth per calendar
17 quarter with respect to each dosage form and strength of single-
18 source drugs and innovator multiple-source drugs shall be as
19 follows:

20 (1) For quarters beginning after September 30, 1992, and
21 ending before January 1, 1997, the product of the total
22 number of units of each dosage form and strength reimbursed
23 by PACE and General Assistance in the quarter and the
24 difference between the average manufacturer price and 85% of
25 that price, after deducting customary prompt payment
26 discounts, for the quarter.

27 (2) For quarters beginning after December 31, 1996
28 through December 31, 2002, the product of the total number of
29 units of each dosage form and strength reimbursed by PACE,
30 PACENET, PACENET Plus and designated pharmaceutical programs

1 in the quarter and the difference between the average
2 manufacturer price and 83% of that price, after deducting
3 customary prompt payment discounts.

4 (3) For quarters beginning after December 31, 2002, the
5 product of the total number of units of each dosage form and
6 strength reimbursed by designated pharmaceutical programs in
7 the quarter and the difference between the average
8 manufacturer price and 83% of that price, after deducting
9 customary prompt payment discounts.

10 (4) For quarters beginning after December 31, 2002, the
11 product of the total number of units of each dosage form and
12 strength reimbursed by PACE, PACENET and PACENET Plus in the
13 quarter and the difference between the average wholesale
14 price and 83% of that price, after deducting customary prompt
15 payment discounts.

16 * * *

17 (c) Revised rebate for other drugs.--Beginning after
18 December 31, 1996 through December 31, 2002:

19 (1) The amount of the rebate to the Commonwealth for a
20 calendar quarter with respect to covered prescription drugs
21 which are noninnovator multiple-source drugs shall be [the
22 greater of] equal to the best price or the product of:

23 (i) the applicable percentage of the average
24 manufacturer price, after deducting customary prompt
25 payment discounts, for each dosage form and strength of
26 such drugs for the quarter; and

27 (ii) the number of units of such form and dosage
28 reimbursed by PACE, PACENET, PACENET Plus and designated
29 pharmaceutical programs in the quarter[.], whichever is
30 greater.

1 (2) For purposes of paragraph (1), the applicable
2 percentage is 17%.

3 (c.1) Revised rebate for other drugs in 2003.--Beginning
4 after December 31, 2002:

5 (1) The amount of the rebate to the Commonwealth for a
6 calendar quarter with respect to covered prescription drugs
7 which are noninnovator multiple-source drugs shall be the
8 greater of the product of:

9 (i) the applicable percentage of the average
10 manufacturer price, after deducting customary prompt
11 payment discounts, for each dosage form and strength of
12 such drugs for the quarter; and

13 (ii) the number of units of such form and dosage
14 reimbursed by designated pharmaceutical programs in the
15 quarter.

16 (2) The amount of the rebate to the Commonwealth for a
17 calendar quarter with respect to covered prescription drugs
18 which are noninnovator multiple-source drugs shall be the
19 greater of the product of:

20 (i) the applicable percentage of the average
21 wholesale price, after deducting customary prompt payment
22 discounts, for each dosage form and strength of such
23 drugs for the quarter; and

24 (ii) the number of units of such form and dosage
25 reimbursed by PACE, PACENET and PACENET Plus in the
26 quarter.

27 (3) For purposes of paragraphs (1) and (2), the
28 applicable percentage is 17%.

29 * * *

30 Section 11. Section 706(b) of the act, added November 21,

1 1996 (P.L.741, No.134), is amended to read:

2 Section 706. Excessive pharmaceutical price inflation discount
3 for designated pharmaceutical programs.

4 * * *

5 (b) Revised general rule.--A discount shall be provided to
6 the department for all covered prescription drugs under
7 designated pharmaceutical programs. The discount shall be
8 calculated as follows:

9 (1) For each quarter for which a rebate under section
10 705(a) and (c) is to be paid after December 31, 1996, the
11 average manufacturer price for each dosage form and strength
12 of a covered prescription drug shall be compared to the
13 average manufacturer price for the same form and strength in
14 the previous calendar year and a percentage increase shall be
15 calculated.

