



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0366

Introduced 1/30/2009, by Rep. Jack D. Franks

#### SYNOPSIS AS INTRODUCED:

320 ILCS 25/4

from Ch. 67 1/2, par. 404

Amends the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act. In connection with the pharmaceutical assistance program under the Act, provides that to become a beneficiary under the program, a person must have a maximum household income equal to or less than 239% of the Federal Poverty Level (instead of less than specified amounts or equal to or less than 200% of the Federal Poverty Level. Provides for 4 (instead of 5) Eligibility Groups (eliminates current Eligibility Group 3). For persons in the Eligibility Group consisting of persons who have a diagnosis of HIV or AIDS, provides for an alternative co-payment according to whether or not a drug is covered by the Medicare Part D Prescription Drug Plan in which the beneficiary is enrolled (in addition to whether or not the drug is included in the formulary of the Illinois AIDS Drug Assistance Program operated by the Illinois Department of Public Health). Makes changes in the definitions of "covered prescription drug" for each Eligibility Group. Makes other changes. Effective immediately.

LRB096 04022 DRJ 14060 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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 Senior Citizens and Disabled Persons  
5 Property Tax Relief and Pharmaceutical Assistance Act is  
6 amended by changing Section 4 as follows:

7 (320 ILCS 25/4) (from Ch. 67 1/2, par. 404)

8 Sec. 4. Amount of Grant.

9 (a) In general. Any individual 65 years or older or any  
10 individual who will become 65 years old during the calendar  
11 year in which a claim is filed, and any surviving spouse of  
12 such a claimant, who at the time of death received or was  
13 entitled to receive a grant pursuant to this Section, which  
14 surviving spouse will become 65 years of age within the 24  
15 months immediately following the death of such claimant and  
16 which surviving spouse but for his or her age is otherwise  
17 qualified to receive a grant pursuant to this Section, and any  
18 disabled person whose annual household income is less than the  
19 income eligibility limitation, as defined in subsection (a-5)  
20 and whose household is liable for payment of property taxes  
21 accrued or has paid rent constituting property taxes accrued  
22 and is domiciled in this State at the time he or she files his  
23 or her claim is entitled to claim a grant under this Act. With

1 respect to claims filed by individuals who will become 65 years  
2 old during the calendar year in which a claim is filed, the  
3 amount of any grant to which that household is entitled shall  
4 be an amount equal to 1/12 of the amount to which the claimant  
5 would otherwise be entitled as provided in this Section,  
6 multiplied by the number of months in which the claimant was 65  
7 in the calendar year in which the claim is filed.

8 (a-5) Income eligibility limitation. For purposes of this  
9 Section, "income eligibility limitation" means an amount:

10 (i) for grant years before the 1998 grant year, less  
11 than \$14,000;

12 (ii) for the 1998 and 1999 grant year, less than  
13 \$16,000;

14 (iii) for grant years 2000 through 2007:

15 (A) less than \$21,218 for a household containing  
16 one person;

17 (B) less than \$28,480 for a household containing 2  
18 persons; or

19 (C) less than \$35,740 for a household containing 3  
20 or more persons; or

21 (iv) for grant years 2008 and thereafter:

22 (A) less than \$22,218 for a household containing  
23 one person;

24 (B) less than \$29,480 for a household containing 2  
25 persons; or

26 (C) less than \$36,740 for a household containing 3

1           or more persons.

2           (b) Limitation. Except as otherwise provided in  
3 subsections (a) and (f) of this Section, the maximum amount of  
4 grant which a claimant is entitled to claim is the amount by  
5 which the property taxes accrued which were paid or payable  
6 during the last preceding tax year or rent constituting  
7 property taxes accrued upon the claimant's residence for the  
8 last preceding taxable year exceeds 3 1/2% of the claimant's  
9 household income for that year but in no event is the grant to  
10 exceed (i) \$700 less 4.5% of household income for that year for  
11 those with a household income of \$14,000 or less or (ii) \$70 if  
12 household income for that year is more than \$14,000.

13           (c) Public aid recipients. If household income in one or  
14 more months during a year includes cash assistance in excess of  
15 \$55 per month from the Department of Healthcare and Family  
16 Services or the Department of Human Services (acting as  
17 successor to the Department of Public Aid under the Department  
18 of Human Services Act) which was determined under regulations  
19 of that Department on a measure of need that included an  
20 allowance for actual rent or property taxes paid by the  
21 recipient of that assistance, the amount of grant to which that  
22 household is entitled, except as otherwise provided in  
23 subsection (a), shall be the product of (1) the maximum amount  
24 computed as specified in subsection (b) of this Section and (2)  
25 the ratio of the number of months in which household income did  
26 not include such cash assistance over \$55 to the number twelve.

