

1 AN ACT concerning discount prescription drugs for senior
2 citizens and disabled persons.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 1. Short title. This Act may be cited as the
6 Senior Citizens and Disabled Persons Prescription Drug
7 Discount Program Act.

8 Section 5. Findings. The General Assembly finds that:

9 (a) Although senior citizens represent 12% of the
10 population, they use on average 37% of prescription drugs
11 that are dispensed.

12 (b) Senior citizens in the United States without
13 prescription drug insurance coverage pay the highest prices
14 in the world for needed medications.

15 (c) High prescription drug prices force many Illinois
16 seniors to go without proper medication or other necessities,
17 thereby affecting their health and safety.

18 (d) Prescription drug prices in the United States are
19 the world's highest, averaging 32% higher than in Canada, 40%
20 higher than in Mexico, and 60% higher than in Great Britain.

21 (e) Regardless of household income, seniors without
22 prescription drug coverage are often just one serious illness
23 away from poverty.

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

27 Section 10. Purpose. The purpose of this program is to
28 require the Department of Central Management Services to
29 establish and administer a program that will enable eligible
30 senior citizens and disabled persons to purchase prescription

1 drugs at discounted prices.

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

3 "Authorized pharmacy" means any pharmacy registered in
4 this State under the Pharmacy Practice Act of 1987 and
5 approved by the Department or its program administrator.

6 "AWP" or "average wholesale price" means the amount
7 determined from the latest publication of the Red Book, a
8 universally subscribed pharmacist reference guide annually
9 published by the Hearst Corporation. "AWP" or "average
10 wholesale price" may also be derived electronically from the
11 drug pricing database synonymous with the latest publication
12 of the Red Book and furnished in the National Drug Data File
13 (NDDF) by First Data Bank (FDB), a service of the Hearst
14 Corporation.

15 "Department" means the Department of Central Management
16 Services.

17 "Director" means the Director of Central Management
18 Services.

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

24 "Drug manufacturer" means any entity (1) that is located
25 within or outside Illinois that is engaged in (i) the
26 production, preparation, propagation, compounding,
27 conversion, or processing of prescription drug products
28 covered under the program, either directly or indirectly by
29 extraction from substances of natural origin, independently
30 by means of chemical synthesis, or by a combination of
31 extraction and chemical synthesis or (ii) the packaging,
32 repackaging, leveling, labeling, or distribution of
33 prescription drug products covered under the program and (2)

1 that elects to provide prescription drugs either directly or
2 under contract with any entity providing prescription drug
3 services on behalf of the State of Illinois. "Drug
4 manufacturer", however, does not include a wholesale
5 distributor of drugs or a retail pharmacy licensed under
6 Illinois law.

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

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

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

13 "Program administrator" means the entity that is chosen
14 by the Department to administer the program. The program
15 administrator may, in this case, be the Director or a
16 Pharmacy Benefits Manager (PBM) chosen to subcontract with
17 the Director.

18 "Rules" includes rules adopted and forms prescribed by
19 the Department.

20 Section 17. Determination of disability. Disabled
21 persons filing applications for participation in the program
22 shall submit proof of disability in such form and manner as
23 the Department shall by rule prescribe. Proof that a claimant
24 is eligible to receive disability benefits under the Federal
25 Social Security Act shall constitute proof of disability for
26 purposes of this Act. Issuance of an Illinois Disabled Person
27 Identification Card stating that the claimant is under a
28 Class 2 disability, as defined in Section 4A of the Illinois
29 Identification Card Act, shall constitute proof that the
30 person named thereon is a disabled person for purposes of
31 this Act. A disabled person not covered under the Federal
32 Social Security Act and not presenting a Disabled Person
33 Identification Card stating that he or she is under a Class 2

1 disability shall be examined by a physician designated by the
2 Department, and his or her status as a disabled person
3 determined using the same standards as used by the Social
4 Security Administration. The costs of any required
5 examination shall be borne by the person claiming a
6 disability.

7 Section 20. The Senior Citizens and Disabled Persons
8 Prescription Drug Discount Program. The Senior Citizens and
9 Disabled Persons Prescription Drug Discount Program is
10 established to protect the health and safety of senior
11 citizens and disabled persons. The program shall be
12 administered by the Department. The Department or its program
13 administrator shall (i) enroll eligible seniors and disabled
14 persons into the program, as provided in Section 35 of this
15 Act, to qualify them for a discount on the purchase of
16 prescription drugs at an authorized pharmacy, (ii) enter into
17 rebate agreements with drug manufacturers, as provided under
18 Section 30 of this Act, and (iii) subject to the provisions
19 of Section 47 of this Act, compensate pharmacies
20 participating in the program as provided under Section 25 of
21 this Act.

