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LC02264/SUB A  
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# STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2004

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- GENERIC DRUGS

Introduced By: Representatives Costantino, Anguilla, and Slater

Date Introduced: February 10, 2004

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 40-8-24 of the General Laws in Chapter 40-8 entitled "Medical  
2 Assistance" is hereby amended to read as follows:

3           **40-8-24. Purpose. — Less expensive alternative medications. —** For pharmaceutical  
4 purchases eligible for reimbursement under the Medicaid state plan, the department shall  
5 encourage the substitution of generic drugs which are therapeutically equivalent and  
6 interchangeable with specific brand name drugs in accordance with section 21-31-16.1 and  
7 related regulations of the department of health, except in the event that a brand name is  
8 determined by the director to be less costly to the state than the equivalent generic. Calculation of  
9 comparative drug costs shall include consideration of the amount paid by the state to the  
10 pharmacy for a drug under the current retail pharmacy reimbursement formula, less any discounts  
11 or rebates, including those paid pursuant to federal Medicaid law during the previous calendar  
12 quarter, and inclusive of all dispensing fees.

13           ~~(a) The department of human services is directed to seek any waivers as described by~~  
14 ~~section 40-8-24 required by the United States department of health and human services to~~  
15 ~~establish, subject to appropriation, a pharmacy assistance program, to be known as the Healthy~~  
16 ~~Rhode Island Pharmacy Program, for the purposes of providing prescription and nonprescription~~  
17 ~~pharmaceuticals at low cost to certain Rhode Island residents who are elderly or living with a~~  
18 ~~disabling condition, as provided in this section.~~

19           ~~(b) To enable the state of Rhode Island to maximize claims for federal financial~~

1 ~~participation and pharmaceutical manufacturer rebates for the Healthy Rhode Island Pharmacy~~  
2 ~~Program, the department is directed and authorized to seek the following waivers:~~

3 ~~-(1) The department shall submit to the United States department of health and human~~  
4 ~~services a waiver of otherwise applicable requirements of title XIX of the Federal Social Security~~  
5 ~~Act in order to claim federal financial participation for a pharmacy assistance program for~~  
6 ~~residents of the state who are sixty five (65) years of age and over with incomes no greater than~~  
7 ~~two hundred percent (200%) of the federal poverty level. The Healthy Rhode Island Pharmacy~~  
8 ~~Program shall provide pharmacy assistance for any persons deemed eligible under the waiver that~~  
9 ~~is comparable to the pharmacy benefit provided to individuals eligible under the Rhode Island~~  
10 ~~Medicaid State Plan, to the extent that the cost sharing and enrollment limitations provided for in~~  
11 ~~subsection (c) allow.~~

12 ~~-(2) The department shall submit to the United States department of health and human~~  
13 ~~services a waiver of otherwise applicable requirements of title XIX of the Federal Social Security~~  
14 ~~Act in order to claim federal financial participation for a pharmacy assistance program for adult~~  
15 ~~residents of the state who are either incapacitated and with incomes no greater than two hundred~~  
16 ~~percent (200%) of the federal poverty level; or severely and persistently mentally ill and eligible~~  
17 ~~for community support services through the department of mental health, retardation and~~  
18 ~~hospitals; and are deemed by the department to be ineligible for pharmacy assistance under~~  
19 ~~subdivision (b)(1) of this section or under any other applicable sections of chapter 66.2 of title 42~~  
20 ~~and otherwise unable to pay the costs for medically necessary prescription drugs and medications.~~  
21 ~~The Healthy Rhode Island Pharmacy Program shall provide pharmacy assistance for any persons~~  
22 ~~deemed eligible under the waiver that is comparable to the pharmacy benefits provided to~~  
23 ~~individuals eligible under the Medicaid State Plan to the extent any program requirements~~  
24 ~~established by rule in accordance with subsection (c) allow.~~

25 ~~-(c) The department shall provide by rule for all other requirements of the program,~~  
26 ~~including cost sharing and any enrollment limitations deemed necessary, as permitted by an~~  
27 ~~approved waiver. The department shall consult with the department of elderly affairs in~~  
28 ~~developing the requests for the waivers as authorized and, to the greatest extent practicable, shall~~  
29 ~~coordinate implementation of the Health Rhode Island Pharmacy Program with the administration~~  
30 ~~and application process for determining eligibility and enrollment in the pharmaceutical~~  
31 ~~assistance program for the elderly set forth in chapter 66.2 of title 42.~~

32 ~~-(d) The caseloads and expenditures for the Healthy Rhode Island Pharmacy Program~~  
33 ~~waivers shall be determined by the caseload estimating conference in accordance with the~~  
34 ~~provisions of chapter 17 of title 35 for determining official estimates of medical assistance~~

1 ~~caseloads.~~

2 ~~-(e) Upon receipt of these waiver(s) from the United States department of health and~~  
3 ~~human services, the department of human services shall file with the house and senate finance~~  
4 ~~committees a report of the terms and conditions of these approved waiver(s) together with a~~  
5 ~~detailed plan for the implementation of them within the aggregate general revenue appropriations~~  
6 ~~for pharmacy benefits and administrative costs provided for in the enacted budget for state fiscal~~  
7 ~~year 2003; and provided further that any reallocations of these general revenue appropriations~~  
8 ~~between or among departments and/or appropriation line items necessary to implement the~~  
9 ~~approved waiver(s), and/or adjustments to federal revenue appropriations consistent with these~~  
10 ~~wavier approval(s), shall be submitted to the general assembly by the Governor in the~~  
11 ~~supplemental appropriations act for state fiscal year 2003 in accordance with section 35-3-8.~~

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO STATE AFFAIRS AND GOVERNMENT -- GENERIC DRUGS

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1           This act would authorize the director of the department of health in the case of drugs  
2 purchased or reimbursed by the state when determining whether a generic drug is less expensive  
3 than its brand name equivalent to consider the amount paid by the state to the pharmacy for a  
4 drug under the current retail pharmacy reimbursement formula, less discounts or reductions.

5           This act would take effect upon passage.

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