



General Assembly

January Session, 2001

Raised Bill No. 1120

LCO No. 3645

Referred to Committee on Public Health

Introduced by:
(PH)

AN ACT CONCERNING PRESCRIPTION DRUG COSTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) The Commissioner of Social Services shall submit
2 an application for a waiver under Section 1115 of the Social Security
3 Act to authorize the use of funds received under Title XXI of the Social
4 Security Act to establish a prescription drug benefit program for
5 persons and families with an income up to three hundred per cent of
6 the federal poverty level. The commissioner may adopt regulations, in
7 accordance with chapter 54 of the general statutes, to implement such
8 program to the extent permitted under such waiver.

9 Sec. 2. (NEW) (a) As used in this section, unless the context
10 otherwise requires:

11 (1) "Average wholesale price" means the wholesale price charged on
12 a specific prescription drug that is assigned by the drug manufacturer
13 and is listed in a nationally recognized drug pricing file;

14 (2) "Commissioner" means the Commissioner of Social Services;

15 (3) "Department" means the Department of Social Services;

16 (4) "Labeler" means a person or entity that (A) receives prescription
17 drugs from a drug manufacturer or wholesaler and repackages such
18 drugs for later retail sale, and (B) has a labeler code from the federal
19 Food and Drug Administration under 21 CFR 207.20, as from time to
20 time amended;

21 (5) "Participating retail pharmacy" means a retail pharmacy located
22 in this state, or other business entity licensed to dispense prescription
23 drugs in this state, that participates in the program and provides
24 discounted prescription drug prices to qualified residents;

25 (6) "Pharmacy benefit manager" means an entity that procures
26 prescription drugs at a negotiated rate under a contract;

27 (7) "Program" means the Connecticut Prescription Drug Access
28 Program established under this section; and

29 (8) "Qualified resident" means a resident of this state who has been
30 determined by the department to be eligible for benefits under the
31 program and has been issued an enrollment card pursuant to
32 subsection (g) of this section.

33 (b) There is established the Connecticut Prescription Drug Access
34 Program to reduce prescription drug prices for qualified residents by
35 utilizing manufacturer rebates and pharmacy discounts. The
36 commissioner shall implement the program and shall serve on behalf
37 of the state as a pharmacy benefit manager in establishing rebates and
38 discounts for qualified residents. Any drug manufacturer or labeler
39 that sells prescription drugs in this state under any publicly supported
40 pharmaceutical assistance program, including, but not limited to,
41 ConnPACE, shall enter into a rebate agreement with the department
42 for the program. Any other drug manufacturer or labeler that sells
43 prescription drugs in this state may enter into a rebate agreement with
44 the department for the program. Any such rebate agreement shall
45 require the drug manufacturer or labeler to make rebate payments to
46 the state each calendar quarter or according to a schedule established

47 by the department.

48 (c) The commissioner shall negotiate the amount of any rebate
49 required from a drug manufacturer or labeler under the program. The
50 commissioner shall take into consideration the rebate calculated under
51 the Medicaid rebate program pursuant to 42 USC 1396r-8, as from time
52 to time amended, the average wholesale price of prescription drugs
53 and any other information concerning prescription drug prices and
54 price discounts that the commissioner deems relevant. The
55 commissioner shall use the commissioner's best efforts to obtain an
56 initial rebate amount equal to or greater than the rebate calculated
57 under the Medicaid rebate program pursuant to 42 USC 1396r-8, as
58 from time to time amended. With respect to any rebate taking effect on
59 or after October 1, 2002, the commissioner shall use the commissioner's
60 best efforts to obtain a rebate amount equal to or greater than the
61 amount of any discount, rebate or price reduction for prescription
62 drugs provided to the federal government.

63 (d) Any participating retail pharmacy that sells prescription drugs
64 covered by a rebate agreement pursuant to subsection (c) of this
65 section shall discount the retail price of such prescription drugs sold to
66 qualified residents. The department shall establish discounted prices
67 for prescription drugs covered by any such rebate agreement and shall
68 promote the use of efficacious and reduced-cost drugs, taking into
69 consideration reduced prices for state and federally-capped drug
70 programs, differential dispensing fees, administrative overhead costs
71 and incentive payments. Beginning January 1, 2002, and until October
72 1, 2002, a participating retail pharmacy shall offer an initial discounted
73 price for such prescription drugs that is less than or equal to the
74 average wholesale price, minus six per cent, plus any dispensing fee
75 provided under the Medicaid program. On and after October 1, 2002, a
76 participating retail pharmacy shall offer a secondary discounted price
77 for such prescription drugs that is less than or equal to such initial
78 discounted price minus the amount of any rebate paid by the state to
79 the participating retail pharmacy. In determining the amount of such

80 discounted prices, the department shall consider an average of all
81 rebates provided pursuant to subsection (c) of this section, weighted
82 by sales of prescription drugs subject to such rebates over the most
83 recent twelve-month period for which such information is available.

84 (e) (1) The commissioner shall adopt regulations, in accordance with
85 chapter 54 of the general statutes, requiring disclosure by participating
86 retail pharmacies to qualified residents of the amount of savings in the
87 price of prescription drugs provided as a result of the program. Such
88 regulations shall account for and protect information that is
89 proprietary in nature.

