

By the Committee on Health, Aging and Long-Term Care; and
Senators Lee, Brown-Waite, Silver, Clary, Latvala, Saunders
and Kurth

23-1033A-00

1 A bill to be entitled
2 An act relating to delivery of health care
3 services; creating a catastrophic
4 pharmaceutical expense assistance program;
5 providing eligibility; prescribing duties of
6 the Agency for Health Care Administration and
7 other entities; providing for rules; requiring
8 a report; requiring pharmacies that participate
9 in the program or in Medicaid to agree to
10 limitations on compensation; providing for
11 certain professional regulatory boards to adopt
12 rules to discourage their respective
13 practitioners from accepting certain types of
14 compensation from pharmaceutical manufacturers;
15 requiring disclosure of certain information
16 relating to such compensation; providing
17 legislative intent; providing appropriations;
18 providing an effective date.

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

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22 Section 1. Catastrophic pharmaceutical expense
23 assistance.--

24 (1) PROGRAM ESTABLISHED.--There is established a
25 program to provide financial assistance to low-income elderly
26 individuals with catastrophic pharmaceutical expenses.

27 (2) ELIGIBILITY.--Eligibility is limited to those
28 individuals who do not qualify for assistance under the
29 Medicaid program and who:

30 (a) Are Florida residents over the age of 65;
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1 (b) Have an income at or below 250 percent of the
2 federal poverty level; and

3 (c)1. Do not have other insurance coverage for
4 prescription drugs and have out-of-pocket prescription
5 expenses that exceed or are projected to exceed 10 percent of
6 their annual income, after payments by other liable entities
7 are deducted; or

8 2. Have prescription coverage and have out-of-pocket
9 prescription expenses that exceed or are projected to exceed
10 10 percent of their annual income after payments under such
11 coverage and payments by other liable entities are deducted.

12 (3) BENEFITS.--Medications covered under the
13 catastrophic pharmaceutical expense assistance program are
14 those covered under the Medicaid program in section
15 409.906(20), Florida Statutes. Payments shall be for the total
16 amount of prescription drug expenses above 10 percent of an
17 individual's annual income.

18 (4) ADMINISTRATION.--The catastrophic pharmaceutical
19 expense assistance program shall be administered by the Agency
20 for Health Care Administration, in consultation with the
21 Department of Elderly Affairs. To the extent possible,
22 administration of the program, including eligibility
23 determination, claims processing, and reporting, shall use
24 existing administrative mechanisms, including the Medicaid
25 fiscal agent system and area agencies on aging.

26 (a) The Agency for Health Care Administration shall
27 make payments for prescription drugs on behalf of eligible
28 individuals.

29 (b) The Agency for Health Care Administration and the
30 Department of Elderly Affairs shall develop a single-page
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1 application for the catastrophic pharmaceutical expense
2 assistance program.

3 (c) The Agency for Health Care Administration shall,
4 by rule, establish eligibility requirements, limits on
5 participation, benefit limitations, a requirement for generic
6 drug substitution, and other program parameters comparable to
7 those of the Medicaid program for the catastrophic
8 pharmaceutical expense assistance program.

9 (d) By January 1 of each year, the Agency for Health
10 Care Administration shall report to the Legislature on the
11 operation of the program. The report shall include information
12 on the number of individuals served, use rates, and
13 expenditures under the program. The report shall also address
14 the impact of the program on reducing unmet pharmaceutical
15 drug needs among the elderly and recommend programmatic
16 changes.

17 (5) NONENTITLEMENT.--The catastrophic pharmaceutical
18 expense assistance program is not an entitlement and shall be
19 the payor of last resort.

20 Section 2. Medicare prescription discount program.--As
21 a condition of participation in the Florida Medicaid program
22 or the catastrophic pharmaceutical expense assistance program,
23 a pharmacy must agree that the charge to any Medicare
24 beneficiary showing a Medicare card when presenting a
25 prescription shall be no greater than the amount paid to that
26 pharmacy for ingredients and dispensing under the Florida
27 Medicaid program, plus 2.5 percent of the Medicaid payment for
28 the ingredients of the prescription.

29 Section 3. The Legislature recognizes that the state
30 has a compelling interest in maintaining the integrity of
31 health care professions. The Legislature finds that physicians

1 and other health care practitioners have a fiduciary
2 responsibility to act in the best interests of their patients,
3 who place their trust in, and are dependent on, the
4 professional expertise of health care practitioners when
5 seeking their services. The Legislature finds that the nature
6 of the relationship between the patient and the health care
7 practitioner and the underlying trust in that relationship
8 prompt the need for guidelines to avoid the receipt by health
9 care practitioners of gifts, payments, subsidies, or other
10 financial inducements from pharmaceutical manufacturers which
11 adversely shape the health care practitioners' independent
12 professional judgment and which undermine their patients'
13 access to treatment, course of care, and clinical outcomes.

