

1 (f) Reducing the price of prescription drugs would
2 benefit the health and well-being of all Illinois senior
3 citizens by providing more affordable access to needed drugs.

4 Section 10. Purpose. The purpose of this Program is to
5 require the Department of Central Management Services to
6 establish and administer a program that will enable eligible
7 senior citizens and disabled persons to purchase prescription
8 drugs at discounted prices.

9 Section 15. Definitions. As used in this Act:

10 "Authorized pharmacy" means any pharmacy registered in
11 this State under the Pharmacy Practice Act of 1987 and
12 approved by the Department or its Program administrator.

13 "AWP" or "Average wholesale price" means the amount
14 determined from the latest publication of the Blue Book, a
15 universally subscribed pharmacist reference guide annually
16 published by the Hearst Corporation. "AWP" or "Average
17 wholesale price" may also be derived electronically from the
18 drug pricing database synonymous with the latest publication
19 of the Blue Book and furnished in the National Drug Data File
20 (NDDF) by First Data Bank (FDB), a service of the Hearst
21 Corporation.

22 "Department" means the Department of Central Management
23 Services.

24 "Director" means the Director of Central Management
25 Services.

26 "Disabled person" means a person unable to engage in any
27 substantial gainful activity by reason of a medically
28 determinable physical or mental impairment which can be
29 expected to result in death or has lasted or can be expected
30 to last for a continuous period of not less than 12 months.

31 "Drug manufacturer" means any entity (1) that is located
32 within or outside Illinois that is engaged in (i) the

1 production, preparation, propagation, compounding,
2 conversion, or processing of prescription drug products
3 covered under the Program, either directly or indirectly by
4 extraction from substances of natural origin, independently
5 by means of chemical synthesis, or by a combination of
6 extraction and chemical synthesis or (ii) the packaging,
7 repackaging, leveling, labeling, or distribution of
8 prescription drug products covered under the Program and (2)
9 that elects to provide prescription drugs either directly or
10 under contract with any entity providing prescription drug
11 services on behalf of the State of Illinois. "Drug
12 manufacturer", however, does not include a wholesale
13 distributor of drugs or a retail pharmacy licensed under
14 Illinois law.

15 "Eligible senior" means a person who is (i) a resident of
16 Illinois and (ii) 65 years of age or older.

17 "Preferred drug list" refers to the list of prescription
18 drugs for which the Department or its Program administrator
19 has negotiated a "Manufacturer Rebate Agreement", as defined
20 in Section 30 of this Act.

21 "Prescription drug" means any prescribed drug that may be
22 legally dispensed by an authorized pharmacy.

23 "Program" means the Senior Citizens and Disabled Persons
24 Prescription Drug Discount Program created under this Act.

25 "Program administrator" means the entity that is chosen
26 by the Department to administer the Program. The Program
27 administrator may, in this case, be the Director or a
28 Pharmacy Benefits Manager (PBM) chosen to subcontract with
29 the Director.

30 "Rules" includes rules adopted and forms prescribed by
31 the Department.

32 Section 17. Determination of disability. Disabled persons
33 filing applications for participation in the Program shall

1 submit proof of disability in such form and manner as the
2 Department shall by rule prescribe. Proof that a claimant is
3 eligible to receive disability benefits under the Federal
4 Social Security Act shall constitute proof of disability for
5 purposes of this Act. Issuance of an Illinois Disabled Person
6 Identification Card stating that the claimant is under a
7 Class 2 disability, as defined in Section 4A of the Illinois
8 Identification Card Act, shall constitute proof that the
9 person named thereon is a disabled person for purposes of
10 this Act. A disabled person not covered under the Federal
11 Social Security Act and not presenting a Disabled Person
12 Identification Card stating that the he or she is under a
13 Class 2 disability shall be examined by a physician
14 designated by the Department, and his or her status as a
15 disabled person determined using the same standards as used
16 by the Social Security Administration. The costs of any
17 required examination shall be borne by the person claiming a
18 disability.

19 Section 20. The Senior Citizens and Disabled Persons
20 Prescription Drug Discount Program. The Senior Citizens and
21 Disabled Persons Prescription Drug Discount Program is
22 established to protect the health and safety of senior
23 citizens and disabled persons. The Program shall be
24 administered by the Department. The Department or its Program
25 administrator shall (i) enroll eligible seniors and disabled
26 persons into the Program to qualify them for a discount on
27 the purchase of prescription drugs at an authorized pharmacy,
28 (ii) enter into rebate agreements with drug manufacturers,
29 and (iii) reimburse pharmacies for the cost of providing
30 discounts using the proceeds from the manufacturer rebate
31 agreements.

32 Section 25. Prescription drug prices.

1 (a) Ninety days after the effective date of this Act, the
2 Department must issue a request for proposals for bidders
3 interested in administering the Program. Bidders must compete
4 on the basis of the following minimum criteria: (i) discount
5 to seniors and disabled persons separately for brand and
6 generic drugs, (ii) administrative fees, (iii) rebates to the
7 State and (iv) size of the pharmacy network. Other criteria
8 may also be considered.

