



House of Representatives

General Assembly

File No. 154

February Session, 2004

Substitute House Bill No. 5041

House of Representatives, March 19, 2004

The Committee on Appropriations reported through REP. DYSON of the 94th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE USE OF MEDICARE PRESCRIPTION DRUG DISCOUNT CARDS IN THE CONNPACE PROGRAM.

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

1 Section 1. Section 17b-492 of the general statutes, as amended by
2 section 15 of public act 03-2 and section 58 of public act 03-3 of the June
3 30 special session, is repealed and the following is substituted in lieu
4 thereof (*Effective from passage*):

5 (a) Eligibility for participation in the program shall be limited to any
6 resident (1) who is sixty-five years of age or older or who is disabled,
7 (2) [(A)] whose annual income, if unmarried, [is less than thirteen
8 thousand eight hundred dollars, except after April 1, 2002, such annual
9 income] is less than twenty thousand eight hundred dollars, or whose
10 annual income, if married, when combined with that of the resident's
11 spouse is less than [sixteen thousand six hundred dollars, except after
12 April 1, 2002, such combined annual income is less than twenty-seven]
13 twenty-eight thousand one hundred dollars, [or (B) in the event the

14 program is granted a waiver to be eligible for federal financial
15 participation, then, after July 1, 2002, whose annual income, if
16 unmarried, is less than twenty-five thousand eight hundred dollars, or
17 whose annual income, if married, when combined with that of the
18 resident's spouse is less than thirty-four thousand eight hundred
19 dollars,] (3) who is not insured under a policy which provides full or
20 partial coverage for prescription drugs, except for a Medicare
21 prescription drug discount card endorsed by the Secretary of Health
22 and Human Services in accordance with Public Law 108-173, the
23 Medicare Prescription Drug, Improvement and Modernization Act of
24 2003, once a deductible amount is met, (4) whose available assets are
25 below one hundred thousand dollars if unmarried and one hundred
26 twenty-five thousand dollars if married, (A) the asset limit for a
27 married resident shall be determined by combining the value of assets
28 available to both spouses, and (B) for purposes of this section, available
29 assets are those that are considered available in determining eligibility
30 in the Connecticut Home Care Program for the Elderly, and (5) on and
31 after September 15, 1991, who pays an annual thirty-dollar registration
32 fee to the Department of Social Services. Effective January 1, 2002, the
33 commissioner shall commence accepting applications from individuals
34 who will become eligible to participate in the program as of April 1,
35 2002. On January 1, 1998, and annually thereafter, the commissioner
36 shall increase the income limits established under this subsection over
37 those of the previous fiscal year to reflect the annual inflation
38 adjustment in Social Security income, if any. Each such adjustment
39 shall be determined to the nearest one hundred dollars.

40 (b) Payment for a prescription under the program shall be made
41 only if no other plan of insurance or assistance is available to an
42 eligible person for such prescription at the time of dispensing, except
43 for benefits received from an endorsed Medicare prescription drug
44 discount card. The pharmacy shall make reasonable efforts to ascertain
45 the existence of other insurance or assistance, including the subsidy
46 provided by an endorsed Medicare prescription drug discount card. A
47 Medicare prescription drug discount card beneficiary shall be
48 responsible for the payment of any Medicare prescription drug

49 discount card coinsurance requirements, provided such requirements
50 do not exceed the ConnPACE program copayment requirements. If a
51 Medicare prescription drug discount card beneficiary's coinsurance
52 requirements exceed the ConnPACE copayment requirements, the
53 Department of Social Services shall make payment to the pharmacy to
54 cover costs in excess of the ConnPACE copayment amount. If the cost
55 to such beneficiary exceeds the remaining available Medicare
56 prescription drug discount card subsidy, the beneficiary shall not be
57 responsible for any payment in excess of the amount of the ConnPACE
58 program copayment requirement. In such cases, the Department of
59 Social Services shall make payment to the pharmacy to cover costs in
60 excess of the ConnPACE copayment amount.

61 (c) Any eligible resident who (1) is insured under a policy, including
62 an endorsed Medicare prescription drug discount card, which
63 provides full or partial coverage for prescription drugs, and (2) expects
64 to exhaust such coverage, may apply to participate in the program
65 prior to the exhaustion of such coverage. Such application shall be
66 valid for the applicable income year. To be included in the program, on
67 or after the date the applicant exhausts such coverage, the applicant or
68 the applicant's designee shall notify the department that such coverage
69 is exhausted and, if required by the department, shall submit evidence
70 of exhaustion of coverage. Not later than ten days after an eligible
71 resident submits such evidence, such resident shall be included in the
72 program. The program shall, except for those beneficiaries with an
73 endorsed Medicare prescription drug discount card, (A) cover
74 prescriptions that are not covered by any other plan of insurance or
75 assistance available to the eligible resident and that meet the
76 requirements of this chapter, and (B) retroactively cover such
77 prescriptions filled after or concurrently with the exhaustion of such
78 coverage. Nothing in this subsection shall be construed to prevent a
79 resident from applying to participate in the program as otherwise
80 permitted by this chapter and regulations adopted pursuant to this
81 chapter.