22 Section 25. Program administration.

23 (a) The Department is authorized under this Act to be
24 the program administrator. If the Department is not the
25 program administrator, 90 days after the effective date of
26 this Act, the Department must issue a request for proposals
27 for bidders interested in administering the program. Bidders
28 must compete on the basis of the following minimum criteria:

29 (1) The Director shall solicit and accept proposals
30 from entities to provide for administration of a program
31 or programs in accordance with rules adopted under
32 Section 45. Proposals must be submitted not later than a

1 date established by the Director. The Director shall
2 accept only those proposals that specify the following:

3 (A) The estimated amount of the discount based
4 on the entity's previous experience and how the
5 discount is to be achieved.

6 (B) The extent that discounts on prescription
7 drugs are to be achieved through rebates,
8 administrative fees, or other fees or discounts in
9 prices that the entity negotiates with drug
10 manufacturers. The proposals shall assure that
11 rebates or discounts will be used to do the
12 following:

- 13 (i) reduce costs to cardholders;
- 14 (ii) achieve discounts for cardholders;
- 15 and
- 16 (iii) cover costs for administering the
17 program.

18 (C) Any other benefits offered to cardholders.

19 (D) The estimated number and geographic
20 distribution of participating pharmacies in the
21 administrator's pharmacy network.

22 (E) The plan for pharmacy compensation,
23 pursuant to subsection (e) of this Section.

24 (F) The method used for determining the
25 prescription drugs to be covered by the program,
26 including the criteria and process for establishing
27 a preferred drug list, if applicable.

28 (G) How the entity proposes to improve
29 medication management for cardholders, including any
30 program of disease management.

31 (H) How cardholders and participating
32 pharmacies will be informed of the discounted price
33 negotiated by the entity.

34 (I) How the entity will handle complaints

1 about the program's operation.

2 (J) The entity's previous experience in
3 managing similar programs.

4 (K) Any additional information requested by
5 the Director.

6 (2) The Director shall contract with one or more
7 entities to administer a program or programs on the basis
8 of the proposals submitted, but may require an
9 administrator to modify its conduct of a program in
10 accordance with rules adopted under Section 45.

11 The Director shall adopt rules specifying the period
12 for which a contract will be in effect and may terminate
13 a contract if an administrator fails to conduct a program
14 in accordance with its proposal or with any modifications
15 required by rule. When a contract period ends or a
16 contract is terminated, the Director shall enter into a
17 new contract in the manner specified in this Section for
18 an original contract. Prior to making a new contract, the
19 Director may modify the rules for administration of the
20 program or programs.

21 (b) As used in this Section, "administrator" includes
22 the administrator's parent company and any subsidiary of the
23 parent company.

24 (1) No administrator shall sell any information
25 concerning a person who holds a prescription drug
26 discount card, other than aggregate information that does
27 not identify the cardholder, without the cardholder's
28 written consent.

29 (2) Unless an administrator has the cardholder's
30 written consent, no administrator shall use any
31 personally identifiable information that it obtains
32 concerning a cardholder through the program to promote or
33 sell a program or product offered by the administrator
34 that is not related to the administration of the program.

1 This subsection (b) does not prohibit an administrator
2 from contacting cardholders concerning participation in
3 or administration of the program, including, but not
4 limited to, mailing a list of pharmacies participating in
5 the program's network or participating in disease
6 management programs.

7 (3) To the extent that a discount is achieved
8 through rebates, administrative fees, or any other fees
9 or discounts in prices that an administrator negotiates
10 with drug manufacturers, an administrator shall use the
11 rebates or discounts to do the following:

- 12 (A) reduce costs to cardholders;
13 (B) achieve discounts for cardholders; and
14 (C) cover any administrative costs of the
15 program.

16 (4) The administrator shall not use any funds
17 generated from rebates, discounts, administrative fees,
18 or other fees to promote its mail order pharmacy
19 operation or the mail order pharmacy operation of an
20 affiliate. This subdivision (b)(4) does not, however,
21 limit the participation of an Illinois-licensed pharmacy
22 under this Act if that pharmacy provides prescription
23 drugs by mail order.