1 If household income did not include such cash assistance over  
2 \$55 for any months during the year, the amount of the grant to  
3 which the household is entitled shall be the maximum amount  
4 computed as specified in subsection (b) of this Section. For  
5 purposes of this paragraph (c), "cash assistance" does not  
6 include any amount received under the federal Supplemental  
7 Security Income (SSI) program.

8 (d) Joint ownership. If title to the residence is held  
9 jointly by the claimant with a person who is not a member of  
10 his or her household, the amount of property taxes accrued used  
11 in computing the amount of grant to which he or she is entitled  
12 shall be the same percentage of property taxes accrued as is  
13 the percentage of ownership held by the claimant in the  
14 residence.

15 (e) More than one residence. If a claimant has occupied  
16 more than one residence in the taxable year, he or she may  
17 claim only one residence for any part of a month. In the case  
18 of property taxes accrued, he or she shall prorate 1/12 of the  
19 total property taxes accrued on his or her residence to each  
20 month that he or she owned and occupied that residence; and, in  
21 the case of rent constituting property taxes accrued, shall  
22 prorate each month's rent payments to the residence actually  
23 occupied during that month.

24 (f) There is hereby established a program of pharmaceutical  
25 assistance to the aged and disabled which shall be administered  
26 by the Department in accordance with this Act, to consist of

1 payments to authorized pharmacies, on behalf of beneficiaries  
2 of the program, for the reasonable costs of covered  
3 prescription drugs. Each beneficiary who pays \$5 for an  
4 identification card shall pay no additional prescription  
5 costs. Each beneficiary who pays \$25 for an identification card  
6 shall pay \$3 per prescription. In addition, after a beneficiary  
7 receives \$2,000 in benefits during a State fiscal year, that  
8 beneficiary shall also be charged 20% of the cost of each  
9 prescription for which payments are made by the program during  
10 the remainder of the fiscal year. To become a beneficiary under  
11 this program a person must: (1) be (i) 65 years of age or  
12 older, or (ii) the surviving spouse of such a claimant, who at  
13 the time of death received or was entitled to receive benefits  
14 pursuant to this subsection, which surviving spouse will become  
15 65 years of age within the 24 months immediately following the  
16 death of such claimant and which surviving spouse but for his  
17 or her age is otherwise qualified to receive benefits pursuant  
18 to this subsection, or (iii) disabled, and (2) be domiciled in  
19 this State at the time he or she files his or her claim, and (3)  
20 have a maximum household income of less than the income  
21 eligibility limitation, as defined in subsection (a-5). In  
22 addition, each eligible person must (1) obtain an  
23 identification card from the Department, (2) at the time the  
24 card is obtained, sign a statement assigning to the State of  
25 Illinois benefits which may be otherwise claimed under any  
26 private insurance plans, and (3) present the identification

1 card to the dispensing pharmacist.

2 The Department may adopt rules specifying participation  
3 requirements for the pharmaceutical assistance program,  
4 including copayment amounts, identification card fees,  
5 expenditure limits, and the benefit threshold after which a 20%  
6 charge is imposed on the cost of each prescription, to be in  
7 effect on and after July 1, 2004. Notwithstanding any other  
8 provision of this paragraph, however, the Department may not  
9 increase the identification card fee above the amount in effect  
10 on May 1, 2003 without the express consent of the General  
11 Assembly. To the extent practicable, those requirements shall  
12 be commensurate with the requirements provided in rules adopted  
13 by the Department of Healthcare and Family Services to  
14 implement the pharmacy assistance program under Section  
15 5-5.12a of the Illinois Public Aid Code.

16 Whenever a generic equivalent for a covered prescription  
17 drug is available, the Department shall reimburse only for the  
18 reasonable costs of the generic equivalent, less the co-pay  
19 established in this Section, unless (i) the covered  
20 prescription drug contains one or more ingredients defined as a  
21 narrow therapeutic index drug at 21 CFR 320.33, (ii) the  
22 prescriber indicates on the face of the prescription "brand  
23 medically necessary", and (iii) the prescriber specifies that a  
24 substitution is not permitted. When issuing an oral  
25 prescription for covered prescription medication described in  
26 item (i) of this paragraph, the prescriber shall stipulate

1 "brand medically necessary" and that a substitution is not  
2 permitted. If the covered prescription drug and its authorizing  
3 prescription do not meet the criteria listed above, the  
4 beneficiary may purchase the non-generic equivalent of the  
5 covered prescription drug by paying the difference between the  
6 generic cost and the non-generic cost plus the beneficiary  
7 co-pay.

