

By Senator Brown-Waite

10-307A-00

1 A bill to be entitled
2 An act relating to pharmacy benefits;
3 establishing a pharmacy benefit program for
4 certain low-income persons, under the Agency
5 for Health Care Administration; providing
6 eligibility; providing program parameters;
7 providing for processing and payment of claims;
8 providing requirements for participation by
9 pharmaceutical manufacturers; providing for the
10 purchase of medications from foreign sources;
11 providing rulemaking authority; providing for a
12 Medicare prescription discount as a condition
13 for pharmacy participation in the pharmacy
14 benefit program and the Medicaid program;
15 creating s. 430.072, F.S.; creating the
16 pharmacy benefit counseling and assistance
17 program, under the Department of Elderly
18 Affairs; providing for delivery of pharmacy
19 benefit counseling to elderly persons;
20 providing eligibility; providing for funding;
21 providing for staff assistance from the Agency
22 for Health Care Administration and the
23 Department of Health; providing rulemaking
24 authority; establishing a Medicaid
25 cost-reduction program; providing for
26 aggregation of the state purchase of certain
27 prescription drugs for distribution at a
28 described rate for elderly or disabled state
29 residents; providing for a participation charge
30 to cover administrative costs; authorizing a
31 management agreement for program development

1 and management services; providing a procedure
2 for the selection of managing entities;
3 requiring a report; directing the agency to
4 pursue certain federal waivers to obtain
5 funding for the pharmacy benefit program and
6 the pharmacy benefit counseling and assistance
7 program; providing appropriations; providing an
8 effective date.

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10 WHEREAS, numerous studies have concluded that many
11 older Americans have difficulty paying for required
12 prescription drugs, and

13 WHEREAS, a recent Congressional study found that older
14 Americans and others who pay for their own drugs are charged
15 far more than are the drug companies' most favored customers,
16 such as large insurance companies, health maintenance
17 organizations, and those entities trading on the international
18 market, and

19 WHEREAS, according to the National Institute on Aging,
20 "as a group, older people tend to have more long-term
21 illnesses--such as arthritis, diabetes, high blood pressure,
22 and heart disease--than do younger people," and

23 WHEREAS, older Americans spend almost three times as
24 much of their income (21 percent) on health care as those
25 under the age of 65 (8 percent), and more than three-quarters
26 of Americans age 65 and over are taking prescription drugs,
27 and

28 WHEREAS, although the elderly have the greatest need
29 for prescription drugs, insurance coverage frequently fails to
30 pay for such drugs, and

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1 WHEREAS, although Medicare beneficiaries can purchase
2 supplemental "Medigap" insurance privately, these policies are
3 often prohibitively expensive or inadequate, and

4 WHEREAS, the high cost of prescription drugs and the
5 lack of insurance coverage directly affect the health and
6 welfare of older Americans, with a significant number of older
7 Americans forced to choose between buying food and buying
8 medicine, and

9 WHEREAS, it is the intent of the Legislature to assist
10 elderly persons and the disabled, and their physicians and
11 families, in obtaining necessary prescription medications,
12 NOW, THEREFORE,

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Pharmacy benefit program.--

17 (1) INTENT.--It is the intent of the Legislature to
18 initiate a pharmacy benefit program for those persons with
19 very low incomes who are most in need. It is further the
20 intent of the Legislature to attempt to leverage maximum
21 pharmaceutical manufacturer participation in this program.

22 (2) PROGRAM ESTABLISHED.--There is established a
23 pharmacy benefit program designed to provide prescription drug
24 coverage to a limited group of most needy individuals. The
25 program is to be administered by the Agency for Health Care
26 Administration, under the authority provided in section
27 409.914(1), Florida Statutes, in conjunction with the
28 Department of Elderly Affairs and the Department of Health.

29 (3) ELIGIBILITY.--Eligibility for the program is
30 limited to those individuals who qualify for limited
31 assistance under the Florida Medicaid program as a result of

1 being dually eligible for both Medicare and Medicaid, but
2 whose limited assistance does not include any pharmacy
3 benefit. Specifically eligible are the following low-income
4 senior citizens:

5 (a) Those with incomes between 90 percent and 100
6 percent of the federal poverty level, the so-called qualified
7 Medicare beneficiaries.

8 (b) Those with incomes between 100 percent and 120
9 percent of the federal poverty level, the so-called specified
10 low-income Medicare beneficiaries.

