

1 AN ACT concerning discount prescription drugs for senior
2 citizens.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 1. Short title. This Act may be cited as the
6 Senior Citizen Prescription Drug Discount Program Act.

7 Section 5. Findings. The General Assembly finds that:

8 (a) Although senior citizens represent 12% of the
9 population, they use on average 37% of prescription drugs
10 that are dispensed.

11 (b) Senior citizens in the United States without
12 prescription drug insurance coverage pay the highest prices
13 in the world for needed medications.

14 (c) High prescription drug prices force many Illinois
15 seniors to go without proper medication or other necessities,
16 thereby affecting their health and safety.

17 (d) Prescription drug prices in the United States are
18 the world's highest, averaging 32% higher than in Canada, 40%
19 higher than in Mexico, and 60% higher than in Great Britain.

20 (e) Prescription drug prices listed on the Federal
21 Supply Schedule that serve the Veterans Administration, the
22 Department of Defense, and the Coast Guard average 52% below
23 the non-federal average manufacturer's price.

24 (f) Regardless of household income, seniors without
25 prescription drug coverage are often just one serious illness
26 away from poverty.

27 (g) Reducing the price of prescription drugs would
28 benefit the health and well-being of all Illinois senior
29 citizens by providing more affordable access to needed drugs.

30 (h) Drug prices on the Federal Supply Schedule are
31 negotiated by the Department of Veterans Affairs and are the

1 best publicly available indicator of the prices that drug
2 companies charge their favored customers.

3 (i) The State of Illinois is involved in the purchase of
4 prescription drugs in a number of areas: the Department of
5 Central Management Services is involved in the purchase of
6 prescription drugs for the State employees group insurance
7 program, for State-operated mental health and developmental
8 disabilities facilities, and for Department of Veterans'
9 Affairs facilities; the Department of Public Health is
10 involved in the purchase of prescription drugs for ADAP (Aids
11 Drug Assistance Program) and for the STD (Sexually
12 Transmitted Diseases) Program; the Department of Corrections
13 is involved in the purchase of prescription drugs for prison
14 inmates; the Department of Revenue is involved in the
15 purchase of prescription drugs for the "Circuit Breaker"
16 Pharmaceutical Assistance Program; the Department of Children
17 and Family Services is involved in the purchase of
18 prescription drugs for State wards; and the Department of
19 Public Aid is involved in the purchase of prescription drugs
20 for Medicaid recipients; collectively this affords the State
21 of Illinois great bargaining power for the purchase of
22 prescription drugs.

23 Section 10. Purpose. The purpose of this Program is to
24 require the Department of Central Management Services to
25 establish and administer a program that will enable eligible
26 senior citizens to purchase prescription drugs at discounted
27 prices.

28 Section 15. Definitions. As used in this Act:

29 "Authorized pharmacy" means any pharmacy registered in
30 this State under the Pharmacy Practice Act of 1987 and
31 approved by the Department.

32 "AWP" or "Average wholesale price" means the amount

1 determined from the latest publication of the Blue Book, a
2 universally subscribed pharmacist reference guide annually
3 published by the Hearst Corporation. "AWP" or "Average
4 wholesale price" may also be derived electronically from the
5 drug pricing database synonymous with the latest publication
6 of the Blue Book and furnished in the National Drug Data File
7 (NDDF) by First Data Bank (FDB), a service of the Hearst
8 Corporation.

9 "Department" means the Department of Central Management
10 Services.

11 "Director" means the Director of Central Management
12 Services.

13 "Drug manufacturer" means any entity (1) that is located
14 within or outside Illinois that is engaged in (i) the
15 production, preparation, propagation, compounding,
16 conversion, or processing of prescription drug products
17 covered under the Program, either directly or indirectly by
18 extraction from substances of natural origin, independently
19 by means of chemical synthesis, or by a combination of
20 extraction and chemical synthesis or (ii) the packaging,
21 repackaging, leveling, labeling, or distribution of
22 prescription drug products covered under the Program and (2)
23 that elects to provide prescription drugs either directly or
24 under contract with any entity providing prescription drug
25 services on behalf of the State of Illinois. "Drug
26 manufacturer", however, does not include a wholesale
27 distributor of drugs or a retail pharmacy licensed under
28 Illinois law.

29 "Eligible senior" means a person who is (i) a resident of
30 Illinois and (ii) 65 years of age or older.

31 "Federal Supply Schedule" or "FSS" means a price
32 catalogue containing goods available for purchase by federal
33 agencies. Drug prices on the FSS are negotiated by the
34 (U.S.) Department of Veterans' Affairs and are the best

1 publicly available indicator of prices drug companies charge
2 favored customers.

3 "Prescription drug" means any prescribed drug that may be
4 legally dispensed by an authorized pharmacy.

5 "Program" means the Senior Citizen Prescription Drug
6 Discount Program created under this Act.

7 "Rules" includes rules adopted and forms prescribed by
8 the Department.

