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A bill to be entitled

An act relating to prescription drugs; amending s. 409.9065, F.S.; revising the pharmaceutical expense assistance program for low-income elderly individuals; adding eligibility groups; providing benefits; requiring the Agency for Health Care Administration, in administering the program, to collaborate with both the Department of Elderly Affairs and the Department of Children and Family Services; requiring federal approval of benefits; creating s. 430.83, F.S.; providing a popular name; providing definitions; providing legislative findings and intent; creating the Sunshine for Seniors Program to assist low-income seniors with obtaining prescription drugs from manufacturers' pharmaceutical assistance programs; providing implementation and oversight duties of the Department of Elderly Affairs; providing for community partnerships; providing for contracts; requiring annual evaluation reports on the program; specifying that the program is not an entitlement; providing for construction of the act in pari materia with laws enacted during the 2003 Regular Session of the Legislature; providing an effective date.

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

Section 1. Section 409.9065, Florida Statutes, is amended to read:

409.9065 Pharmaceutical expense assistance.--

(1) PROGRAM ESTABLISHED.--There is established a program to provide pharmaceutical expense assistance to eligible ~~certain~~



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31 low-income elderly individuals, which shall be known as the "Ron
32 Silver Senior Drug Program" and may be referred to as the
33 "Silver Lifesaver Program."

34 (2) ELIGIBILITY.--Eligibility for the program is limited
35 to ~~those individuals who qualify for limited assistance under~~
36 ~~the Florida Medicaid program as a result of being dually~~
37 ~~eligible for both Medicare and Medicaid, but whose limited~~
38 ~~assistance or Medicare coverage does not include any pharmacy~~
39 ~~benefit. To the extent funds are appropriated, specifically~~
40 ~~eligible individuals are individuals who:~~

41 (a) Are Florida residents age 65 and over;

42 (b) Have an income equal to or less than 200 percent of
43 the federal poverty level;÷

44 1. ~~Between 88 and 120 percent of the federal poverty~~
45 ~~level;~~

46 2. ~~Between 88 and 150 percent of the federal poverty level~~
47 ~~if the Federal Government increases the federal Medicaid match~~
48 ~~for persons between 100 and 150 percent of the federal poverty~~
49 ~~level; or~~

50 3. ~~Between 88 percent of the federal poverty level and a~~
51 ~~level that can be supported with funds provided in the General~~
52 ~~Appropriations Act for the program offered under this section~~
53 ~~along with federal matching funds approved by the Federal~~
54 ~~Government under a s. 1115 waiver. The agency is authorized to~~
55 ~~submit and implement a federal waiver pursuant to this~~
56 ~~subparagraph. The agency shall design a pharmacy benefit that~~
57 ~~includes annual per member benefit limits and cost sharing~~
58 ~~provisions and limits enrollment to available appropriations and~~
59 ~~matching federal funds. Prior to implementing this program, the~~
60 ~~agency must submit a budget amendment pursuant to chapter 216;~~



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- 61 (c) Are eligible for ~~both Medicare and Medicaid~~;
- 62 (d) Have exhausted pharmacy benefits under Medicare,
 63 Medicaid, or any other insurance plan ~~Are not enrolled in a~~
 64 ~~Medicare health maintenance organization that provides a~~
 65 ~~pharmacy benefit; and~~
- 66 (e) Request to be enrolled in the program.
- 67 (3) BENEFITS.--Eligible individuals shall receive a
 68 discount for prescription drugs ~~Medications~~ covered under the
 69 ~~pharmaceutical expense assistance program~~ ~~are those covered~~
 70 ~~under the Medicaid program in s. 409.906(20)(19).~~ ~~Monthly~~
 71 ~~benefit payments shall be limited to \$80 per program~~
 72 ~~participant. Participants are required to make a 10-percent~~
 73 ~~coinsurance payment for each prescription purchased through this~~
 74 ~~program.~~
- 75 (a) Eligible individuals with incomes equal to or less
 76 than 120 percent of the federal poverty level shall receive a
 77 discount of 100 percent for the first \$160 worth of prescription
 78 drugs they receive each month, subject to copayments that the
 79 agency requires on these benefits. For all other prescription
 80 drugs received each month, eligible individuals shall receive a
 81 discount of 50 percent.
- 82 (b) Eligible individuals with incomes of more than 120
 83 percent but not more than 150 percent of the federal poverty
 84 level shall receive a discount of 50 percent.
- 85 (c) Eligible individuals with incomes of more than 150
 86 percent but not more than 175 percent of the federal poverty
 87 level shall receive a discount of 41 percent.
- 88 (d) Eligible individuals with incomes of more than 175
 89 percent but not more than 200 percent of the federal poverty
 90 level shall receive a discount of 37 percent.



