AMENDMENT TO HOUSE BILL 4000

AMENDMENT NO. _____. Amend House Bill 4000 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by adding Sections 5-23 through 5-23.20 as follows:

(305 ILCS 5/5-23 new)

Sec. 5-23. Prescribed-drug spending-control program.

(a) Subject to appropriations, the Department of Public Aid shall establish a Medicaid prescribed-drug spending-control program that includes the components described in Sections 5-23.5 through 5-23.20.

(b) The Department of Public Aid may contract all or any part of the implementation of the Medicaid prescribed-drug spending-control program to private organizations. Notwithstanding any other provision of law, the Department, at its discretion, may renew a contract or contracts for fiscal intermediary services one or more times for periods determined by the Department. All such renewals combined may not exceed a total period longer than the term of the original contract, however.

(305 ILCS 5/5-23.5 new)

Sec. 5-23.5. Prior authorization.

(a) Except for anti-retroviral drugs and drugs used to treat HIV or AIDS and opportunistic infections related to HIV or AIDS, reimbursement for drugs not included in the list established under Section 5-23.10 is subject to prior authorization. As used in this Section, "HIV" and "AIDS" have the meanings ascribed to those terms in the AIDS Confidentiality Act.

(b) The Department of Public Aid may establish prior authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions.

(c) The drug and therapeutics advisory committee created under Section 12-4.20 shall make recommendations to the Department of Public Aid regarding drugs for which prior authorization is required. The Department shall inform the committee of the Department's decisions regarding drugs subject to prior authorization.

(305 ILCS 5/5-23.10 new)

Sec. 5-23.10. Preferred drug list; supplemental rebates.

(a) The Department of Public Aid may establish a preferred drug list in accordance with 42 U.S.C. 1396r-8(d)(1). In establishing the list, the Department may negotiate supplemental rebates from manufacturers that are in addition to those required by Title XIX of the Social Security Act. There is no upper limit on the supplemental rebates the Department may negotiate. The Department may contract with an outside agency or contractor to conduct negotiations for supplemental rebates.

(b) Agreement to pay the minimum supplemental rebate percentage shall guarantee a manufacturer that the drug and therapeutics advisory committee created under Section 12-4.20

will consider a product for inclusion in the preferred drug list. A pharmaceutical manufacturer is not guaranteed placement of a drug in the list simply by paying the minimum supplemental rebate, however. Department of Public Aid decisions must be based on the clinical efficacy of a drug and recommendations of the drug and therapeutics advisory committee, as well as the price of competing products minus federal and State rebates.

(c) In this Section, "supplemental rebates" may include, at the Department of Public Aid's discretion, cash rebates and other program benefits that offset a Medicaid expenditure. Those other program benefits may include, but need not be limited to, disease management programs, drug product donation programs, drug utilization control programs, prescriber and beneficiary counseling and education, fraud and abuse initiatives, and other services or administrative investments with guaranteed savings to the Medicaid program in the same year that the rebate reduction is included in the appropriation to the Department for operation of the Medicaid program.

(d) The Department of Public Aid shall seek any waivers of federal law or regulations necessary to implement this Section.

(e) A Medicaid recipient may appeal a decision of the Department of Public Aid concerning the preferred drug list in the same manner as the appeal of other decisions of the Department under this Article.

(f) The Department of Public Aid shall publish and disseminate the preferred drug list to all Medicaid vendors in the State.

(305 ILCS 5/5-23.15 new)

Sec. 5-23.15. Drug and therapeutics advisory committee; preferred drug list.

(a) The drug and therapeutics advisory committee as defined by rule shall develop its preferred drug list recommendations by considering the clinical efficacy, safety, and cost effectiveness of a product. To the extent feasible, the committee shall review all drug classes included in the preferred drug list at least every 12 months. The committee may recommend additions to and deletions from the list so that the list provides for medically appropriate drug therapies for Medicaid patients which achieve cost savings contained in appropriations to the Department of Public Aid for operation of the Medicaid program.

(b) The committee shall ensure that pharmaceutical manufacturers agreeing to provide a supplemental rebate as provided in Section 5-23.10 have an opportunity to present evidence supporting inclusion of a product in the preferred drug list. Upon timely notice, the Department of Public Aid shall ensure that any drug that has been approved or had any of its particular uses approved by the United States Food and Drug Administration under a priority review classification is reviewed by the committee at the committee's next regularly scheduled meeting. To the extent possible, upon notice by a manufacturer, the Department shall also schedule a product review for any new product at the committee's next regularly scheduled meeting.

(305 ILCS 5/5-23.20 new)

Sec. 5-23.20. Report. The Department of Public Aid must submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15 of each year. The report must include, but need not be limited to, a discussion of the progress made in implementing Medicaid cost-containment measures and their effect on Medicaid prescribed-drug expenditures.

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