14 (1) The Board of Medicine, the Board of Osteopathic
15 Medicine, the Board of Podiatric Medicine, and the Board of
16 Dentistry shall adopt, by rule, guidelines to discourage
17 health care practitioners under their respective jurisdictions
18 from accepting gifts, payments, subsidies, or other financial
19 inducements from pharmaceutical manufacturers which may
20 undermine the practitioners' independent professional
21 judgment. Any gift, payment, or other financial inducement
22 that a health care practitioner receives from a pharmaceutical
23 manufacturer should primarily entail a benefit to his or her
24 patients and should not be of substantial value. For purposes
25 of this section, a gift, payment, subsidy, or other financial
26 inducement does not include complimentary samples of medicinal
27 drugs.

28 (2) To ensure that patients are adequately informed
29 about their care and to assist the health care practitioner in
30 avoiding the receipt of gifts, payments, subsidies, or other
31 financial inducements from pharmaceutical manufacturers which

1 may not be justified, the Board of Medicine, the Board of
2 Osteopathic Medicine, the Board of Podiatric Medicine, and the
3 Board of Dentistry each shall require each health care
4 practitioner under its regulatory jurisdiction to disclose to
5 the Department of Health, as a condition of license renewal,
6 the receipt of gifts, payments, subsidies, or other financial
7 inducements from pharmaceutical manufacturers which conflict
8 with that health care practitioner's duty of loyalty to his or
9 her patients.

10 Section 4. There is appropriated to the Agency for
11 Health Care Administration the sum of \$15,244,200 from the
12 Medical Care Trust Fund and the sum of \$11,755,800 from the
13 General Revenue Fund to provide Medicaid for services for
14 persons who are eligible under section 409.904(1), Florida
15 Statutes, and whose incomes are greater than 90 percent of the
16 federal poverty level but no greater than 100 percent of the
17 federal poverty level.

18 Section 5. There is appropriated the sum of \$42
19 million from the General Revenue Fund to the Agency for Health
20 Care Administration for the purpose of implementing section 1
21 relating to the catastrophic pharmaceutical expense assistance
22 program.

23 Section 6. There is appropriated the sum of \$1 million
24 from the General Revenue Fund to the Agency for Health Care
25 Administration to develop a computerized system that allows
26 participating pharmacies to determine allowable maximum
27 payments for prescription drugs under section 2.

28 Section 7. This act shall take effect upon becoming a
29 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 940

4 The committee substitute deletes the Prescription Drug Program
5 for Medicare Participants and creates a catastrophic
6 pharmaceutical expense assistance program for individuals over
7 the age of 65 who have an income at or below 250 percent of
8 the Federal Poverty Level, and have out-of-pocket prescription
9 expenses that exceed or are projected to exceed 10 percent of
10 their incomes. It requires, as a condition of participation in
11 the Medicaid program and the catastrophic pharmaceutical
12 expense program, a pharmacy to agree that the charge to any
13 Medicare beneficiary who presents a Medicare card be no
14 greater than the Medicaid rate for ingredients and dispensing
15 fees, plus 2.5% of the Medicaid ingredient payment. The
16 committee substitute provides findings that health care
17 practitioners have a fiduciary responsibility to act in the
18 best interests of their patients and that the nature of the
19 patient/health care provider relationship prompts the need for
20 guidelines to avoid the receipt of gifts, payments, subsidies
21 or other financial inducements from pharmaceutical
22 manufacturers which adversely shape the health care
23 practitioner's independent professional judgement and which
24 undermine their patients access to treatment, course of care,
25 and clinical outcomes. The committee substitute mandates that
26 the Board of Medicine, the Board of Osteopathic Medicine, the
27 Board of Podiatric Medicine and the Board of Dentistry adopt
28 rules to discourage health care practitioners under their
29 jurisdictions from accepting gifts, payments, subsidies or
30 other financial inducements from pharmaceutical manufacturers
31 which may undermine the practitioners independent professional
judgement and to adopt rules requiring disclosure of gifts,
subsidies payments and other financial inducements from
manufacturers which conflict with the practitioners duty of
loyalty to his or her patient. The committee substitute
provides an appropriation to the Agency for Health Care
Administration to provide Medicaid services for persons whose
incomes are between 90 and 100 percent of the Federal Poverty
Level, to implement the catastrophic pharmaceutical expense
assistance program, and to develop a computerized system to
allow participating pharmacies to determine the maximum
allowable charge for prescription drugs sold to Medicare
beneficiaries.