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91 (4) ADMINISTRATION.--The pharmaceutical expense assistance
 92 program shall be administered by the agency ~~for Health Care~~
 93 ~~Administration~~, in collaboration ~~consultation~~ with the
 94 Department of Elderly Affairs and the Department of Children and
 95 Family Services.

96 ~~(a) The Agency for Health Care Administration and the~~
 97 ~~Department of Elderly Affairs shall develop a single page~~
 98 ~~application for the pharmaceutical expense assistance program.~~

99 ~~(a)(b)~~ The agency ~~for Health Care Administration~~ shall, by
 100 rule, establish for the pharmaceutical expense assistance
 101 program eligibility requirements; limits on participation;
 102 benefit limitations, including copayments; a requirement for
 103 generic drug substitution; and other program parameters
 104 comparable to those of the Medicaid program. However, there
 105 shall be no monetary limit on prescription drugs purchased with
 106 discounts of less than 51 percent unless the agency determines
 107 there is a risk of a funding shortfall in the program. If the
 108 agency determines there is a risk of a funding shortfall, the
 109 agency may establish monetary limits on prescription drugs which
 110 shall not be less than \$160 worth of prescription drugs per
 111 month.

112 ~~(b)(e)~~ By January 1 of each year, the agency ~~for Health~~
 113 ~~Care Administration~~ shall report to the Legislature on the
 114 operation of the program. The report shall include information
 115 on the number of individuals served, use rates, and expenditures
 116 under the program. The report shall also address the impact of
 117 the program on reducing unmet pharmaceutical drug needs among
 118 the elderly and recommend programmatic changes.

119 (5) NONENTITLEMENT.--The pharmaceutical expense assistance
 120 program established by this section is not an entitlement.



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121 Enrollment levels are limited to those authorized by the
 122 Legislature in the annual General Appropriations Act. If, after
 123 establishing monetary limits as required by paragraph (4)(a),
 124 funds are insufficient to serve all eligible individuals
 125 ~~eligible under subsection (2) and~~ seeking coverage, the agency
 126 may develop a waiting list based on application dates to use in
 127 enrolling individuals in unfilled enrollment slots.

128 (6) PHARMACEUTICAL MANUFACTURER PARTICIPATION.--In order
 129 for a drug product to be covered under Medicaid or this program,
 130 the product's manufacturer shall:

131 (a) Provide a rebate to the state equal to the rebate
 132 required by the Medicaid program; and

133 (b) Make the drug product available to the program for the
 134 best price that the manufacturer makes the drug product
 135 available in the Medicaid program.

136 (7) REIMBURSEMENT.--Total reimbursements to pharmacies
 137 participating in the pharmaceutical expense assistance program
 138 established under this section shall be equivalent to
 139 reimbursements under the Medicaid program.

140 (8) FEDERAL APPROVAL.--The benefits provided in this
 141 section are limited to those approved by the Federal Government
 142 pursuant to a Medicaid waiver or an amendment to the state
 143 Medicaid plan.

144 Section 2. Section 430.83, Florida Statutes, is created to
 145 read:

146 430.83 Sunshine for Seniors Program.--

147 (1) POPULAR NAME.--This section shall be known by the
 148 popular name "The Sunshine for Seniors Act."

149 (2) DEFINITIONS.--As used in this section, the term:

150 (a) "Application assistance organization" means any



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151 private organization that assists individuals with obtaining
152 prescription drugs through manufacturers' pharmaceutical
153 assistance programs.

154 (b) "Eligible individual" means any individual who is 60
155 years of age or older who lacks adequate pharmaceutical
156 insurance coverage.