9 (b) Beginning on January 1, 2004, the amount paid by
10 eligible seniors and disabled persons enrolled in the Program
11 to authorized pharmacies for prescription drugs may not
12 exceed prices agreed upon between the Department and Program
13 administrator (AWP less a percentage discount plus a
14 dispensing fee). For prescription drugs that are on a
15 preferred drug list, the amount paid by eligible seniors and
16 disabled persons enrolled in the Program to authorized
17 pharmacies may not exceed the AWP less a greater percentage
18 discount plus a dispensing fee agreed upon by the Department
19 and the Program administrator.

20 (c) Subject to the requirements of the State Prompt
21 Payment Act, the Department shall compensate authorized
22 pharmacies from the Senior Citizens and Disabled Persons
23 Prescription Drug Discount Program Fund for the difference in
24 the dispensing fee between the amount paid by eligible
25 seniors and disabled persons for prescription drugs dispensed
26 under the Program and the AWP dispensing fee as provided in
27 Section 3.16 of the Senior Citizens and Disabled Persons
28 Property Tax Relief and Pharmaceutical Assistance Act.

29 Section 30. Manufacturer rebate agreements.

30 (a) Taking into consideration the extent to which the
31 State pays for prescription drugs under various State
32 programs, the Department, its agent, or the Program
33 administrator shall negotiate and enter into rebate

1 agreements with drug manufacturers, as defined in this Act,
2 to effect prescription drug price discounts. The rebate
3 agreement shall become effective the first day of the
4 calendar quarter that begins 60 days after the date the
5 agreement is entered into.

6 (b) Rebate payment procedures. All rebates negotiated
7 under agreements described in this Section shall be paid to
8 the Department in accordance with procedures prescribed by
9 the Department. All rebates must be remitted to the
10 Department not later than 30 days after receipt of a request
11 for payment by the Department.

12 (c) The receipts from the rebates and moneys transferred
13 under Section 33 shall be deposited into the Senior Citizens
14 and Disabled Persons Prescription Drug Discount Program Fund,
15 a special fund hereby created in the State treasury, and
16 shall be used, subject to appropriation, to cover the cost of
17 reimbursing authorized pharmacies under this Act pursuant to
18 subsection (c) of Section 25.

19 Section 33. Transfer to Senior Citizens and Disabled
20 Persons Prescription Drug Discount Program Fund.

21 (a) Within 30 days after the effective date of this Act,
22 the State Comptroller shall direct and the State Treasurer
23 shall transfer \$27,000,000 from the General Revenue Fund to
24 the Senior Citizens and Disabled Persons Prescription Drug
25 Discount Program Fund to facilitate the payment of
26 reimbursements to authorized pharmacies. Repayment of
27 principal and interest to the General Revenue Fund shall be
28 made so that the balance in the General Revenue Fund will be
29 restored as if the transfer to the Senior Citizens and
30 Disabled Persons Prescription Drug Discount Program Fund had
31 not been made. Upon a certification by the Department of
32 Revenue that the obligations under subsection (b) of Section
33 25 are being met, beginning on July 1, 2004, and on the 1st

1 of each month thereafter until the principal amount
2 transferred from the General Revenue Fund plus interest has
3 been repaid, the State Comptroller shall direct and the State
4 Treasurer shall transfer 1/12th of \$27,000,000, or so much of
5 that amount as is necessary, from the Senior Citizens and
6 Disabled Persons Prescription Drug Discount Program Fund to
7 the General Revenue Fund plus accrued interest. The balance
8 of the amount transferred from the General Revenue Fund shall
9 bear interest at the rate of 3.5% per annum until the
10 required transfers back into the General Revenue Fund have
11 been completed.

12 Section 35. Program eligibility.

13 (a) Any person may apply to the Department or its Program
14 administrator for participation in the Program in the form
15 and manner required by the Department. The Department or its
16 Program administrator shall determine the eligibility of each
17 applicant for the Program within 30 days after the date of
18 application. To participate in the Program an eligible senior
19 or disabled person whose application has been approved must
20 pay \$25 upon enrollment and annually thereafter and shall
21 receive a Program identification card. The card may be
22 presented to an authorized pharmacy to assist the pharmacy in
23 verifying eligibility under the Program. The Department shall
24 deposit the enrollment fees collected into the Senior
25 Citizens and Disabled Persons Prescription Drug Discount
26 Program Fund. The monies collected by the Department for
27 enrollment fees and deposited into the Senior Citizens and
28 Disabled Persons Prescription Drug Discount Program Fund must
29 be separately accounted for by the Department. If 2 or more
30 persons are eligible for any benefit under this Act and are
31 members of the same household, each participating household
32 member shall apply to the Department and pay the fee required
33 for the purpose of obtaining an identification card.

1 (b) Proceeds from annual enrollment fees, subject to
2 appropriation, shall be used by the Department to offset the
3 administrative cost of this Act. The Department may reduce
4 the annual enrollment fee by rule if the revenue from the
5 enrollment fees is in excess of the costs to carry out the
6 Program.

