

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

HOUSE BILL 2482

4
5 By: Representative Bradford

For An Act To Be Entitled

6
7
8 AN ACT TO IMPROVE ACCESS TO AFFORDABLE
9 PRESCRIPTION DRUGS FOR PERSONS OVER AGE SIXTY-
10 FIVE; AND FOR OTHER PURPOSES.
11

Subtitle

12
13 AN ACT TO IMPROVE ACCESS TO AFFORDABLE
14 PRESCRIPTION DRUGS FOR PERSONS OVER AGE
15 SIXTY-FIVE.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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21 SECTION 1. Arkansas Code Title 20, Chapter 77, is amended to add the
22 following new subchapter:

23 20-77-1401. This subchapter shall be known and may be cited as the
24 "Prescription Drug Access Improvement Act".

25
26 20-77-1402. The purpose and intent of this subchapter is to authorize
27 a Medicaid waiver to provide affordable prescription drugs for eligible
28 persons over age sixty-five (65).

29
30 20-77-1403. As used in this subchapter, unless the context otherwise
31 requires:

32 (1) "Department" means the Department of Human Services;

33 (2) "Federal drug rebate" means a rebate paid to the Medicaid program
34 by a drug manufacturer as required by 42 United States Code, Section 1396r-8
35 as it appeared on January 1, 2001;

36 (3) "Labeler" means an entity or person that receives prescription

1 drugs from a manufacturer or wholesaler and repackages those drugs for later
2 retail sale and that has a labeler code from the federal Food and Drug
3 Administration under 21 Code of Federal Regulations Section 207.20 (1999);

4 (4) "Manufacturer" means a manufacturer of prescription drugs;

5 (5) "Medicaid" means the Arkansas program of medical assistance
6 established under Title XIX of the Social Security Act;

7 (6) "Medicaid price" means the price paid by Medicaid for prescription
8 drugs under the State Medicaid Plan including any dispensing fee and after
9 deducting federal drug rebates;

10 (7) "Prescription Drug Access Program" means the limited prescription
11 drug benefit Medicaid waiver program established under this subchapter;

12 (8) "Prescription drugs" means controlled substances and legend drugs
13 as defined in § 20-64-503;

14 (9) "Prescription drug coverage" means any agreement, contract or
15 other transaction whereby one party provides a benefit of pecuniary value
16 intended to pay some or all of the cost incurred by another party to acquire
17 prescription drugs;

18 (10) "Qualified resident" means an Arkansas resident who is eligible
19 for Medicaid benefits under the waiver;

20 (11) "State drug rebate" means a rebate paid to the Medicaid program
21 by a drug manufacturer as required by the Prescription Drug Access Program;
22 and

23 (12) "Waiver" means the limited prescription drug benefit Medicaid
24 waiver authorized by this subchapter.

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26 20-77-1404. The department is authorized to apply to the Health Care
27 Financing Administration for a limited prescription drug benefit Medicaid
28 waiver for persons who:

29 (1) Are over age sixty-five (65);

30 (2) Have no prescription drug coverage;

31 (3) Have incomes at or below the income eligibility standards
32 established by the Department; and

33 (4) Are ineligible for Medicaid programs and categories other than the
34 Prescription Drug Access Program.

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36 20-77-1405. Any waiver application submitted by the department shall

1 include provisions for the department to:

2 (1) Establish an income eligibility standard not to exceed three-
3 hundred percent (300%) of the federal poverty guideline;

4 (2) Require qualified residents to pay an initial enrollment fee of
5 twenty-five dollars (\$25.00) during the biennium beginning July 1, 2001;

6 (3) Have authority to amend the qualified resident enrollment fee by
7 rule beginning July 1, 2003, provided that qualified resident enrollment fee
8 increases may not exceed fifteen percent (15%) during any state fiscal year;

9 (4) Determine eligibility for limited prescription drug benefits under
10 the waiver;

11 (5) Define the prescription drug benefits to be provided under the
12 waiver to include an opportunity to purchase covered prescription drugs from
13 pharmacies enrolled in the Medicaid Program at the Medicaid price;

14 (6) Establish state rebates;

15 (7) Establish a data and claims processing system for remitting
16 federal drug rebates received by the Department for drugs sold under this
17 subchapter to the pharmacies that sold the drugs;

18 (8) Establish a system for drug manufacturers to pay state rebates to
19 the Department; and

20 (9) Provide limited prescription drug benefits only in accordance with
21 an approved waiver from the Health Care Financing Administration.

