



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB4242

Introduced 1/28/2004, by Mike Boland

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.595
320 ILCS 55/Act title
320 ILCS 55/1
320 ILCS 55/5
320 ILCS 55/10
320 ILCS 55/15
320 ILCS 55/20
320 ILCS 55/25
320 ILCS 55/30
320 ILCS 55/35
320 ILCS 55/50
320 ILCS 55/17 rep.

Amends the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act. Changes the short title of the Act to the Illinois Citizens Prescription Drug Discount Program Act, and makes the program's benefits available to all Illinois residents. Provides for a \$25 annual enrollment fee, but exempts persons eligible for pharmaceutical assistance under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act from payment of the fee. Amends the State Finance Act to change the name of the Senior Citizens and Disabled Persons Prescription Drug Discount Program Fund to the Illinois Citizens Prescription Drug Discount Program Fund.

LRB093 19554 DRJ 45294 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning health.

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

4 Section 5. The State Finance Act is amended by changing
5 Section 5.595 as follows:

6 (30 ILCS 105/5.595)

7 Sec. 5.595. The Illinois ~~Senior~~ Citizens ~~and Disabled~~
8 ~~Persons~~ Prescription Drug Discount Program Fund.

9 (Source: P.A. 93-18, eff. 7-1-03.)

10 Section 10. The Senior Citizens and Disabled Persons
11 Prescription Drug Discount Program Act is amended by changing
12 the title of the Act and Sections 1, 5, 10, 15, 20, 25, 30, 35,
13 and 50 as follows:

14 (320 ILCS 55/Act title)

15 An Act concerning discount prescription drugs for Illinois
16 ~~senior~~ citizens.

17 (320 ILCS 55/1)

18 Sec. 1. Short title. This Act may be cited as the Illinois
19 ~~Senior~~ Citizens ~~and Disabled Persons~~ Prescription Drug
20 Discount Program Act.

21 (Source: P.A. 93-18, eff. 7-1-03.)

22 (320 ILCS 55/5)

23 Sec. 5. Findings. The General Assembly finds that:

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

27 (b) Senior citizens in the United States without
28 prescription drug insurance coverage pay the highest prices in

1 the world for needed medications.

2 (c) High prescription drug prices force many Illinois
3 residents ~~seniors~~ to go without proper medication or other
4 necessities, thereby affecting their health and safety.

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

8 (e) Regardless of household income, seniors without
9 prescription drug coverage are often just one serious illness
10 away from poverty.

11 (f) Reducing the price of prescription drugs would benefit
12 the health and well-being of all Illinois senior citizens by
13 providing more affordable access to needed drugs.

14 (Source: P.A. 93-18, eff. 7-1-03.)

15 (320 ILCS 55/10)

16 Sec. 10. Purpose. The purpose of this program is to require
17 the Department of Central Management Services to establish and
18 administer a program that will enable eligible Illinois
19 residents ~~senior citizens and disabled persons~~ to purchase
20 prescription drugs at discounted prices.

21 (Source: P.A. 93-18, eff. 7-1-03.)

22 (320 ILCS 55/15)

23 Sec. 15. Definitions. As used in this Act:

24 "Authorized pharmacy" means any pharmacy registered in
25 this State under the Pharmacy Practice Act of 1987 and approved
26 by the Department or its program administrator.

27 "AWP" or "average wholesale price" means the amount
28 determined from the latest publication of the Red Book, a
29 universally subscribed pharmacist reference guide annually
30 published by the Hearst Corporation. "AWP" or "average
31 wholesale price" may also be derived electronically from the
32 drug pricing database synonymous with the latest publication of
33 the Red Book and furnished in the National Drug Data File
34 (NDDF) by First Data Bank (FDB), a service of the Hearst

1 Corporation.

2 "Department" means the Department of Central Management
3 Services.

4 "Director" means the Director of Central Management
5 Services.

6 ~~"Disabled person" means a person unable to engage in any
7 substantial gainful activity by reason of a medically
8 determinable physical or mental impairment which can be
9 expected to result in death or has lasted or can be expected to
10 last for a continuous period of not less than 12 months.~~

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

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

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

30 "Program" means the Illinois Senior ~~Senior~~ Citizens ~~and Disabled~~
31 ~~Persons~~ Prescription Drug Discount Program created under this
32 Act.

