

STORAGE NAME: h1189a.cfs.doc
DATE: February 21, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CHILD & FAMILY SECURITY
ANALYSIS**

BILL #: HB 1189
RELATING TO: Pharmaceutical Expense Assistance
SPONSOR(S): Representative(s) Siplin

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) CHILD & FAMILY SECURITY YEAS 8 NAYS 0
 - (2) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (3) COUNCIL FOR HEALTHY COMMUNITIES
 - (4)
 - (5)
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

Section 409.9065, F.S., establishes the pharmaceutical expense assistance program for low-income individuals who qualify for limited assistance under Medicaid as a result of being dually eligible for both Medicaid and Medicare, but whose limited assistance or Medicare coverage does not include any pharmacy benefit. Specifically eligible are low-income senior citizens who:

- Are Florida residents age 65 and over;
- Have an income between 90 and 120 percent of the federal poverty level (a range from \$7,731 to \$10,308 for individuals and from \$10,449 to \$13,932 for a family size of two, as of February 16, 2001);
- Are eligible for both Medicare and Medicaid;
- Are not enrolled in a Medicare health maintenance organization that provides a pharmacy benefit; and
- Request to be enrolled in the program.

Medications covered under the program are those covered under the Medicaid program. Monthly benefit payments are limited to \$80 per program participant, with a 10 percent coinsurance payment for each prescription purchased through the program.

House Bill 1189 expands eligibility for the pharmaceutical expense assistance program for the elderly by raising the income eligibility level from 120 to 150 percent of the federal poverty level or \$17,415 for a family size of two using the February 16, 2001 federal poverty level (2002 poverty level data is not yet available). The bill also expands the monthly benefit under the program from \$80 to \$150 per program participant. The bill will require additional appropriations to fund the expanded eligibility and benefit levels under the program. The maximum combined annual fiscal impact of new participants and increased benefits for current participants are estimated at \$93,360,000.

If enacted into law, the bill becomes effective July 1, 2002.

On February 21, 2002, the Child & Family Security Committee adopted a strike everything amendment to HB 1189. The general goal of the amendment is to place Florida in a policy posture to take advantage of the expansion of subsidized prescription drug benefits for low-income beneficiaries currently under consideration in Congress (See Section VI of the analysis).

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a "no" above, please explain:

House Bill 1189 expands eligibility for the pharmaceutical expense assistance program. More Florida residents age 65 and over would be eligible for the program.

B. PRESENT SITUATION:

The Florida Prescription Affordability Act for Seniors

Chapter 2000-254, Laws of Florida, created the "Prescription Affordability Act for Seniors." The Pharmaceutical Expense Assistance Program, codified as s. 409.9065, F.S., created a pharmaceutical expense assistance program for low-income individuals who qualify for limited assistance under Medicaid as a result of being dually eligible for both Medicaid and Medicare, but whose limited assistance or Medicare coverage does not include any pharmacy benefit. Specifically eligible are low-income senior citizens who:

- Are Florida residents age 65 and over;
- Have an income between 90 and 120 percent of the federal poverty level (a range from \$7,731 to \$10,308 for individuals and from \$10,449 to \$13,932 for a family size of two, as of February 16, 2001);
- Are eligible for both Medicare and Medicaid;
- Are not enrolled in a Medicare health maintenance organization that provides a pharmacy benefit; and
- Request to be enrolled in the program.

Medications covered under the program are those covered under the Medicaid program. Monthly benefit payments are limited to \$80 per program participant, with a 10 percent coinsurance payment for each prescription purchased through the program.

The program is administered by the Agency for Health Care Administration (AHCA), in consultation with the Department of Elder Affairs (DOEA). A single page application has been developed for the program. By rule, AHCA is required to establish eligibility requirements, limits on participation, benefit limitations, a requirement for generic drug substitution, and other program parameters comparable to those of the Medicaid program. By January 1 of each year,

AHCA is to report to the Legislature on specified aspects of the operation of the program. The act states that the program is not an entitlement.

In order for a drug product to be covered under the program, the product's manufacturer must provide a rebate equal to the rebate required by Medicaid. The drug must be available to the pharmaceutical expense assistance program for the best price that the manufacturer makes the drug available to the Medicaid program. Reimbursements to pharmacies under the program are to be equivalent to reimbursements under the Medicaid program.

The appropriation is limited to \$7.5 million for FY 2001-2002, and shall be supplemented with rebates paid by manufacturers as provided by this statute. The Agency for Health Care Administration, in consultation with the Department of Elder Affairs (DOEA), is responsible for the administration of this program. AHCA was allocated \$250,000 from the General Revenue Fund to administer the Pharmaceutical Expense Assistance Program. ACHA anticipates that the Pharmaceutical Expense Assistance program drug program cost will have increases of 15 to 20 percent per year over the next two to three years. A higher inflation rate than the consumer price index in general or medical care overall.