8 Any person otherwise eligible for pharmaceutical  
9 assistance under this Act whose covered drugs are covered by  
10 any public program for assistance in purchasing any covered  
11 prescription drugs shall be ineligible for assistance under  
12 this Act to the extent such costs are covered by such other  
13 plan.

14 The fee to be charged by the Department for the  
15 identification card shall be equal to \$5 per coverage year for  
16 persons below the official poverty line as defined by the  
17 United States Department of Health and Human Services and \$25  
18 per coverage year for all other persons.

19 In the event that 2 or more persons are eligible for any  
20 benefit under this Act, and are members of the same household,  
21 (1) each such person shall be entitled to participate in the  
22 pharmaceutical assistance program, provided that he or she  
23 meets all other requirements imposed by this subsection and (2)  
24 each participating household member contributes the fee  
25 required for that person by the preceding paragraph for the  
26 purpose of obtaining an identification card.



1           The provisions of this subsection (f), other than this  
2 paragraph, are inoperative after December 31, 2005.  
3 Beneficiaries who received benefits under the program  
4 established by this subsection (f) are not entitled, at the  
5 termination of the program, to any refund of the identification  
6 card fee paid under this subsection.

7           (g) Effective January 1, 2006, there is hereby established  
8 a program of pharmaceutical assistance to the aged and  
9 disabled, entitled the Illinois Seniors and Disabled Drug  
10 Coverage Program, which shall be administered by the Department  
11 of Healthcare and Family Services and the Department on Aging  
12 in accordance with this subsection, to consist of coverage of  
13 specified prescription drugs on behalf of beneficiaries of the  
14 program as set forth in this subsection. The program under this  
15 subsection replaces and supersedes the program established  
16 under subsection (f), which shall end at midnight on December  
17 31, 2005.

18           To become a beneficiary under the program established under  
19 this subsection, a person must:

20           (1) be (i) 65 years of age or older or (ii) disabled;

21           and

22           (2) be domiciled in this State; and

23           (3) enroll with a qualified Medicare Part D  
24 Prescription Drug Plan if eligible and apply for all  
25 available subsidies under Medicare Part D; and

26           (4) have a maximum household income ~~of (i) less than~~

1       ~~\$21,218 for a household containing one person, (ii) less~~  
2       ~~than \$28,480 for a household containing 2 persons, or (iii)~~  
3       ~~less than \$35,740 for a household containing 3 or more~~  
4       ~~persons. If any income eligibility limit set forth in items~~  
5       ~~(i) through (iii) is less than 200% of the Federal Poverty~~  
6       ~~Level for any year, the income eligibility limit for that~~  
7       ~~year for households of that size shall be income equal to~~  
8       or less than 239% ~~200%~~ of the Federal Poverty Level.

9       All individuals enrolled as of December 31, 2005, in the  
10       pharmaceutical assistance program operated pursuant to  
11       subsection (f) of this Section and all individuals enrolled as  
12       of December 31, 2005, in the SeniorCare Medicaid waiver program  
13       operated pursuant to Section 5-5.12a of the Illinois Public Aid  
14       Code shall be automatically enrolled in the program established  
15       by this subsection for the first year of operation without the  
16       need for further application, except that they must apply for  
17       Medicare Part D and the Low Income Subsidy under Medicare Part  
18       D. A person enrolled in the pharmaceutical assistance program  
19       operated pursuant to subsection (f) of this Section as of  
20       December 31, 2005, shall not lose eligibility in future years  
21       due only to the fact that they have not reached the age of 65.

22       To the extent permitted by federal law, the Department may  
23       act as an authorized representative of a beneficiary in order  
24       to enroll the beneficiary in a Medicare Part D Prescription  
25       Drug Plan if the beneficiary has failed to choose a plan and,  
26       where possible, to enroll beneficiaries in the low-income

1 subsidy program under Medicare Part D or assist them in  
2 enrolling in that program.