22
23 20-77-1406. Every drug manufacturer or labeler that sells prescription
24 drugs in this state through or under any publicly supported drug assistance
25 program including Medicaid shall enter into a state rebate agreement with the
26 Department. The state rebate agreement must require the manufacturer or
27 labeler to make rebate payment to the state in accordance with rules
28 established by the department under this subchapter.

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30 20-77-1407. The department shall negotiate the amount of the state
31 rebate required from a manufacturer or labeler under the Prescription Drug
32 Access Program by:

33 (1) Considering the federal rebates and other available pricing
34 information;

35 (2) Making best efforts to obtain state rebates during the biennium
36 beginning July 1, 2001, that are equal to or greater than federal rebates;

1 and

2 (3) Making best efforts to obtain state rebates beginning July 1, 2003,
3 that are equal to or greater than the best discount, rebate, or price
4 reduction available to the federal government.

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6 20-77-1408. Every pharmacy that sells drugs under the Prescription
7 Drug Access Program shall sell those drugs to eligible residents at the
8 Medicaid price, and shall disclose to purchasers the amount of savings
9 provided as a result of the Prescription Drug Access Program.

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11 20-77-1409. (a) The department shall collect and make public:

12 (1) The names of manufacturers, labelers, and pharmacies that
13 participate in the Prescription Drug Access Program and the names of
14 manufacturers, labelers, and pharmacies that do not participate in the
15 Prescription Drug Access Program;

16 (2) The annual aggregate savings achieved by qualified residents;
17 and

18 (3) A comparison of the rebates available under the Prescription
19 Drug Access Program, federal rebates, and any rebates or discounts available
20 to the federal government.

21 (b) All information in the department's possession regarding the
22 Prescription Drug Access program shall be subject to all state and federal
23 laws and rules regarding the confidentiality of Medicaid and health records.

24
25 20-77-1410. The department shall impose Medicaid prior authorization
26 requirements as permitted by law for the dispensing of prescription drugs
27 provided by manufacturers or labelers who do not participate in the
28 Prescription Drug Access Program.

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30 20-77-1411. In the event of a dispute about claims submitted under the
31 Prescription Drug Access Program, the department shall review the claims data
32 in an attempt to resolve the dispute. If the dispute is not resolved the
33 disputing manufacturer, labeler, or pharmacy may, at its own expense, engage
34 an independent auditor acceptable to the department to prepare an audit of
35 the disputed claims in accordance with generally accepted accounting
36 principles. If the dispute is not resolved after the department has reviewed

1 the audit, the manufacturer, labeler, or pharmacy may appeal the department's
2 decision under the appeal provisions in the Medicaid Pharmacy Provider
3 Manual.

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5 20-77-1412. There is established a Prescription Drug Access Program
6 fund, to consist of state and federal rebate funds received by the department
7 from manufacturers and labelers. Monies in the fund shall be used to:

8 (1) Remit federal rebates on drugs sold under the Prescription Drug
9 Access Program to the pharmacies that sold the drugs; and

10 (2) Defray the costs associated with the Prescription Drug Access
11 Program, including, for example, administrative costs, data processing costs,
12 professional fees paid to participating pharmacies, and start-up costs.

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14 20-77-1413. The department is authorized to promulgate such reasonable
15 rules as may be necessary or beneficial to the Prescription Drug Access
16 Program.

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