33 "Program administrator" means the entity that is chosen by
34 the Department to administer the program. The program
35 administrator may, in this case, be the Director or a Pharmacy
36 Benefits Manager (PBM) chosen to subcontract with the Director.

1 "Rules" includes rules adopted and forms prescribed by the
2 Department.

3 (Source: P.A. 93-18, eff. 7-1-03.)

4 (320 ILCS 55/20)

5 Sec. 20. The Illinois ~~Senior Citizens and Disabled Persons~~
6 Prescription Drug Discount Program. The Illinois ~~Senior~~
7 Citizens ~~and Disabled Persons~~ Prescription Drug Discount
8 Program is established to protect the health and safety of
9 Illinois residents ~~senior citizens and disabled persons~~. The
10 program shall be administered by the Department. The Department
11 or its program administrator shall (i) enroll eligible Illinois
12 residents ~~seniors and disabled persons~~ into the program, as
13 provided in Section 35 of this Act, to qualify them for a
14 discount on the purchase of prescription drugs at an authorized
15 pharmacy, (ii) enter into rebate agreements with drug
16 manufacturers, as provided under Section 30 of this Act, and
17 (iii) subject to the provisions of Section 47 of this Act,
18 compensate pharmacies participating in the program as provided
19 under Section 25 of this Act.

20 (Source: P.A. 93-18, eff. 7-1-03.)

21 (320 ILCS 55/25)

22 Sec. 25. Program administration.

23 (a) The Department is authorized under this Act to be the
24 program administrator. If the Department is not the program
25 administrator, 90 days after the effective date of this Act,
26 the Department must issue a request for proposals for bidders
27 interested in administering the program. Bidders must compete
28 on the basis of the following minimum criteria:

29 (1) The Director shall solicit and accept proposals
30 from entities to provide for administration of a program or
31 programs in accordance with rules adopted under Section 45.
32 Proposals must be submitted not later than a date
33 established by the Director. The Director shall accept only
34 those proposals that specify the following:

1 (A) The estimated amount of the discount based on
2 the entity's previous experience and how the discount
3 is to be achieved.

4 (B) The extent that discounts on prescription
5 drugs are to be achieved through rebates,
6 administrative fees, or other fees or discounts in
7 prices that the entity negotiates with drug
8 manufacturers. The proposals shall assure that rebates
9 or discounts will be used to do the following:

10 (i) reduce costs to cardholders;

11 (ii) achieve discounts for cardholders; and

12 (iii) cover costs for administering the
13 program.

14 (C) Any other benefits offered to cardholders.

15 (D) The estimated number and geographic
16 distribution of participating pharmacies in the
17 administrator's pharmacy network.

18 (E) The plan for pharmacy compensation, pursuant
19 to subsection (e) of this Section.

20 (F) The method used for determining the
21 prescription drugs to be covered by the program,
22 including the criteria and process for establishing a
23 preferred drug list, if applicable.

24 (G) How the entity proposes to improve medication
25 management for cardholders, including any program of
26 disease management.

27 (H) How cardholders and participating pharmacies
28 will be informed of the discounted price negotiated by
29 the entity.

30 (I) How the entity will handle complaints about the
31 program's operation.

32 (J) The entity's previous experience in managing
33 similar programs.

34 (K) Any additional information requested by the
35 Director.

36 (2) The Director shall contract with one or more

1 entities to administer a program or programs on the basis
2 of the proposals submitted, but may require an
3 administrator to modify its conduct of a program in
4 accordance with rules adopted under Section 45.

5 The Director shall adopt rules specifying the period
6 for which a contract will be in effect and may terminate a
7 contract if an administrator fails to conduct a program in
8 accordance with its proposal or with any modifications
9 required by rule. When a contract period ends or a contract
10 is terminated, the Director shall enter into a new contract
11 in the manner specified in this Section for an original
12 contract. Prior to making a new contract, the Director may
13 modify the rules for administration of the program or
14 programs.

15 (b) As used in this Section, "administrator" includes the
16 administrator's parent company and any subsidiary of the parent
17 company.

18 (1) No administrator shall sell any information
19 concerning a person who holds a prescription drug discount
20 card, other than aggregate information that does not
21 identify the cardholder, without the cardholder's written
22 consent.