3 Beneficiaries under the program established under this  
4 subsection shall be divided into the following 4 ~~5~~ eligibility  
5 groups:

6 (A) Eligibility Group 1 shall consist of beneficiaries  
7 who are not eligible for Medicare Part D coverage and who  
8 are:

9 (i) disabled and under age 65; or

10 (ii) age 65 or older, with incomes over 200% of the  
11 Federal Poverty Level; or

12 (iii) age 65 or older, with incomes at or below  
13 200% of the Federal Poverty Level and not eligible for  
14 federally funded means-tested benefits due to  
15 immigration status.

16 (B) Eligibility Group 2 shall consist of beneficiaries  
17 ~~otherwise described in Eligibility Group 1 but~~ who are  
18 eligible for Medicare Part D coverage.

19 ~~(C) Eligibility Group 3 shall consist of beneficiaries~~  
20 ~~age 65 or older, with incomes at or below 200% of the~~  
21 ~~Federal Poverty Level, who are not barred from receiving~~  
22 ~~federally funded means tested benefits due to immigration~~  
23 ~~status and are eligible for Medicare Part D coverage.~~

24 (C) ~~(D)~~ Eligibility Group 3 ~~4~~ shall consist of  
25 beneficiaries age 65 or older, with incomes at or below  
26 200% of the Federal Poverty Level, who are not barred from

1 receiving federally funded means-tested benefits due to  
2 immigration status and are not eligible for Medicare Part D  
3 coverage.

4 If the State applies and receives federal approval for  
5 a waiver under Title XIX of the Social Security Act,  
6 persons in Eligibility Group 3 ~~4~~ shall continue to receive  
7 benefits through the approved waiver, and Eligibility  
8 Group 3 ~~4~~ may be expanded to include disabled persons under  
9 age 65 with incomes under 200% of the Federal Poverty Level  
10 who are not eligible for Medicare and who are not barred  
11 from receiving federally funded means-tested benefits due  
12 to immigration status.

13 (D) ~~(E)~~ ~~On and after January 1, 2007,~~ Eligibility Group  
14 4 ~~5~~ shall consist of beneficiaries who are otherwise  
15 described in Eligibility Group ~~Groups~~ ~~2 and 3~~ who have a  
16 diagnosis of HIV or AIDS.

17 The program established under this subsection shall cover  
18 the cost of covered prescription drugs in excess of the  
19 beneficiary cost-sharing amounts set forth in this paragraph  
20 that are not covered by Medicare. In 2006, beneficiaries shall  
21 pay a co-payment of \$2 for each prescription of a generic drug  
22 and \$5 for each prescription of a brand-name drug. In future  
23 years, beneficiaries shall pay co-payments equal to the  
24 co-payments required under Medicare Part D for "other  
25 low-income subsidy eligible individuals" pursuant to 42 CFR  
26 423.782(b). For individuals in Eligibility Groups 1, 2, and 3,

1 ~~and 4,~~ once the program established under this subsection and  
2 Medicare combined have paid \$1,750 in a year for covered  
3 prescription drugs, the beneficiary shall pay 20% of the cost  
4 of each prescription in addition to the co-payments set forth  
5 in this paragraph. For individuals in Eligibility Group 4 5,  
6 once the program established under this subsection and Medicare  
7 combined have paid \$1,750 in a year for covered prescription  
8 drugs, the beneficiary shall pay 20% of the cost of each  
9 prescription in addition to the co-payments set forth in this  
10 paragraph unless the drug is included in the formulary of the  
11 Illinois AIDS Drug Assistance Program operated by the Illinois  
12 Department of Public Health and covered by the Medicare Part D  
13 Prescription Drug Plan in which the beneficiary is enrolled. If  
14 the drug is included in the formulary of the Illinois AIDS Drug  
15 Assistance Program and covered by the Medicare Part D  
16 Prescription Drug Plan in which the beneficiary is enrolled,  
17 individuals in Eligibility Group 4 5 shall continue to pay the  
18 co-payments set forth in this paragraph after the program  
19 established under this subsection and Medicare combined have  
20 paid \$1,750 in a year for covered prescription drugs.

21 For beneficiaries eligible for Medicare Part D coverage,  
22 the program established under this subsection shall pay 100% of  
23 the premiums charged by a qualified Medicare Part D  
24 Prescription Drug Plan for Medicare Part D basic prescription  
25 drug coverage, not including any late enrollment penalties.  
26 Qualified Medicare Part D Prescription Drug Plans may be

1 limited by the Department of Healthcare and Family Services to  
2 those plans that sign a coordination agreement with the  
3 Department.