9 Section 20. The Senior Citizen Prescription Drug Discount
10 Program. The Senior Citizen Prescription Drug Discount
11 Program is established to protect the health and safety of
12 senior citizens. The Program shall be administered by the
13 Department. The Department shall (i) enroll eligible seniors
14 into the Program to qualify them for a discount on the
15 purchase of prescription drugs at an authorized pharmacy,
16 (ii) enter into rebate agreements with drug manufacturers,
17 and (iii) reimburse pharmacies for the cost of providing
18 discounts using the proceeds from the manufacturer rebate
19 agreements.

20 Section 25. Prescription drug prices.

21 (a) Beginning on January 1, 2003, the amount paid by
22 eligible seniors enrolled in the Program to authorized
23 pharmacies for prescription drugs may not exceed prices
24 listed on the Federal Supply Schedule plus a dispensing fee
25 calculated as provided in Section 3.16 of the Senior Citizens
26 and Disabled Persons Property Tax Relief and Pharmaceutical
27 Assistance Act. Nothing in this Act precludes any authorized
28 pharmacy from charging less than the listed price on the
29 Federal Supply Schedule. The Department must provide the
30 applicable Federal Supply Schedule to authorized pharmacies.
31 For prescription drugs that are not listed on the Federal
32 Supply Schedule, the amount paid by eligible seniors enrolled

1 in the Program to authorized pharmacies may not exceed the
2 AWP minus 35% plus a dispensing fee calculated as provided in
3 Section 3.16 of the Senior Citizens and Disabled Persons
4 Property Tax Relief and Pharmaceutical Assistance Act.

5 (b) Subject to the requirements of the State Prompt
6 Payment Act, the Department shall compensate authorized
7 pharmacies from the Senior Citizen Prescription Drug Discount
8 Program Fund for the difference between the amount paid by
9 eligible seniors for prescription drugs dispensed under the
10 Program and the AWP minus 10%.

11 Section 30. Manufacturer rebate agreements.

12 (a) Taking into consideration the extent to which the
13 State pays for prescription drugs under various State
14 programs, the Department or its agent shall negotiate and
15 enter into rebate agreements with drug manufacturers, as
16 defined in this Act, to effect prescription drug price
17 discounts. Persons eligible for benefits under this Program
18 shall be entitled to purchase prescription drugs at the
19 negotiated discount price. The rebate agreement shall be
20 equal to the cost to the Department for reimbursing
21 authorized pharmacies under this Act pursuant to subsection
22 (b) of Section 25. The rebate agreement shall become
23 effective the first day of the calendar quarter that begins
24 60 days after the date the agreement is entered into.

25 (b) The Department shall develop a model rebate
26 agreement for prescription drugs dispensed on and after the
27 effective date of this Act.

28 (c) Rebate payment procedures. All rebates negotiated
29 under agreements described in this Section shall be paid to
30 the Department in accordance with procedures prescribed by
31 the Department. All rebates must be remitted to the
32 Department not later than 30 days after receipt of a request
33 for payment by the Department.

1 (d) The receipts from the rebates and moneys transferred
2 under Section 33 shall be deposited into the Senior Citizen
3 Prescription Drug Discount Program Fund, a special fund
4 hereby created in the State treasury, and shall be used,
5 subject to appropriation, to cover the cost of reimbursing
6 authorized pharmacies under this Act pursuant to subsection
7 (b) of Section 25.

8 Section 33. Transfer to Senior Citizen Prescription Drug
9 Discount Program Fund.

10 (a) Within 30 days after the effective date of this
11 amendatory Act of the 92nd General Assembly, the State
12 Comptroller shall direct and the State Treasurer shall
13 transfer \$27,000,000 from the General Revenue Fund to the
14 Senior Citizen Prescription Drug Discount Program Fund to
15 facilitate the payment of reimbursements to authorized
16 pharmacies. Repayment of principal and interest to the
17 General Revenue Fund shall be made so that the balance in the
18 General Revenue Fund will be restored as if the transfer to
19 the Senior Citizen Prescription Drug Discount Program Fund
20 had not been made. Upon a certification by the Department of
21 Revenue that the obligations under subsection (b) of Section
22 25 are being met, beginning on July 1, 2002, and on the 1st
23 of each month thereafter until the principal amount
24 transferred from the General Revenue Fund plus interest has
25 been repaid, the State Comptroller shall direct and the State
26 Treasurer shall transfer 1/12th of \$27,000,000, or so much of
27 that amount as is necessary, from the Senior Citizen
28 Prescription Drug Discount Program Fund to the General
29 Revenue Fund plus accrued interest. The balance of the
30 amount transferred from the General Revenue Fund shall bear
31 interest at the rate of 7.5% per annum until the required
32 transfers back into the General Revenue Fund have been
33 completed.