11 (4) PROGRAM PARAMETERS.--

12 (a) The program shall make available the same
13 formulary of prescription medications which is made available
14 to Medicaid recipients. Medications shall be provided in the
15 generic equivalent if a generic equivalent exists, except when
16 a brand-name medication is available at a cost lower than its
17 generic equivalent or when a physician has determined that the
18 brand-name medication is necessary to achieve the desired
19 therapeutic effect and the agency approves.

20 (b) The agency shall, by rule, determine an
21 eligibility process, a 20-percent copayment requirement, an
22 annual limit of \$1,000 per beneficiary, and other program
23 parameters as necessary.

24 (c) The Medicaid fiscal agent or a separately
25 contracted pharmacy benefits manager, or both, shall be used
26 for the processing and payment of claims.

27 (5) PHARMACEUTICAL MANUFACTURER PARTICIPATION.--In
28 order for a drug product to be covered under this program, the
29 product's manufacturer shall:

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1 (a) Provide the maximum rebate to the state as
2 authorized in federal Medicaid regulations or other applicable
3 federal drug regulations or guidelines.

4 (b) Make the drug product available to the program for
5 the best price that the manufacturer makes the drug product
6 available under any purchasing arrangement.

7 (c) Agree to be an active participant in this state
8 with the Indigent Drug Program of the Pharmaceutical Research
9 and Manufacturers of America and the pharmacy benefit
10 counseling and assistance program as established under section
11 430.072, Florida Statutes.

12 (6) PURCHASE OF FOREIGN MEDICATIONS.--The agency may
13 petition the United States Food and Drug Administration for
14 approval to purchase otherwise prohibited medications from
15 foreign sources for purposes of distribution under this
16 program.

17 (7) RULES.--The agency may adopt rules to administer
18 this section.

19 Section 2. Medicare prescription discount.--As a
20 condition for participation in either the pharmacy benefit
21 program established in section 1 or the Florida Medicaid
22 program, a pharmacy must agree that the charge to any Medicare
23 beneficiary showing a Medicare card when presenting a
24 prescription shall be equal to the amount paid to that
25 pharmacy for filling a prescription under the Florida Medicaid
26 program.

27 Section 3. Section 430.072, Florida Statutes, is
28 created to read:

29 430.072 Pharmacy benefit counseling and assistance
30 program.--

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1 (1) There is created within the Office of Volunteer
2 Community Service the pharmacy benefit counseling and
3 assistance program. The program is created to assist elderly
4 persons in obtaining prescription medications that they would
5 otherwise not be able to afford to purchase. The Office of
6 Volunteer Community Service shall also implement, monitor, and
7 evaluate the delivery of pharmacy benefit counseling services
8 under this program. The office shall:

9 (a) Provide the services through a multigenerational
10 corps of volunteers, including, but not limited to, pharmacy
11 students, retired professional pharmacists, other health
12 professionals, and other suitably trained persons.

13 (b) Work collaboratively with local, state, and
14 national organizations to promote the use of volunteers to
15 offer counseling services under this program, including, but
16 not limited to, the Pharmaceutical Research and Manufacturers
17 of America, to persons who are unable to afford necessary
18 prescription medications.

19 (c) Encourage contributions and grants through public
20 and private sources to promote the delivery of pharmacy
21 benefit counseling and access to necessary prescription
22 medications for elderly individuals qualified under this
23 program.

24 (2) To receive assistance from the pharmacy benefit
25 counseling and assistance program, the family unit must be
26 assessed according to the following guidelines developed by
27 the department to determine the need for pharmacy services.
28 This assessment must determine, at a minimum, that:

29 (a) The family unit is unable to pay for required
30 prescription medications without jeopardizing other basic
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1 needs, including, but not limited to, food, shelter, and
2 medications.

3 (b) The elderly individual for whom the family unit is
4 caring is 60 years of age or older and requires the use of
5 maintenance prescription medications to remain in the home,
6 and without the prescribed medication the elderly individual
7 would need to move to an institutional setting.

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9 For purposes of this section, the term "family unit" means one
10 or more individuals whose primary residence is with a
11 homebound elderly individual specifically for the purpose of
12 providing care for that homebound elderly individual. The
13 family unit does not necessarily need to be related by blood
14 or marriage to the homebound elderly individual.

15 (3) A family unit that receives services from the
16 pharmacy benefit counseling and assistance program is not
17 excluded from receiving assistance from other governmental
18 programs.

19 (4) The department shall accept and encourage
20 contributions and grants through public and private sources to
21 promote the delivery of pharmacy benefit counseling services
22 to assist family units providing care for homebound elderly
23 individuals.

