

By the Committee on Health Care Services and Representatives Argenziano, Byrd, Harrington, Dockery, Fasano, Morroni, Detert, Murman, Littlefield, Kelly, K. Smith, Sublette, Lynn, Russell, Waters, Rubio, Chestnut, Fiorentino, (Additional Sponsors on Last Printed Page)

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 medication  
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.

9  
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 which is designed to provide  
24 prescription drug coverage to a limited group of most needy  
25 individuals. The program is to be administered by the Agency  
26 for Health Care Administration, under the authority provided  
27 in s. 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 that 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 Florida with  
8 the Indigent Drug Program of the Pharmaceutical Research and  
9 Manufacturers of America and the pharmacy benefit counseling  
10 and assistance program as established under s. 430.072,  
11 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 is authorized to adopt rules to  
18 implement the provisions of 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 which 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, "family unit" means one or more  
10 individuals whose primary residence is with a homebound  
11 elderly individual specifically for the purpose of providing  
12 care for that homebound elderly individual. The family unit  
13 does not necessarily need to be related by blood or marriage  
14 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 implement the provisions of this  
5 section.

6 Section 4. Medication cost-reduction program.--

7 (1) Notwithstanding any other general or special law  
8 to the contrary, the Director of Health Care Administration,  
9 in consultation with the Secretary of Health, the Secretary of  
10 Elderly Affairs, and the director of the Division of State  
11 Group Insurance of the Department of Management Services  
12 shall, within 180 days after the effective date of this act,  
13 develop a program to aggregate the purchase of prescription  
14 drugs for residents of the state who are 65 years of age and  
15 older, or who are disabled as defined in s. 415.102; to  
16 provide for qualification of the state as a most favored  
17 customer in the purchase of prescription drugs; and to pass  
18 the cost savings resulting from this most favored customer  
19 status on to such state residents.

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

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

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

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

29       Section 5. The Agency for Health Care Administration  
30 shall pursue with the federal Health Care Financing  
31 Administration any possible waivers that might be used to

1 obtain federal financial participation for any aspects of the  
2 pharmacy benefit program or the pharmacy benefit counseling  
3 and assistance program as created by this act.

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

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

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

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ADDITIONAL SPONSORS

18

Jacobs, Crow, Bullard, Ritter, Wasserman Schultz, Greenstein,  
19 Sobel, Kosmas, Peaden, Fuller, Wallace, Futch, Brown, Rayson,  
20 Goode, Levine, Heyman, Melvin, Ogles, Kilmer, Argenio,  
21 Goodlette, Trovillion, Crist, Andrews, Merchant, Feeney,  
22 Putnam, Hart, Brummer, C. Green, Bilirakis, Sorensen,  
23 Prieguez, Barreiro, J. Miller, Edwards, Ritchie and Ball

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