1 Section 35. Program eligibility.

2 (a) Any person may apply to the Department for
3 participation in the Program in the form and manner required
4 by the Department. The Department shall determine the
5 eligibility of each applicant for the Program within 30 days
6 after the date of application. To participate in the Program
7 an eligible senior whose application has been approved by the
8 Department must pay \$25 upon enrollment and annually
9 thereafter and shall receive a Program identification card.
10 The card may be presented to an authorized pharmacy to assist
11 the pharmacy in verifying eligibility under the Program. The
12 Department shall deposit the enrollment fees collected into
13 the Senior Citizen Prescription Drug Discount Program Fund.
14 The monies collected by the Department for enrollment fees
15 and deposited into the Senior Citizen Prescription Drug
16 Discount Program Fund must be separately accounted for by the
17 Department. If 2 or more persons are eligible for any benefit
18 under this Act and are members of the same household, each
19 participating household member shall apply to the Department
20 and pay the fee required for the purpose of obtaining an
21 identification card.

22 (b) Proceeds from annual enrollment fees, subject to
23 appropriation, shall be used by the Department to offset the
24 administrative cost of this Act. The Department may reduce
25 the annual enrollment fee by rule if the revenue from the
26 enrollment fees is in excess of the costs to carry out the
27 Program.

28 (c) Any person who is eligible for pharmaceutical
29 assistance under the Senior Citizens and Disabled Persons
30 Property Tax Relief and Pharmaceutical Assistance Act is
31 presumed to be eligible for this Program. That person may
32 purchase prescription drugs under this Program that are not
33 covered by the pharmaceutical assistance program under the
34 Senior Citizens and Disabled Persons Property Tax Relief and

1 Pharmaceutical Assistance Act by using the identification
2 card issued under the pharmaceutical assistance program.

3 Section 40. Eligible pharmacies.

4 (a) The Department shall adopt rules to establish
5 standards and procedures for participation in the Program and
6 approve those pharmacies that apply to participate and meet
7 the requirements for participation. The Department may
8 remove the authorization of a pharmacy to participate in this
9 Program for failure to meet the standards and procedures for
10 participation established by the Department by rule. Any
11 pharmacy that has been removed as an authorized pharmacy by
12 the Department may apply for reinstatement as an authorized
13 pharmacy in accordance with standards and procedures
14 established by the Department by rule.

15 (b) The Department shall annually review the eligibility
16 of pharmacies to participate in the Program.

17 (c) The Department shall establish procedures for
18 properly contracting for pharmacy services, validating
19 reimbursement claims, validating compliance of authorized
20 pharmacies with the conditions for participation required
21 under this Act, and otherwise providing for the effective
22 administration of this Act. The Director, in consultation
23 with pharmacists licensed under the Pharmacy Practice Act of
24 1987, may enter into a written contract with any other State
25 agency, instrumentality, or political subdivision or with a
26 fiscal intermediary for the purpose of making payments to
27 authorized pharmacies pursuant to subsection (b) of Section
28 25 and coordinating the Program with other programs that
29 provide payments for prescription drugs covered under the
30 Program.

31 Section 45. Rules. The Department shall adopt rules to
32 implement and administer the Program, which shall include the

1 following:

2 (1) Execution of contracts with pharmacies to
3 participate in the Program. The contracts shall
4 stipulate terms and conditions for the participation of
5 authorized pharmacies and the rights of the State to
6 terminate participation for breach of the contract or for
7 violation of this Act or rules adopted by the Department
8 under this Act.

9 (2) Establishment of maximum limits on the size of
10 prescriptions that are eligible for a discount under the
11 Program, up to a 90-day supply, except as may be
12 necessary for utilization control reasons.

13 (3) Establishment of liens upon any and all causes
14 of action that accrue to a beneficiary as a result of
15 injuries for which prescription drugs covered under the
16 Program are directly or indirectly required and for which
17 the Director made payment or became liable for under this
18 Act.

19 (4) Inspection of appropriate records and audits of
20 participating authorized pharmacies to ensure contract
21 compliance and to determine any fraudulent transactions
22 or practices under this Act.

23 Section 50. Report on administration of Program. The
24 Department shall report to the Governor and the General
25 Assembly by March 1st of each year on the administration of
26 the Program under this Act.

27 Section 905. The Department of Central Management
28 Services Law of the Civil Administrative Code of Illinois is
29 amended by adding Section 405-195 as follows:

30 (20 ILCS 405/405-195 new)

31 Sec. 405-195. Prescription Drug Purchasing Policy

1 Office. The Department shall establish a Prescription Drug
2 Purchasing Policy Office. The Office shall determine and
3 implement strategies for best price purchasing practices for
4 State agencies that pay for prescription drugs by direct
5 purchase or by other arrangements. This may include
6 establishing a central State purchasing policy, entering into
7 cooperative agreements with other states or other public or
8 private entities that may enable the State to reduce its
9 prescription drug costs, and establishing any other State
10 agency policies and practices that may enable the State to
11 reduce its costs.

12 Section 990. The State Finance Act is amended by adding
13 Section 5.570 as follows:

14 (30 ILCS 105/5.570 new)

15 Sec. 5.570. The Senior Citizen Prescription Drug
16 Discount Program Fund.

17 Section 999. Effective date. This Act takes effect July
18 1, 2002.