Medicare Prescription Discount Program

Codified as s. 409.9066, F.S., the act also required that, as a condition of participation in the Medicaid program or the **pharmaceutical expense assistance program**, a pharmacy must agree to charge to any individual who is a Medicare beneficiary and who is a Florida resident presenting a Medicare card, when presenting a prescription, a price no greater than the cost of ingredients equal to the average wholesale price minus 9 percent, and a dispensing fee of \$4.50. In lieu of this requirement, and as a condition of participation in the Medicaid program or the pharmaceutical expense assistance program, a pharmacy must agree to provide a private, voluntary prescription discount program to state residents who are Medicare beneficiaries or accept a private voluntary discount prescription program from state residents who are Medicare beneficiaries. These discounts must be at least as great as discounts provided under this program.

Financial Impact of Prescription Drugs on the Elderly

Outpatient prescription drugs, which are not covered by Medicare, represent a substantial out-of-pocket burden for many elderly persons. This lack of prescription drug coverage is often cited as a major shortcoming of the Medicare program, the federal health insurance program for older and disabled Americans.

Florida is home to approximately 2.6 million elderly Medicare beneficiaries. Over 90 percent of these elders take one prescribed drug daily, while the average elder takes 7 different medications.

See Section V of the analysis for other related comment on this issue.

C. EFFECT OF PROPOSED CHANGES:

House Bill 1189 expands the pharmaceutical expense assistance program. More Florida residents age 65 and over would be eligible for the program and would spend less of their income on prescription medication.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 409.9065, F.S.,

The change to the section raises the maximum income level under the pharmaceutical expense assistance program from 120 to 150 percent of the federal poverty level and raises the benefit payment limit under the program from \$80 to \$150 dollars per month

Section 2. Provides an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

The bill will require additional appropriations to fund the expanded eligibility and benefit levels under the program. See fiscal comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

More seniors will be able to afford more of their prescription medicines.

Some pharmacies may see a decrease in profit from the sales of certain prescription medications to seniors in the expanded program who formerly were paying more for these medications. Pharmacies will be required to accept Medicaid prices and 10-percent coinsurance payments for prescriptions purchased by participants within this program.

D. FISCAL COMMENTS:

According to AHCA, by changing the income parameters to 150 percent or less of the federal poverty level, the number of additional potential participants is estimated to be 36,000. At the benefit level of \$150 per person per month, the potential cost to the state for the additional participants is \$64,800,000 per year. In addition, the increase from \$80 to \$150 per month available for the 34,000 current participants has a potential annual cost of \$28,560,000. The maximum combined annual fiscal impact of new participants and increased benefits for current participants are estimated at \$93,360,000.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

Families USA, a national nonprofit, non-partisan organization dedicated to affordable health and long-term care Americans, released a study on July 31, 2001 claiming that older Americans are now paying twice as much for prescription drugs as they did in 1992. The study, based on data gathered by HCFA, reported that average Americans ages 65 or older pay \$1,205 a year for prescription drugs, up from \$559 in 1992. By 2010, average drug costs for American seniors are projected to rise to \$2,810 annually. The study found that prescription drugs now account for approximately 10% of seniors' health care expenditures and predicts that this number will rise to 13.3% in 2010. The study said, Americans 65 and older represent 42 cents of every dollar spent on prescription drugs, even though they comprise only 13% of the population and purchase only 34% of all prescriptions. The average senior citizen's prescription cost has risen from \$28.50 per prescription in 1992 to its current level of \$42.30 per prescription. Individual prescription costs are estimated to reach \$72.94 in 2010.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

President Bush's Proposed Federal Budget for federal fiscal year 2003 dedicates funds for the expansion of subsidized prescription drug benefits for low-income Medicare beneficiaries. The budget proposes \$20.7 billion over five years and \$77.1 billion over ten years for states to expand drug coverage for low-income beneficiaries. It would allow states to expand drug-only coverage to Medicare beneficiaries up to 100 percent of poverty at the regular Medicaid match rate. It also would allow federal funds to pay for 90 percent of expanding coverage for Medicare beneficiaries between 100 and 150 percent of poverty. States would be responsible for the remaining 10 percent.

According to Florida's D.C. Office, if Congress passes the Enhanced Medicaid Match for Drug Assistance Program and Florida chose to participate, there would be a net cost to the state of

approximately \$32 million for a 9-month period beginning in FY03. This would include the costs associated with comprehensive drug benefit coverage for this two tiered program for Medicare beneficiaries: from 88 to 100 percent of the Federal poverty level (FPL) at Florida's Medicaid match rate; and 100 to 150 percent of FPL at the proposed 90/10 federal/state match.

On February 21, 2002, the Child & Family Security Committee adopted a strike everything amendment to HB 1189. The general goal of the amendment is to place Florida in a posture to take advantage of the President's proposal if Congress should pass the Enhanced Medicaid Match for Drug Assistance Program.

To do this, the amendment allows AHCA to modify the eligibility benefit.

- Eligibility for Pharmaceutical Expense Assistance Program may be modified to include those with income between 100 percent and 150 percent.
- Those with income between 88 percent and 100 percent of the federal poverty level, referred to as the Medicaid MEDS-AD eligibility category, would be served via a Medicaid prescribed drug-only benefit under Medicaid pursuant to s. 409.906, F.S.
- AHCA is given authority to pursue budget amendments to implement changes in eligibility.

VII. SIGNATURES:

COMMITTEE ON CHILD & FAMILY SECURITY:

Prepared by:

Staff Director:

Robert Brown-Barrios

Robert Brown-Barrios