24 (c) Beginning on January 1, 2004, the amount paid by
25 eligible seniors and disabled persons enrolled in the program
26 to authorized pharmacies for prescription drugs may not
27 exceed prices established as a result of the rebate
28 agreements under Section 30. The eligible seniors and
29 disabled persons shall pay the price determined under Section
30 30 plus a dispensing fee of \$3.50 per prescription for brand
31 name drug products, single-source drug products, and, for a
32 period of 6 months, newly-released generic drug products and
33 \$4.25 per prescription for all other generic drug products,
34 except that the total amount paid by the eligible senior or

1 disabled person for each prescription drug under this program
2 shall not exceed the usual and customary charge for such
3 prescription.

4 (d) The contract between the Department and a pharmacy
5 benefits manager must, at a minimum, meet the criteria of
6 subsection (a). The contract must also require notification
7 by the pharmacy benefits manager of any proposed or ongoing
8 activity that involves, directly or indirectly, any conflict
9 of interest on the part of the pharmacy benefits manager. The
10 Department shall ensure that the pharmacy benefits manager
11 complies with the contract and shall adopt all procedures
12 necessary to enforce the contract.

13 (e) The Department or program administrator shall,
14 subject to the funds available under Section 30 of this Act,
15 compensate authorized pharmacies for prescription drugs
16 dispensed under the program for the difference between the
17 amount paid by the eligible senior or disabled person for
18 prescription drugs dispensed under the program and (i) the
19 AWP minus 12% for brand name drug products, single-source
20 generic drug products, and, for a period of 6 months,
21 newly-released generic drug products and (ii) the AWP minus
22 35% for all other generic drug products. The Department shall
23 compensate a pharmacy under this subsection (e) only if the
24 amount paid by the eligible senior or disabled person has
25 been discounted to a price, including the dispensing fees
26 stated in subsection (c) of this Section, that is less than
27 (i) the AWP minus 12% for brand name drug products,
28 single-source generic drug products, and, for a period of 6
29 months, newly-released generic drug products and (ii) the AWP
30 minus 35% for all other generic drug products.

31 (f) Beginning on January 1, 2004, the Department or
32 program administrator shall reimburse pharmacies under this
33 Section within 30 days after adjudication of the claim.

1 Section 30. Manufacturer rebate agreements.

2 (a) Taking into consideration the extent to which the
3 State pays for prescription drugs under various State
4 programs and the provision of assistance to disabled persons
5 or eligible seniors under patient assistance programs,
6 prescription drug discount programs, or other offers for free
7 or reduced price medicine, clinical research projects,
8 limited supply distribution programs, compassionate use
9 programs, or programs of research conducted by or for a drug
10 manufacturer, the Department, its agent, or the program
11 administrator shall negotiate and enter into rebate
12 agreements with drug manufacturers, as defined in this Act,
13 to effect prescription drug price discounts. The Department
14 or program administrator may establish a preferred drug list
15 as a basis for determining the discounts, administrative
16 fees, or other fees or rebates under this Section.

17 (b) Rebate payment procedures. All rebates negotiated
18 under agreements described in this Section shall be paid in
19 accordance with procedures prescribed by the Department or
20 the program administrator.

21 (c) Receipts from rebates shall be used to provide
22 discounts for prescription drugs purchased by eligible
23 seniors and disabled persons and to cover the cost of
24 administering the program, including compensation to be paid
25 to participating pharmacies by the Department or program
26 administrator under subsection (e) of Section 25. Any
27 receipts to be allocated to the Department shall be deposited
28 into the Senior Citizens and Disabled Persons Prescription
29 Drug Discount Program Fund, a special fund hereby created in
30 the State treasury.

31 Section 35. Program eligibility.

32 (a) Any person may apply to the Department or its
33 program administrator for participation in the program in the

1 form and manner required by the Department. The Department or
2 its program administrator shall determine the eligibility of
3 each applicant for the program within 30 days after the date
4 of application. To participate in the program an eligible
5 senior or disabled person whose application has been approved
6 must pay \$25 upon enrollment and annually thereafter and
7 shall receive a program identification card. The card may be
8 presented to an authorized pharmacy to assist the pharmacy in
9 verifying eligibility under the program. The Department shall
10 deposit the enrollment fees collected into the Senior
11 Citizens and Disabled Persons Prescription Drug Discount
12 Program Fund. The moneys collected by the Department for
13 enrollment fees and deposited into the Senior Citizens and
14 Disabled Persons Prescription Drug Discount Program Fund must
15 be separately accounted for by the Department. If 2 or more
16 persons are eligible for any benefit under this Act and are
17 members of the same household, each participating household
18 member shall apply to the Department and pay the fee required
19 for the purpose of obtaining an identification card.

20 (b) Proceeds from annual enrollment fees shall be used
21 by the Department to offset the administrative cost of this
22 Act. The Department may reduce the annual enrollment fee by
23 rule if the revenue from the enrollment fees is in excess of
24 the costs to carry out the program.