23 (2) Unless an administrator has the cardholder's
24 written consent, no administrator shall use any personally
25 identifiable information that it obtains concerning a
26 cardholder through the program to promote or sell a program
27 or product offered by the administrator that is not related
28 to the administration of the program. This subsection (b)
29 does not prohibit an administrator from contacting
30 cardholders concerning participation in or administration
31 of the program, including, but not limited to, mailing a
32 list of pharmacies participating in the program's network
33 or participating in disease management programs.

34 (3) To the extent that a discount is achieved through
35 rebates, administrative fees, or any other fees or
36 discounts in prices that an administrator negotiates with

1 drug manufacturers, an administrator shall use the rebates
2 or discounts to do the following:

- 3 (A) reduce costs to cardholders;
4 (B) achieve discounts for cardholders; and
5 (C) cover any administrative costs of the program.

6 (4) The administrator shall not use any funds generated
7 from rebates, discounts, administrative fees, or other
8 fees to promote its mail order pharmacy operation or the
9 mail order pharmacy operation of an affiliate. This
10 subdivision (b)(4) does not, however, limit the
11 participation of an Illinois-licensed pharmacy under this
12 Act if that pharmacy provides prescription drugs by mail
13 order.

14 (c) Beginning on January 1, 2005 ~~2004~~, the amount paid by
15 eligible Illinois residents ~~seniors and disabled persons~~
16 enrolled in the program to authorized pharmacies for
17 prescription drugs may not exceed prices established as a
18 result of the rebate agreements under Section 30. The eligible
19 Illinois residents ~~seniors and disabled persons~~ shall pay the
20 price determined under Section 30 plus a dispensing fee of
21 \$3.50 per prescription for brand name drug products,
22 single-source drug products, and, for a period of 6 months,
23 newly released generic drug products and \$4.25 per prescription
24 for all other generic drug products, except that the total
25 amount paid by the eligible Illinois resident ~~senior or~~
26 ~~disabled person~~ for each prescription drug under this program
27 shall not exceed the usual and customary charge for such
28 prescription.

29 (d) The contract between the Department and a pharmacy
30 benefits manager must, at a minimum, meet the criteria of
31 subsection (a). The contract must also require notification by
32 the pharmacy benefits manager of any proposed or ongoing
33 activity that involves, directly or indirectly, any conflict of
34 interest on the part of the pharmacy benefits manager. The
35 Department shall ensure that the pharmacy benefits manager
36 complies with the contract and shall adopt all procedures

1 necessary to enforce the contract.

2 (e) The Department or program administrator shall, subject
3 to the funds available under Section 30 of this Act, compensate
4 authorized pharmacies for prescription drugs dispensed under
5 the program for the difference between the amount paid by the
6 eligible Illinois resident ~~senior or disabled person~~ for
7 prescription drugs dispensed under the program and (i) the AWP
8 minus 12% for brand name drug products, single-source generic
9 drug products, and, for a period of 6 months, newly released
10 generic drug products and (ii) the AWP minus 35% for all other
11 generic drug products. The Department shall compensate a
12 pharmacy under this subsection (e) only if the amount paid by
13 the eligible Illinois resident ~~senior or disabled person~~ has
14 been discounted to a price, including the dispensing fees
15 stated in subsection (c) of this Section, that is less than (i)
16 the AWP minus 12% for brand name drug products, single-source
17 generic drug products, and, for a period of 6 months, newly
18 released generic drug products and (ii) the AWP minus 35% for
19 all other generic drug products.

20 (f) Beginning on January 1, 2004, the Department or program
21 administrator shall reimburse pharmacies under this Section
22 within 30 days after adjudication of the claim.

23 (Source: P.A. 93-18, eff. 7-1-03.)

24 (320 ILCS 55/30)

25 Sec. 30. Manufacturer rebate agreements.

26 (a) Taking into consideration the extent to which the State
27 pays for prescription drugs under various State programs and
28 the provision of assistance to disabled persons or eligible
29 seniors under patient assistance programs, prescription drug
30 discount programs, or other offers for free or reduced price
31 medicine, clinical research projects, limited supply
32 distribution programs, compassionate use programs, or programs
33 of research conducted by or for a drug manufacturer, the
34 Department, its agent, or the program administrator shall
35 negotiate and enter into rebate agreements with drug

1 manufacturers, as defined in this Act, to effect prescription
2 drug price discounts. The Department or program administrator
3 may establish a preferred drug list as a basis for determining
4 the discounts, administrative fees, or other fees or rebates
5 under this Section.