4 Notwithstanding Section 3.15, for purposes of the program  
5 established under this subsection, the term "covered  
6 prescription drug" has the following meanings:

7 For Eligibility Group 1, "covered prescription drug"  
8 means: (1) any cardiovascular agent or drug; (2) any  
9 insulin or other prescription drug used in the treatment of  
10 diabetes, including syringe and needles used to administer  
11 the insulin; (3) any prescription drug used in the  
12 treatment of arthritis; (4) any prescription drug used in  
13 the treatment of cancer; (5) any prescription drug used in  
14 the treatment of Alzheimer's disease; (6) any prescription  
15 drug used in the treatment of Parkinson's disease; (7) any  
16 prescription drug used in the treatment of glaucoma; (8)  
17 any prescription drug used in the treatment of lung disease  
18 and smoking-related illnesses; (9) any prescription drug  
19 used in the treatment of osteoporosis; and (10) any  
20 prescription drug used in the treatment of multiple  
21 sclerosis. The Department may add additional therapeutic  
22 classes by rule. The Department may adopt a preferred drug  
23 list within any of the classes of drugs described in items  
24 (1) through (10) of this paragraph. The specific drugs or  
25 therapeutic classes of covered prescription drugs shall be  
26 indicated by rule.

1 For Eligibility Group 2, "covered prescription drug"  
2 means those drugs ~~covered for Eligibility Group 1 that are~~  
3 ~~also~~ covered by the Medicare Part D Prescription Drug Plan  
4 in which the beneficiary is enrolled.

5 ~~For Eligibility Group 3, "covered prescription drug"~~  
6 ~~means those drugs covered by the Medicare Part D~~  
7 ~~Prescription Drug Plan in which the beneficiary is~~  
8 ~~enrolled.~~

9 For Eligibility Group 3 4, "covered prescription drug"  
10 means those drugs covered by the Medical Assistance Program  
11 under Article V of the Illinois Public Aid Code.

12 For Eligibility Group 4 5, ~~for individuals otherwise~~  
13 ~~described in Eligibility Group 2, "covered prescription~~  
14 ~~drug" means: (1) those drugs covered for Eligibility Group~~  
15 ~~2 that are also covered by the Medicare Part D Prescription~~  
16 ~~Drug Plan in which the beneficiary is enrolled; and (2)~~  
17 ~~those drugs included in the formulary of the Illinois AIDS~~  
18 ~~Drug Assistance Program operated by the Illinois~~  
19 ~~Department of Public Health that are also covered by the~~  
20 ~~Medicare Part D Prescription Drug Plan in which the~~  
21 ~~beneficiary is enrolled. For Eligibility Group 5, for~~  
22 ~~individuals otherwise described in Eligibility Group 3,~~  
23 "covered prescription drug" means those drugs covered by  
24 the Medicare Part D Prescription Drug Plan in which the  
25 beneficiary is enrolled.

26 An individual in Eligibility Group 1, 2, 3, or 4, ~~or 5~~ may

1 opt to receive a \$25 monthly payment in lieu of the direct  
2 coverage described in this subsection.

3 Any person otherwise eligible for pharmaceutical  
4 assistance under this subsection whose covered drugs are  
5 covered by any public program is ineligible for assistance  
6 under this subsection to the extent that the cost of those  
7 drugs is covered by the other program.

8 The Department of Healthcare and Family Services shall  
9 establish by rule the methods by which it will provide for the  
10 coverage called for in this subsection. Those methods may  
11 include direct reimbursement to pharmacies or the payment of a  
12 capitated amount to Medicare Part D Prescription Drug Plans.

13 For a pharmacy to be reimbursed under the program  
14 established under this subsection, it must comply with rules  
15 adopted by the Department of Healthcare and Family Services  
16 regarding coordination of benefits with Medicare Part D  
17 Prescription Drug Plans. A pharmacy may not charge a  
18 Medicare-enrolled beneficiary of the program established under  
19 this subsection more for a covered prescription drug than the  
20 appropriate Medicare cost-sharing less any payment from or on  
21 behalf of the Department of Healthcare and Family Services.

22 The Department of Healthcare and Family Services or the  
23 Department on Aging, as appropriate, may adopt rules regarding  
24 applications, counting of income, proof of Medicare status,  
25 mandatory generic policies, and pharmacy reimbursement rates  
26 and any other rules necessary for the cost-efficient operation



1 of the program established under this subsection.

2 (Source: P.A. 94-86, eff. 1-1-06; 94-909, eff. 6-23-06; 95-208,  
3 eff. 8-16-07; 95-644, eff. 10-12-07; 95-876, eff. 8-21-08.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.