16 (2) For each quarter under paragraph (1), the average
17 percentage increase in the Consumer Price Index-Urban over
18 the same quarter in the previous calendar year shall be
19 calculated.

20 (3) If the calculation under paragraph (1) is greater
21 than the calculation under paragraph (2), the discount amount
22 for each quarter shall be equal to the product of:

23 (i) the difference between the calculations under
24 paragraphs (1) and (2); and

25 (ii) the total number of units of each dosage form
26 and strength reimbursed by [PACE, PACENET and] designated
27 pharmaceutical programs and the average manufacturer
28 price reported by the manufacturer under section
29 704(c)(1).

30 * * *

1 Section 12. The act is amended by adding a section to read:

2 Section 706.1. Excessive pharmaceutical price inflation
3 discount for PACE, PACENET and PACENET Plus.

4 (a) General rule.--A discount shall be provided to the
5 department for all covered prescription drugs under PACE,
6 PACENET and PACENET Plus. The discount shall be calculated as
7 follows:

8 (1) For each quarter for which a rebate under section
9 705(a) and (c) is to be paid after December 31, 1996, through
10 December 31, 2002, the average manufacturer price for each
11 dosage form and strength of a covered prescription drug shall
12 be compared to the average manufacturer price for the same
13 form and strength in the previous calendar year and a
14 percentage increase shall be calculated.

15 (2) For each quarter under paragraph (1), the average
16 percentage increase in the Consumer Price Index-Urban over
17 the same quarter in the previous calendar year shall be
18 calculated.

19 (3) If the calculation under paragraph (1) is greater
20 than the calculation under paragraph (2), the discount amount
21 for each quarter shall be equal to the product of:

22 (i) the difference between the calculations under
23 paragraphs (1) and (2); and

24 (ii) the total number of units of each dosage form
25 and strength reimbursed by PACE, PACENET and PACENET Plus
26 and the average manufacturer price reported by the
27 manufacturer under section 704(c)(1).

28 (b) Discounts after December 31, 2002.--A discount shall be
29 provided to the department for all covered prescription drugs
30 under PACE, PACENET and PACENET Plus. The discount shall be

1 calculated as follows:

2 (1) For each quarter for which a rebate under section
3 705(a) and (c) is to be paid after December 31, 2002, the
4 average wholesale price for each dosage form and strength of
5 a covered prescription drug shall be compared to the average
6 wholesale price for the same form and strength in the
7 previous calendar year and a percentage increase shall be
8 calculated.

9 (2) For each quarter under paragraph (1), the average
10 percentage increase in the Producer Price Index for
11 Pharmaceuticals over the same quarter in the previous
12 calendar year shall be calculated.

13 (3) If the calculation under paragraph (1) is greater
14 than the calculation under paragraph (2), the discount amount
15 for each quarter shall be equal to the product of:

16 (i) the difference between the calculations under
17 paragraphs (1) and (2); and

18 (ii) the total number of units of each dosage form
19 and strength reimbursed by PACE, PACENET and PACENET Plus
20 and the average wholesale price reported by the
21 manufacturer under section 704(c)(1).

22 Section 13. Section 709 of the act, added November 21, 1996
23 (P.L.741, No.134), is amended to read:

24 Section 709. Disposition of funds.

25 (a) PACE [and], PACENET and PACENET Plus.--Money received
26 under this chapter in connection with PACE [and], PACENET and
27 PACENET Plus shall be deposited in the Pharmaceutical Assistance
28 Contract for the Elderly Fund.

29 (b) Designated pharmaceutical programs.--Money received
30 under this chapter in connection with designated pharmaceutical

1 programs shall be treated as a refund of expenditures to the
2 appropriation which originally provided the funding for the
3 pharmaceutical purchase.

4 Section 14. The act is amended by adding a section to read:

5 Section 710. Interstate agreement.

6 The secretary may enter into a multistate agreement to obtain
7 additional discounts.

8 Section 15. This act shall take effect in 60 days.