7 (c) Any person who is eligible for pharmaceutical
8 assistance under the Senior Citizens and Disabled Persons
9 Property Tax Relief and Pharmaceutical Assistance Act is
10 presumed to be eligible for this Program. That person may
11 purchase prescription drugs under this Program that are not
12 covered by the pharmaceutical assistance program under the
13 Senior Citizens and Disabled Persons Property Tax Relief and
14 Pharmaceutical Assistance Act by using the identification
15 card issued under the pharmaceutical assistance program.

16 Section 40. Eligible pharmacies.

17 (a) The Department or its Program administrator shall
18 adopt rules to establish standards and procedures for
19 participation in the Program and approve those pharmacies
20 that apply to participate and meet the requirements for
21 participation. Pharmacies in the Program administrator's
22 network must also comply with the Department's standards and
23 procedures for participation.

24 (b) The Department shall establish procedures for
25 properly contracting for pharmacy services, validating
26 reimbursement claims, validating compliance of authorized
27 pharmacies with the conditions for participation required
28 under this Act, and otherwise providing for the effective
29 administration of this Act. The Director, in consultation
30 with pharmacists licensed under the Pharmacy Practice Act of
31 1987, may enter into a written contract with any other State
32 agency, instrumentality, or political subdivision or with a
33 fiscal intermediary for the purpose of making payments to

1 authorized pharmacies pursuant to subsection (c) of Section
2 25 and coordinating the Program with other programs that
3 provide payments for prescription drugs covered under the
4 Program.

5 Section 43. Program administrators. Pharmaceutical
6 Benefit Management companies and other similar entities that
7 administer or manage prescription coverage (PBMs) shall at
8 all times discharge their obligations to their clients,
9 including but not limited to all private employee benefit
10 plans, unions, third party administrators, insurance
11 companies, and state or federal governments (Covered
12 Entities), and to all Covered Entities' members, employees,
13 participants and beneficiaries (Covered Individuals), with
14 the standards of conduct applicable to a fiduciary under the
15 Employee Retirement Income Security Act of 1974 (ERISA), and
16 under any State statute establishing a fiduciary duty. In so
17 doing, PBMs shall, without limitation:

18 (1) discharge their duties with respect to any and
19 all Covered Entities and Covered Individuals solely in
20 the interest of the Covered Entities and Covered
21 Individuals and for the exclusive purpose of providing
22 benefits to the Covered Entities and Covered Individuals,
23 and defraying reasonable expenses of administering the
24 Covered Entities and Covered Individuals benefits;

25 (2) discharge their duties with the care, skill,
26 prudence, and diligence under the circumstances then
27 prevailing that a prudent fiduciary acting in like
28 capacity and familiar with such matters would use in the
29 conduct of an enterprise of a like character and with
30 like aims;

31 (3) discharge their duties in accordance with the
32 contract governing the Covered Entities prescription
33 coverage, insofar as such contract is consistent with the

1 provisions of this Act and of ERISA;

2 (4) provide any and all information requested by
3 Covered Entities so as to ensure that Covered Entities
4 are able to ascertain all material activities being
5 undertaken on their behalf or on behalf of Covered
6 Individuals; and

7 (5) notify Covered Entities in writing of any
8 proposed or ongoing activity that involves, directly or
9 indirectly, any conflict of interest as contemplated by
10 the standards applicable to a fiduciary under ERISA and
11 any relevant State statute. The above obligations shall
12 be applicable for all PBMs residing or operating in, or
13 providing prescription benefit coverage to Covered
14 Entities or Covered Individuals residing or operating in
15 Illinois.

16 Section 45. Rules. The Department shall adopt rules to
17 implement and administer the Program, which shall include the
18 following:

19 (1) Execution of contracts with pharmacies to
20 participate in the Program. The contracts shall stipulate
21 terms and conditions for the participation of authorized
22 pharmacies and the rights of the State to terminate
23 participation for breach of the contract or for violation
24 of this Act or rules adopted by the Department under this
25 Act.

26 (2) Establishment of maximum limits on the size of
27 prescriptions that are eligible for a discount under the
28 Program, up to a 90-day supply, except as may be
29 necessary for utilization control reasons.

30 (3) Establishment of liens upon any and all causes
31 of action that accrue to a beneficiary as a result of
32 injuries for which prescription drugs covered under the
33 Program are directly or indirectly required and for which

1 the Director made payment or became liable for under this
2 Act.

3 (4) Inspection of appropriate records and audits of
4 participating authorized pharmacies to ensure contract
5 compliance and to determine any fraudulent transactions
6 or practices under this Act.

7 Section 50. Report on administration of Program. The
8 Department shall report to the Governor and the General
9 Assembly by March 1st of each year on the administration of
10 the Program under this Act.

11 Section 990. The State Finance Act is amended by adding
12 Section 5.595 as follows:

13 (30 ILCS 105/5.595 new)

14 Sec. 5.595. The Senior Citizens and Disabled Persons
15 Prescription Drug Discount Program Fund.

16 Section 999. Effective date. This Act takes effect on
17 July 1, 2003."