



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0648

Introduced 1/28/2005, by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.595
320 ILCS 55/Act title
320 ILCS 55/1
320 ILCS 55/10
320 ILCS 55/15
320 ILCS 55/20
320 ILCS 55/25
320 ILCS 55/30
320 ILCS 55/35
320 ILCS 55/50
320 ILCS 55/17 rep.

Amends the State Finance Act and the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act. Changes the name of the Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund to the Prescription Drug Discount Program Fund. Changes the short title of the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act to the Prescription Drug Discount Program Act. Provides that all Illinois residents (instead of only senior citizens and disabled persons) are eligible to participate in the prescription drug discount program.

LRB094 04076 DRJ 34096 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning aging.

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

4 Section 5. The State Finance Act is amended by changing
5 Section 5.595 as follows:

6 (30 ILCS 105/5.595)

7 Sec. 5.595. The ~~Senior Citizens and Disabled Persons~~
8 Prescription Drug Discount Program Fund.

9 (Source: P.A. 93-18, eff. 7-1-03.)

10 Section 10. The Senior Citizens and Disabled Persons
11 Prescription Drug Discount Program Act is amended by changing
12 the title of the Act and Sections 1, 10, 15, 20, 25, 30, 35, and
13 50 as follows:

14 (320 ILCS 55/Act title)

15 An Act concerning discount prescription drugs for Illinois
16 residents ~~senior citizens~~.

17 (320 ILCS 55/1)

18 Sec. 1. Short title. This Act may be cited as the ~~Senior~~
19 ~~Citizens and Disabled Persons~~ Prescription Drug Discount
20 Program Act.

21 (Source: P.A. 93-18, eff. 7-1-03.)

22 (320 ILCS 55/10)

23 Sec. 10. Purpose. The purpose of this program is to require
24 the Department of Central Management Services to establish and
25 administer a program that will enable Illinois residents
26 ~~eligible senior citizens and disabled persons~~ to purchase
27 prescription drugs at discounted prices.

28 (Source: P.A. 93-18, eff. 7-1-03.)

1 (320 ILCS 55/15)

2 Sec. 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 approved
5 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 of
12 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 to~~
23 ~~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, conversion,
27 or processing of prescription drug products covered under the
28 program, either directly or indirectly by extraction from
29 substances of natural origin, independently by means of
30 chemical synthesis, or by a combination of extraction and
31 chemical synthesis or (ii) the packaging, repackaging,
32 leveling, labeling, or distribution of prescription drug
33 products covered under the program and (2) that elects to
34 provide prescription drugs either directly or under contract
35 with any entity providing prescription drug services on behalf

1 of the State of Illinois. "Drug manufacturer", however, does
2 not include a wholesale distributor of drugs or a retail
3 pharmacy licensed under Illinois law.

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

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

8 "Program" means the ~~Senior Citizens and Disabled Persons~~
9 Prescription Drug Discount Program created under this Act.

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

14 "Rules" includes rules adopted and forms prescribed by the
15 Department.

16 (Source: P.A. 93-18, eff. 7-1-03.)

17 (320 ILCS 55/20)

18 Sec. 20. ~~The Senior Citizens and Disabled Persons~~
19 Prescription Drug Discount Program. The ~~Senior Citizens and~~
20 ~~Disabled Persons~~ Prescription Drug Discount Program is
21 established to protect the health and safety of Illinois
22 residents ~~senior citizens and disabled persons~~. The program
23 shall be administered by the Department. The Department or its
24 program administrator shall (i) enroll Illinois residents
25 ~~eligible seniors and disabled persons~~ into the program, as
26 provided in Section 35 of this Act, to qualify them for a
27 discount on the purchase of prescription drugs at an authorized
28 pharmacy, (ii) enter into rebate agreements with drug
29 manufacturers, as provided under Section 30 of this Act, and
30 (iii) subject to the provisions of Section 47 of this Act,
31 compensate pharmacies participating in the program as provided
32 under Section 25 of this Act.

33 (Source: P.A. 93-18, eff. 7-1-03.)

34 (320 ILCS 55/25)

1 Sec. 25. Program administration.

2 (a) The Department is authorized under this Act to be the
3 program administrator. If the Department is not the program
4 administrator, 90 days after the effective date of this Act,
5 the Department must issue a request for proposals for bidders
6 interested in administering the program. Bidders must compete
7 on the basis of the following minimum criteria:

8 (1) The Director shall solicit and accept proposals
9 from entities to provide for administration of a program or
10 programs in accordance with rules adopted under Section 45.
11 Proposals must be submitted not later than a date
12 established by the Director. The Director shall accept only
13 those proposals that specify the following:

14 (A) The estimated amount of the discount based on
15 the entity's previous experience and how the discount
16 is to be achieved.

17 (B) The extent that discounts on prescription
18 drugs are to be achieved through rebates,
19 administrative fees, or other fees or discounts in
20 prices that the entity negotiates with drug
21 manufacturers. The proposals shall assure that rebates
22 or discounts will be used to do the following:

23 (i) reduce costs to cardholders;
24 (ii) achieve discounts for cardholders; and
25 (iii) cover costs for administering the
26 program.

27 (C) Any other benefits offered to cardholders.

28 (D) The estimated number and geographic
29 distribution of participating pharmacies in the
30 administrator's pharmacy network.

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

33 (F) The method used for determining the
34 prescription drugs to be covered by the program,
35 including the criteria and process for establishing a
36 preferred drug list, if applicable.

1 (G) How the entity proposes to improve medication
2 management for cardholders, including any program of
3 disease management.

4 (H) How cardholders and participating pharmacies
5 will be informed of the discounted price negotiated by
6 the entity.