6 (b) Rebate payment procedures. All rebates negotiated
7 under agreements described in this Section shall be paid in
8 accordance with procedures prescribed by the Department or the
9 program administrator.

10 (c) Receipts from rebates shall be used to provide
11 discounts for prescription drugs purchased by eligible
12 Illinois residents ~~seniors and disabled persons~~ and to cover
13 the cost of administering the program, including compensation
14 to be paid to participating pharmacies by the Department or
15 program administrator under subsection (e) of Section 25. Any
16 receipts to be allocated to the Department shall be deposited
17 into the Illinois Senior Citizens and Disabled Persons
18 Prescription Drug Discount Program Fund, a special fund hereby
19 created in the State treasury.

20 (Source: P.A. 93-18, eff. 7-1-03.)

21 (320 ILCS 55/35)

22 Sec. 35. Program eligibility.

23 (a) Any person may apply to the Department or its program
24 administrator for participation in the program in the form and
25 manner required by the Department. The Department or its
26 program administrator shall determine the eligibility of each
27 applicant for the program within 30 days after the date of
28 application. To participate in the program an eligible Illinois
29 resident ~~senior or disabled person~~ whose application has been
30 approved must pay \$25 upon enrollment and annually thereafter
31 and shall receive a program identification card. The card may
32 be presented to an authorized pharmacy to assist the pharmacy
33 in verifying eligibility under the program. The Department
34 shall deposit the enrollment fees collected into the Illinois
35 Senior Citizens and Disabled Persons Prescription Drug

1 Discount Program Fund. The moneys collected by the Department
2 for enrollment fees and deposited into the Illinois Senior
3 ~~Citizens and Disabled Persons~~ Prescription Drug Discount
4 Program Fund must be separately accounted for by the
5 Department. If 2 or more persons are eligible for any benefit
6 under this Act and are members of the same household, each
7 participating household member shall apply to the Department
8 and pay the fee required for the purpose of obtaining an
9 identification card.

10 (b) Proceeds from annual enrollment fees shall be used by
11 the Department to offset the administrative cost of this Act.
12 The Department may reduce the annual enrollment fee by rule if
13 the revenue from the enrollment fees is in excess of the costs
14 to carry out the program.

15 (c) Any person who is eligible for pharmaceutical
16 assistance under the Senior Citizens and Disabled Persons
17 Property Tax Relief and Pharmaceutical Assistance Act is
18 presumed to be eligible for this program. The enrollment fee
19 under this Act is not required for such persons. That person
20 may purchase prescription drugs under this program that are not
21 covered by the pharmaceutical assistance program under the
22 Senior Citizens and Disabled Persons Property Tax Relief and
23 Pharmaceutical Assistance Act by using the identification card
24 issued under the pharmaceutical assistance program.

25 (Source: P.A. 93-18, eff. 7-1-03.)

26 (320 ILCS 55/50)

27 Sec. 50. Report on administration of program. The
28 Department shall report to the Governor and the General
29 Assembly by March 1st of each year on the administration of the
30 program under this Act. The report shall include but not be
31 limited to the following:

32 (1) the number of ~~disabled persons and seniors~~ eligible
33 and enrolled in the program, by county;

34 (2) the activities undertaken by the State to inform
35 Illinois residents ~~disabled persons and seniors~~ about the

1 program;

2 (3) the number of prescriptions filled under the
3 program for enrollees, and the estimated savings for
4 enrollees;

5 (4) a listing of the manufacturers and pharmacies
6 participating in the program;

7 (5) the amount of enrollment fees and rebates collected
8 under the program, and any additional funds or resources
9 made available to cover the cost of the program;

10 (6) the itemized annual cost of administering the
11 program; and

12 (7) findings and recommendations regarding problems
13 and solutions related to the program, together with
14 proposals for changes in the rules, regulations, or laws
15 necessary to improve the administration of the program.

16 (Source: P.A. 93-18, eff. 7-1-03.)

17 (320 ILCS 55/17 rep.)

18 Section 11. The Senior Citizens and Disabled Persons
19 Prescription Drug Discount Program Act is amended by repealing
20 Section 17.