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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PHARMACEUTICAL
ASSISTANCE TO THE ELDERLY ACT

Introduced By: Representatives Ginaitt, Long, Anguilla, Lewiss, and Trillo

Date Introduced: February 05, 2002

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-66.2-5 and 42-66.2-10 of the General Laws in Chapter 42-66.2
2 entitled "Pharmaceutical Assistance to the Elderly Act" are hereby amended to read as follows:

3 **42-66.2-5. Persons eligible.** -- (a) Persons eligible for assistance under the provisions of
4 this chapter include any resident of the state who is at least sixty-five (65) years of age. State and
5 consumer co-payment shares for these persons shall be determined as follows:

6 (1) For unmarried persons or married persons living separate and apart whose income for
7 the calendar year immediately preceding the year in which assistance is sought is:

8 (i) Less than fifteen thousand nine hundred and thirty-two dollars (\$15,932) the state
9 shall pay sixty percent (60%) of the cost of the prescriptions and the consumer shall pay forty
10 percent (40%) of the cost of the prescriptions;

11 (ii) More than fifteen thousand nine hundred and thirty-two dollars (\$15,932) and less
12 than twenty thousand dollars (\$20,000), the state shall pay thirty percent (30%) of the cost of the
13 prescriptions and the consumer shall pay seventy percent (70%) of the cost of the prescriptions;
14 and

15 (iii) More than twenty thousand dollars (\$20,000) and less than thirty-five thousand
16 dollars (\$35,000), the state shall pay fifteen percent (15%) of the cost of prescriptions and the
17 consumer shall pay eighty-five percent (85%) of the cost of prescriptions.

18 (2) For married persons whose income for the calendar year immediately preceding the
19 year in which assistance is sought hereunder when combined with any income of the person's

1 spouse in the same year is:

2 (i) Nineteen thousand nine hundred and sixteen dollars (\$19,916) or less, the state shall
3 pay sixty percent (60%) of the cost of the prescriptions and the consumer shall pay forty percent
4 (40%) of the cost of the prescriptions;

5 (ii) More than nineteen thousand nine hundred and sixteen dollars (\$19,916) and less
6 than twenty-five thousand dollars (\$25,000), the state shall pay thirty percent (30%) of the cost of
7 the prescriptions and the consumer shall pay seventy percent (70%) of the cost of prescriptions;
8 and

9 (iii) More than twenty-five thousand dollars (\$25,000) and less than forty thousand
10 dollars (\$40,000), the state shall pay fifteen percent (15%) of the cost of prescriptions and the
11 consumer shall pay eighty-five percent (85%) of the cost of prescriptions.

12 (3) Eligibility may also be determined by using income data for the ninety (90) days
13 prior to application for benefits and projecting that income on an annual basis. The income levels
14 shall not include those sums of money expended for medical and pharmaceutical that exceed
15 three percent (3%) of the applicant's annual income or three percent (3%) of the applicant's
16 preceding ninety (90) day income computed on an annual basis.

17 (b) On July 1 of each year, the maximum amount of allowable income for both
18 unmarried and married residents set forth in subsection (a) shall be increased by a percentage
19 equal to the percentage of the cost of living adjustment provided for social security recipients.

20 (c) Notwithstanding the foregoing provisions of this section, no person whose
21 prescription drug expenses are paid or reimbursable, either in whole or in part, by any other plan
22 of assistance or insurance is eligible for assistance under this section, until the person's
23 prescription drug coverage is exhausted during a benefit year, and as provided in subsection (d).

24 (d) The fact that some of a person's prescription drug expenses are paid or reimbursable
25 under the provisions of medicare, part B, shall not disqualify that person, if he or she is otherwise
26 eligible, to receive assistance under this chapter. In those cases, the state shall pay sixty percent
27 (60%) of the cost of those prescriptions for qualified drugs for which no payment or
28 reimbursement is made by the federal government.