7 (I) How the entity will handle complaints about the
8 program's operation.

9 (J) The entity's previous experience in managing
10 similar programs.

11 (K) Any additional information requested by the
12 Director.

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

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

28 (b) As used in this Section, "administrator" includes the
29 administrator's parent company and any subsidiary of the parent
30 company.

31 (1) No administrator shall sell any information
32 concerning a person who holds a prescription drug discount
33 card, other than aggregate information that does not
34 identify the cardholder, without the cardholder's written
35 consent.

36 (2) Unless an administrator has the cardholder's

1 written consent, no administrator shall use any personally
2 identifiable information that it obtains concerning a
3 cardholder through the program to promote or sell a program
4 or product offered by the administrator that is not related
5 to the administration of the program. This subsection (b)
6 does not prohibit an administrator from contacting
7 cardholders concerning participation in or administration
8 of the program, including, but not limited to, mailing a
9 list of pharmacies participating in the program's network
10 or participating in disease management programs.

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

16 (A) reduce costs to cardholders;

17 (B) achieve discounts for cardholders; and

18 (C) cover any administrative costs of the program.

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

27 (c) Beginning on January 1, 2006 ~~2004~~, the amount paid by
28 Illinois residents ~~eligible seniors and disabled persons~~
29 enrolled in the program to authorized pharmacies for
30 prescription drugs may not exceed prices established as a
31 result of the rebate agreements under Section 30. The Illinois
32 residents ~~eligible seniors and disabled persons~~ shall pay the
33 price determined under Section 30 plus a dispensing fee of
34 \$3.50 per prescription for brand name drug products,
35 single-source drug products, and, for a period of 6 months,
36 newly released generic drug products and \$4.25 per prescription

1 for all other generic drug products, except that the total
2 amount paid by the Illinois resident ~~eligible senior or~~
3 ~~disabled person~~ for each prescription drug under this program
4 shall not exceed the usual and customary charge for such
5 prescription.

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

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

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

36 (Source: P.A. 93-18, eff. 7-1-03.)

1 (320 ILCS 55/30)

2 Sec. 30. Manufacturer rebate agreements.

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

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

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

33 (Source: P.A. 93-18, eff. 7-1-03.)

34 (320 ILCS 55/35)

1 Sec. 35. Program eligibility.

2 (a) Any resident of Illinois is eligible to participate in
3 the program and ~~person~~ may apply to the Department or its
4 program administrator for participation in the program in the
5 form and manner required by the Department. The Department or
6 its program administrator shall determine the eligibility of
7 each applicant for the program within 30 days after the date of
8 application. To participate in the program an Illinois resident
9 ~~eligible senior or disabled person~~ whose application has been
10 approved must pay \$25 upon enrollment and annually thereafter
11 and shall receive a program identification card. The card may
12 be presented to an authorized pharmacy to assist the pharmacy
13 in verifying eligibility under the program. The Department
14 shall deposit the enrollment fees collected into the ~~Senior~~
15 ~~Citizens and Disabled Persons~~ Prescription Drug Discount
16 Program Fund. The moneys collected by the Department for
17 enrollment fees and deposited into the Prescription Drug
18 Discount Program Fund or, before January 1, 2006, into the
19 Senior Citizens and Disabled Persons Prescription Drug
20 Discount Program Fund, must be separately accounted for by the
21 Department. If 2 or more persons are eligible for any benefit
22 under this Act and are members of the same household, each
23 participating household member shall apply to the Department
24 and pay the fee required for the purpose of obtaining an
25 identification card.

26 (b) Proceeds from annual enrollment fees shall be used by
27 the Department to offset the administrative cost of this Act.
28 The Department may reduce the annual enrollment fee by rule if
29 the revenue from the enrollment fees is in excess of the costs
30 to carry out the program.

31 (c) Any person who is eligible for pharmaceutical
32 assistance under the Senior Citizens and Disabled Persons
33 Property Tax Relief and Pharmaceutical Assistance Act is
34 presumed to be eligible for this program. The enrollment fee
35 under this Act is not required for such persons. That person
36 may purchase prescription drugs under this program that are not

1 covered by the pharmaceutical assistance program under the
2 Senior Citizens and Disabled Persons Property Tax Relief and
3 Pharmaceutical Assistance Act by using the identification card
4 issued under the pharmaceutical assistance program.

5 (Source: P.A. 93-18, eff. 7-1-03.)

6 (320 ILCS 55/50)

7 Sec. 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 the
10 program under this Act. The report shall include but not be
11 limited to the following:

12 (1) for periods before January 1, 2006, the number of
13 disabled persons and seniors eligible and enrolled in the
14 program, by county; and, for periods after December 31,
15 2005, the number of Illinois residents enrolled in the
16 program;

17 (2) the activities undertaken by the State to inform
18 disabled persons and seniors (for periods before January 1,
19 2006) and all Illinois residents (for periods after
20 December 31, 2005) about the program;

21 (3) the number of prescriptions filled under the
22 program for enrollees, and the estimated savings for
23 enrollees;

24 (4) a listing of the manufacturers and pharmacies
25 participating in the program;

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

29 (6) the itemized annual cost of administering the
30 program; and

31 (7) findings and recommendations regarding problems
32 and solutions related to the program, together with
33 proposals for changes in the rules, regulations, or laws
34 necessary to improve the administration of the program.

35 (Source: P.A. 93-18, eff. 7-1-03.)

1 (320 ILCS 55/17 rep.)

2 Section 15. The Senior Citizens and Disabled Persons
3 Prescription Drug Discount Program Act is amended by repealing
4 Section 17.