25 (c) Any person who is eligible for pharmaceutical
26 assistance under the Senior Citizens and Disabled Persons
27 Property Tax Relief and Pharmaceutical Assistance Act is
28 presumed to be eligible for this program. The enrollment fee
29 under this Act is not required for such persons. That person
30 may purchase prescription drugs under this program that are
31 not covered by the pharmaceutical assistance program under
32 the Senior Citizens and Disabled Persons Property Tax Relief
33 and Pharmaceutical Assistance Act by using the identification
34 card issued under the pharmaceutical assistance program.

1 Section 40. Eligible pharmacies.

2 (a) The Department or its program administrator shall
3 adopt rules to establish standards and procedures for
4 participation in the program and approve those pharmacies
5 that apply to participate and meet the requirements for
6 participation. Pharmacies in the program administrator's
7 network must also comply with the Department's standards and
8 procedures for participation.

9 (b) The Department shall establish procedures for
10 properly contracting for pharmacy services, validating
11 reimbursement claims, validating compliance of authorized
12 pharmacies with the conditions for participation required
13 under this Act, and otherwise providing for the effective
14 administration of this Act. The Director, in consultation
15 with pharmacists licensed under the Pharmacy Practice Act of
16 1987, may enter into a written contract with any other State
17 agency, instrumentality, or political subdivision or with a
18 fiscal intermediary for the purpose of making payments to
19 authorized pharmacies and coordinating the program with other
20 programs that provide payments for prescription drugs covered
21 under the program.

22 Section 45. Rules. The Department shall adopt rules to
23 implement and administer the program, which shall include the
24 following:

25 (1) Execution of contracts with pharmacies to
26 participate in the program. The contracts shall stipulate
27 terms and conditions for the participation of authorized
28 pharmacies and the rights of the State to terminate
29 participation for breach of the contract or for violation
30 of this Act or rules adopted by the Department under this
31 Act.

32 (2) Establishment of maximum limits on the size of
33 prescriptions that are eligible for a discount under the

1 program, up to a 90-day supply, except as may be
2 necessary for utilization control reasons.

3 (3) 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 (4) Specify how a resident may apply to participate
8 in the program.

9 (5) Specify the circumstances under which the
10 Director may require an administrator to modify its
11 conduct of the program.

12 (6) Specify the duration of a contract.

13 (7) Require that an administrator permit any
14 Illinois-licensed pharmacy willing to comply with the
15 requirements of this Act and terms and conditions for
16 participation in the program's network to participate in
17 any network used by the administrator for its program.

18 (8) Permit an administrator to negotiate with one
19 or more drug manufacturers for discounts in drug prices
20 or rebates.

21 (9) Permit an administrator to receive any rebate
22 payments from drug manufacturers.

23 (10) Permit an administrator to develop,
24 administer, and promote a program of disease management
25 pursuant to written agreements between the administrator
26 and pharmacies participating under the program
27 established by this Act.

28 Section 47. Limit on State's obligation for cost of
29 administration. The State of Illinois is obligated for the
30 cost of administering this program only to the extent of the
31 amount of money collected as enrollment fees under Section 35
32 of this Act, rebates collected under Section 30 of this Act,
33 and funds appropriated by the General Assembly for the

1 purpose of this Act.

2 Section 50. Report on administration of program. The
3 Department shall report to the Governor and the General
4 Assembly by March 1st of each year on the administration of
5 the program under this Act. The report shall include but not
6 be limited to the following:

7 (1) the number of disabled persons and seniors eligible
8 and enrolled in the program, by county;

9 (2) the activities undertaken by the State to inform
10 disabled persons and seniors about the program;

11 (3) the number of prescriptions filled under the program
12 for enrollees, and the estimated savings for enrollees;

13 (4) a listing of the manufacturers and pharmacies
14 participating in the program;

15 (5) the amount of enrollment fees and rebates collected
16 under the program, and any additional funds or resources made
17 available to cover the cost of the program;

18 (6) the itemized annual cost of administering the
19 program; and

20 (7) findings and recommendations regarding problems and
21 solutions related to the program, together with proposals for
22 changes in the rules, regulations, or laws necessary to
23 improve the administration of the program.

24 Section 990. The State Finance Act is amended by adding
25 Section 5.595 as follows:

26 (30 ILCS 105/5.595 new)

27 Sec. 5.595. The Senior Citizens and Disabled Persons
28 Prescription Drug Discount Program Fund.

29 Section 99. Effective date. This Act takes effect on
30 July 1, 2003.