24 (5) The Director of Health Care Administration and the
25 Secretary of Health shall assign staff with expertise in the
26 areas of pharmacy benefit medication management or chronic
27 disease management to assist the Office of Volunteer Community
28 Service in establishing and operating this program. The Agency
29 for Health Care Administration shall assign a professional
30 pharmacist licensed pursuant to chapter 465, within existing

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1 resources, to the Office of Volunteer Community Service to
2 assist in establishing and operating this program.

3 (6) The department shall adopt rules pursuant to ss.
4 120.536(1) and 120.54 to administer this section.

5 Section 4. Medicaid cost-reduction program.--

6 (1) Notwithstanding any other general or special law
7 to the contrary, the Director of Health Care Administration,
8 in consultation with the Secretary of Health, the Secretary of
9 Elderly Affairs, and the director of the Division of State
10 Group Insurance of the Department of Management Services
11 shall, by January 1, 2001, develop a program to aggregate the
12 purchase of prescription drugs for residents of the state who
13 are 65 years of age and older, or who are disabled as defined
14 in section 415.102, Florida Statutes; to provide for
15 qualification of the state as a most-favored customer in the
16 purchase of prescription drugs; and to pass the cost savings
17 resulting from this most-favored-customer status on to such
18 state residents.

19 (2) This program shall provide for the distribution of
20 prescription drugs to residents of the state who are 65 years
21 of age and older, or disabled, at the most-favored-customer
22 status rate, and shall be limited to those 25 drugs most
23 prescribed to the 65-years-of-age-and-older cohort, and those
24 25 drugs most prescribed to the disabled cohort. Review of the
25 drugs covered under this section shall be conducted annually.

26 (3) The administrative costs attendant to the
27 provision of benefits pursuant to this section shall be
28 covered by a participation or membership charge to those
29 elderly and disabled persons electing participation.

30 (4) In order to ensure the timely performance of his
31 or her obligations under this section, the Director of Health

1 Care Administration may enter into an agreement with one or
2 more not-for-profit entities for the purpose of developing and
3 managing this program. The director shall prepare a request
4 for proposals for the purpose of selecting the entity or
5 entities which shall provide prescription drug
6 benefit-management services to members of the coverage group.
7 The selection process shall include criteria designed to
8 select that entity best able to provide a prescription drug
9 benefit program for the coverage group in a way that maximizes
10 savings for the state and participants without reducing the
11 quality of any prescription drug benefits now being provided
12 to persons included in the coverage group.

13 (5) Prior to accepting a proposal for the provision of
14 prescription drug benefit-management services, the director
15 shall make a determination in writing that the proposal
16 maximizes savings to the state, or provides other substantial
17 public benefits, in a way that does not reduce the quality of
18 existing prescription drug services for any persons included
19 in the coverage group. The director shall submit a report
20 containing his or her selection, along with the basis
21 therefor, at least 30 days before entering into the management
22 agreement, to the President of the Senate and the Speaker of
23 the House of Representatives. The accepted proposal does not
24 terminate any contract currently in existence with any agency
25 or program affected under this section which cannot be
26 favorably renegotiated.

27 Section 5. The Agency for Health Care Administration
28 shall pursue with the federal Health Care Financing
29 Administration any possible waivers that might be used to
30 obtain federal financial participation for any aspects of the
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1 pharmacy benefit program or the pharmacy benefit counseling
2 and assistance program as created by this act.

3 Section 6. There is appropriated from the General
4 Revenue Fund to the Agency for Health Care Administration the
5 sum of \$40 million to fund the pharmacy benefit program
6 established under this act.

7 Section 7. There is appropriated from the General
8 Revenue Fund to the Agency for Health Care Administration the
9 sum of \$250,000 for implementation of the Medicaid
10 cost-reduction program provided for under this act.

11 Section 8. This act shall take effect July 1, 2000.

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14 SENATE SUMMARY

15 Establishes a pharmacy benefit program to be operated by
16 the Agency for Health Care Administration, in conjunction
17 with the Department of Elderly Affairs and the Department
18 of Health. Provides eligibility requirements. Provides
19 requirements for pharmaceutical manufacturers that
20 participate in the program. Creates a pharmacy benefit
21 counseling and assistance program within the Office of
22 Volunteer Community Service of the Department of Elderly
23 Affairs. Requires that the Director of Health Care
24 Administration develop a Medicaid cost-reduction program.
25 Provides for the 25 most-prescribed drugs to be available
26 to elderly and disabled persons who participate in the
27 program. Requires a report to the Legislature.
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