157 (c) "Manufacturers' pharmaceutical assistance program"
158 means any program offered by a pharmaceutical manufacturer that
159 provides low-income individuals with prescription drugs free or
160 at reduced prices, including, but not limited to, senior
161 discount card programs and patient assistance programs.

162 (3) LEGISLATIVE FINDINGS AND INTENT.--The Legislature
163 finds that the pharmaceutical manufacturers, seeing a need, have
164 created charitable programs to aid low-income seniors with the
165 cost of prescription drugs. The Legislature also finds that many
166 low-income seniors are unaware of such programs or either do not
167 know how to apply for or need assistance in completing the
168 applications for such programs. Therefore, it is the intent of
169 the Legislature that the Department of Elderly Affairs, in
170 consultation with the Agency for Health Care Administration,
171 implement and oversee the Sunshine for Seniors Program to help
172 seniors in accessing manufacturers' pharmaceutical assistance
173 programs.

174 (4) SUNSHINE FOR SENIORS PROGRAM.--There is established a
175 program to assist low-income seniors with obtaining prescription
176 drugs from manufacturers' pharmaceutical assistance programs,
177 which shall be known as the "Sunshine for Seniors Program."
178 Implementation of the program is subject to the availability of
179 funding and any limitations or directions provided for by the
180 General Appropriations Act or chapter 216.



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181 (5) IMPLEMENTATION AND OVERSIGHT DUTIES.--In implementing
182 and overseeing the Sunshine for Seniors Program, the Department
183 of Elderly Affairs:

184 (a) Shall promote the availability of manufacturers'
185 pharmaceutical assistance programs to eligible individuals with
186 various outreach initiatives.

187 (b) Shall, working cooperatively with pharmaceutical
188 manufacturers and consumer advocates, develop a uniform
189 application form, which shall be available in English, Spanish,
190 and Creole, to be completed by seniors who wish to participate
191 in the Sunshine for Seniors Program.

192 (c) May request proposals from application assistance
193 organizations to assist eligible individuals with obtaining
194 prescription drugs through manufacturers' pharmaceutical
195 assistance programs.

196 (d) Shall train volunteers to help eligible individuals
197 fill out applications for the manufacturers' pharmaceutical
198 assistance programs.

199 (e) Shall train volunteers to determine if applicants are
200 available for other state programs.

201 (f) Shall seek federal funds to help fund the Sunshine for
202 Seniors Program.

203 (g) May seek federal waivers to help fund the Sunshine for
204 Seniors Program.

205 (6) COMMUNITY PARTNERSHIPS.--The Department of Elderly
206 Affairs may build private-sector and public-sector partnerships
207 with corporations, hospitals, physicians, pharmacists,
208 foundations, volunteers, state agencies, community groups, area
209 agencies on aging, and any other entities that will further the
210 intent of this section. These community partnerships may also be



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211 used to facilitate other pro bono benefits for eligible
212 individuals, including, but not limited to, medical, dental, and
213 prescription services.

214 (7) CONTRACTS.--The Department of Elderly Affairs may
215 select and contract with application assistance organizations to
216 assist eligible individuals in obtaining their prescription
217 drugs through the manufacturers' pharmaceutical assistance
218 programs. If the department contracts with an application
219 assistance organization, the department shall evaluate quarterly
220 the performance of the application assistance organization to
221 ensure compliance with the contract and the quality of service
222 provided to eligible individuals.

223 (8) REPORTS AND EVALUATIONS.--By January 1 of each year,
224 while the Sunshine for Seniors Program is operating, the
225 Department of Elderly Affairs shall report to the Legislature
226 regarding the implementation and operation of the Sunshine for
227 Seniors Program.

228 (9) NONENTITLEMENT.--The Sunshine for Seniors Program
229 established by this section is not an entitlement. If funds are
230 insufficient to assist all eligible individuals, the Department
231 of Elderly Affairs may develop a waiting list prioritized by
232 application date.

233 Section 3. If any law amended by this act was also amended
234 by a law enacted at the 2003 Regular Session of the Legislature,
235 such laws shall be construed as if they had been enacted at the
236 same session of the Legislature, and full effect shall be given
237 to each if possible.

238 Section 4. This act shall take effect upon becoming a law.