29 (e) Eligibility for receipt of any other benefit under any other provisions of the Rhode
30 Island general laws as a result of eligibility for the pharmaceutical assistance program authorized
31 under this section shall be limited to those persons whose income qualify them for a sixty percent
32 (60%) state co-payment share of the cost of prescriptions.

33 (f) Between fifty-five (55) and sixty-five (65) years of age and receiving social security
34 disability benefits. These persons shall pay one hundred percent (100%) of the cost of

1 prescriptions set forth in section 42-66.2-4.

2 **42-66.2-10. Pharmaceutical manufacturer drug rebates.** -- (a) The director shall enter
3 into prescription drug rebate agreements with individual pharmaceutical manufacturers under
4 which the department shall receive a rebate from the pharmaceutical manufacturer equal to the
5 basic rebate supplied by the manufacturer under 42 U.S.C. section 1396ar for every eligible
6 prescription drug dispensed under the program. Each prescription drug rebate agreement shall
7 provide that the pharmaceutical manufacturer shall make quarterly rebate payments to the
8 department equal to the basic rebate supplied by the manufacturer under 42 U.S.C. section 1396a
9 r for the total number of dosage units of each form and strength of a prescription drug which the
10 department reports as reimbursed to providers of prescription drugs, provided these payments
11 shall not be due until thirty (30) days following the manufacturer's receipt of utilization data from
12 the department including the number of dosage units reimbursed to providers of eligible
13 prescription drugs during the quarter for which payment is due.

14 (b) (1) Upon receipt of the utilization data from the department, the pharmaceutical
15 manufacturer shall calculate the quarterly payment. The department may, at its expense, hire a
16 mutually agreed upon independent auditor to verify the calculation and payment. In the event that
17 a discrepancy is discovered between the pharmaceutical manufacturer's calculation and the
18 independent auditor's calculation, the pharmaceutical manufacturer shall justify its calculations or
19 make payment to the department for any additional amount due.

20 (2) The pharmaceutical manufacturer may, at its expense, hire a mutually agreed upon
21 independent auditor to verify the accuracy of the utilization data provided by the department. In
22 the event that a discrepancy is discovered, the department shall justify its data or refund any
23 excess payment to the pharmaceutical manufacturer. The department may, at its expense,
24 establish a grievance adjudication procedure which provides for independent review of
25 manufacturer documentation substantiating the basic rebate amount per unit delivered under 42
26 U.S.C. section 1396ar. In the event that a discrepancy is discovered, the department shall justify
27 its data or refund any excess payment to the pharmaceutical manufacturer.

28 (c) All eligible prescription drugs of a pharmaceutical manufacturer that enters into an
29 agreement pursuant to subsection (a) shall be immediately available and the cost of these eligible
30 drugs shall be reimbursed and not subject to any restrictions or prior authorization requirements.
31 Any prescription drug of a manufacturer that does not enter into an agreement pursuant to
32 subsection (a) shall not be reimbursable, unless the department determines the eligible
33 prescription drug is essential to program participants.

34 (d) All rebates collected by the department from rebate payments made for drugs for

1 persons eligible under the provisions of section 42-66.2-5(a) shall be deposited as general
2 revenues of the state.

3 All rebates collected by the department from rebate payments made for drugs for persons
4 eligible under the provisions of section 42-66.2-5(b) shall be deposited in a restricted receipt
5 account at the department and, beginning in fiscal year 2004, the money in this restricted receipt
6 account shall be used to provide a state copayment for persons eligible under section 42-66.2-
7 5(b). The state copayment shall be determined by the department; however, the projected cost for
8 the state copayment shall not exceed the amount of funds in the restricted receipt account.

9 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- PHARMACEUTICAL
ASSISTANCE TO THE ELDERLY ACT

1 This act would mandate that all rebates collected by the department of elderly affairs
2 from rebate payments made for drugs for eligible persons shall be deposited in a restricted receipt
3 account.

4 This act would take effect upon passage.

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