90 (2) The department may not impose any transaction charges under
91 the program on participating retail pharmacies that submit claims or
92 receive payments under the program.

93 (3) A participating retail pharmacy shall submit claims to the
94 department to verify the amount charged to qualified residents under
95 subsection (d) of this section. The department, on a weekly or biweekly
96 basis, shall reimburse a participating retail pharmacy for discounted
97 prices provided to qualified residents under subsection (d) of this
98 section and for professional fees established by the commissioner,
99 provided the initial professional fee shall be three dollars per
100 prescription.

101 (4) The department shall collect utilization data from each
102 participating retail pharmacy submitting claims under the program
103 that the commissioner determines is necessary to calculate the amount
104 of the rebate from the drug manufacturer or labeler. The department
105 shall protect the confidentiality of all information subject to protection
106 under state or federal law.

107 (f) Discrepancies in rebate amounts under the program shall be
108 resolved in accordance with this subsection.

109 (1) If there is a discrepancy in the drug manufacturer's or labeler's

110 favor between the amount claimed by a participating retail pharmacy
111 and the amount rebated by the drug manufacturer or labeler, the
112 department, at the department's expense, may hire an independent
113 auditor that shall be mutually agreed upon. If such discrepancy still
114 exists following the audit, the drug manufacturer or labeler shall
115 justify the reason for the discrepancy or make payment to the
116 department for any additional amount due.

117 (2) If there is a discrepancy against the interest of the drug
118 manufacturer or labeler in the information provided by the
119 department to the drug manufacturer or labeler regarding the drug
120 manufacturer's or labeler's rebate, the drug manufacturer or labeler, at
121 the drug manufacturer's or labeler's expense, may hire an independent
122 auditor, that shall be mutually agreed upon, to verify the accuracy of
123 the data supplied to the department. If such discrepancy still exists
124 following the audit, the department shall justify the reason for the
125 discrepancy or refund to the drug manufacturer or labeler any excess
126 payment made by the drug manufacturer or labeler.

127 (3) Following completion of the procedure set forth in subdivision
128 (1) or (2) of this subsection, the drug manufacturer or labeler may
129 request a hearing in accordance with chapter 54 of the general statutes
130 or the commissioner may order a hearing on the commissioner's own
131 initiative. Supporting documentation shall accompany any such
132 request or order for a hearing.

133 (g) The department shall establish simplified procedures for
134 determining eligibility for benefits under the program and issuing
135 enrollment cards to qualified residents. The department shall
136 undertake outreach efforts to build public awareness of the program
137 and maximize enrollment of qualified residents. The department may
138 adjust the requirements and terms of the program as necessary to
139 accommodate any new federally-funded prescription drug programs.

140 (h) The commissioner may contract with a third party to administer
141 all or any part of the program, including, but not limited to, outreach

142 efforts, eligibility determination, claim processing and payment,
143 administration and rebate recovery and redistribution. The department
144 shall administer the program and other medical and pharmaceutical
145 assistance programs under the jurisdiction of the commissioner in a
146 manner that is advantageous to such programs and to the enrollees in
147 such programs. The department may coordinate the program and such
148 other medical and pharmaceutical assistance programs and may take
149 appropriate action to enhance efficiency, reduce the cost of
150 prescription drugs and maximize the benefits to such programs and
151 the enrollees in such programs, including providing the benefits of the
152 program to enrollees in such other medical and pharmaceutical
153 assistance programs.

154 (i) There is established a fund to be known as the "Connecticut
155 Prescription Drug Access Program Fund". The fund shall contain all
156 revenue received from drug manufacturers and labelers that pay
157 rebates as provided in subsection (c) of this section and any other
158 moneys required by law to be deposited in the fund and shall be held
159 separate and apart from all other money, funds and accounts.
160 Investment earnings credited to the fund shall become part of the
161 assets of the fund. Any balance remaining in said fund at the end of
162 any fiscal year shall be carried forward in the fund for the fiscal year
163 next succeeding. The fund shall be used by the commissioner for (1)
164 reimbursements to participating retail pharmacies for discounted
165 prescription drug prices provided to qualified residents pursuant to
166 subsection (d) of this section, (2) expenses of the department for
167 contracted services pursuant to subsection (h) of this section and
168 administrative expenses, (3) professional fees paid to participating
169 retail pharmacies, and (4) other reasonable costs of the program,
170 provided amounts in the fund may be expended only pursuant to
171 appropriation by the General Assembly.

172 (j) The commissioner shall adopt regulations, in accordance with
173 chapter 54 of the general statutes, to carry out the provisions of this
174 section. The commissioner may seek any waivers of federal statute,

175 rule or regulation that the commissioner deems necessary or desirable
176 to implement the provisions of this section.

177 (k) Not later than January 1, 2002, and annually thereafter, the
178 commissioner shall submit a report to the General Assembly
179 concerning the enrollment and financial status of the program, in
180 accordance with the provisions of section 11-4a of the general statutes.

181 (l) Nothing in this section shall be construed to discourage
182 employers from offering or paying for prescription drug benefits for
183 their employees or to replace employer-sponsored prescription drug
184 benefit plans that provide benefits comparable to the benefits made
185 available to qualified residents under this section.

186 Sec. 3. This act shall take effect from its passage.

Statement of Purpose:

To reduce the cost and increase the availability of prescription drugs in the state.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]