82 (d) As a condition of eligibility for participation in the ConnPACE

83 program, a resident with an income at or below one hundred thirty-
84 five per cent of the federal poverty level, who is Medicare Part A or
85 Part B eligible, shall obtain an endorsed Medicare prescription drug
86 discount card designated by the Commissioner of Social Services for
87 use in conjunction with the ConnPACE program. The commissioner
88 may require, as a condition of eligibility for participation in the
89 ConnPACE program, that a resident with an income above one
90 hundred thirty-five per cent of the federal poverty level, who is
91 Medicare Part A or Part B eligible, obtain an endorsed Medicare
92 prescription drug discount card designated by the commissioner for
93 use in conjunction with the ConnPACE program if obtaining such
94 discount card is determined by the commissioner to be cost-effective to
95 the state. In such an event, the commissioner may provide payment for
96 any Medicare prescription drug discount card enrollment fees.

97 [(d)] (e) The Commissioner of Social Services may adopt
98 regulations, in accordance with the provisions of chapter 54, to
99 implement the provisions of subsection (c) of this section. Such
100 regulations may provide for the electronic transmission of relevant
101 coverage information between a pharmacist and the department or
102 between an insurer and the department in order to expedite
103 applications and notice. The commissioner may implement the policies
104 and procedures necessary to carry out the provisions of this section
105 while in the process of adopting such policies and procedures in
106 regulation form, provided notice of intent to adopt the regulations is
107 published not later than twenty days after the date of implementation.
108 Such policies and procedures shall be valid until the time the final
109 regulations are adopted.

110 Sec. 2. (NEW) (*Effective from passage*) On and after the effective date
111 of this section, only a pharmacy, as defined in subsection (a) of section
112 17b-490 of the general statutes, that accepts all Medicare prescription
113 drug discount cards that are (1) endorsed by the Secretary of Health
114 and Human Services in accordance with Public Law 108-173, the
115 federal Medicare Prescription Drug, Improvement, and Modernization
116 Act of 2003, and (2) designated by the Commissioner of Social Services

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 04	FY 05
Social Services, Dept.	GF - Savings	None	16,900,000
Social Services, Dept.	GF - Cost	Minimal	500,000

Note: GF=General Fund

Municipal Impact: None

Explanation

The Department of Social Services will incur minimal FY 04 costs to provide mailings to educate ConnPACE enrollees about the pending integration with the Medicare drug discount card program. It is anticipated that the agency’s available Other Expenses funding will be sufficient to cover these costs. However, it should be noted that the agency is projected to end FY 04 with a net deficiency (after release of holdbacks) of approximately \$20.2 million due primarily to an anticipated shortfall in the Medicaid account.

The department will experience a net savings of \$16.4 million in FY 05 given passage of this bill. These savings reflect

- reduced pharmaceutical costs (of \$16.9 million) under ConnPACE, offset by
- \$500,000 in administrative expenses required to coordinate the ConnPACE program’s financial intermediary’s electronic system with that of one or more Medicare drug discount card sponsors.

Average monthly ConnPACE enrollment for FY 05 is projected to be 50,700. It is assumed that 93.5% of this population (roughly 47,400 persons) are Medicare eligible. Of these, an estimated 14.2% have

incomes below 100 percent of the federal poverty level (fpl), while another 31.5% have incomes between 100 - 135% of fpl. The anticipated distribution of ConnPACE enrollees by discount card classification is as follows:

- 6,750 eligible for special transitional assistance,
- 14,950 eligible for transitional assistance
- 25,700 eligible for the discount card program, without federal assistance, and
- 3,300 ineligible for the discount card program.

Savings will accrue to the state since an estimated 215,500 fewer prescriptions will be subsidized by the ConnPACE program due to the provision of the federally paid \$600 transitional assistance benefit to participants in each of calendar year 2004 and 2005.

OLR Bill Analysis

sHB 5041

AN ACT CONCERNING THE USE OF MEDICARE PRESCRIPTION DRUG DISCOUNT CARDS IN THE CONNPACE PROGRAM**SUMMARY:**

This bill requires low-income participants in the Connecticut Pharmaceutical Assistance Contract to the Elderly and Disabled (ConnPACE) program to participate in the first stage of new federal Medicare prescription drug benefits (drug discount cards) as a condition of ConnPACE eligibility. It also allows the Department of Social Services (DSS) commissioner to require higher-income ConnPACE participants to sign up for a card if that is judged cost-effective for the state. For these groups, the bill wraps ConnPACE benefits around the benefits under the Medicare-endorsed discount cards, and limits the participant's combined copayment total to no more than he would pay under ConnPACE (\$16.25 per prescription). It also places certain obligations on pharmacies participating in ConnPACE and makes a number of other statutory changes related to the discount card.

The bill also:

1. updates the statutes to reflect the current ConnPACE income limits (\$20,800 for single people and \$28,100 for married couples), currently in regulation and adjusted annually and
2. eliminates statutory references to higher potential ConnPACE income limits if the federal government approves a pending Medicaid waiver Connecticut submitted several years ago, before the establishment of the new Medicare prescription drug benefits.

EFFECTIVE DATE: Upon passage

CONNPACE CHANGES RELATED TO DRUG DISCOUNT CARD

A new federal law (P.L. 108-173) establishes a voluntary prescription drug benefit for Medicare beneficiaries (seniors age 65 and over and

younger disabled people) in two stages: a drug discount card starting in June 2004 followed by a permanent Medicare Part D prescription drug program in January 2006 (see BACKGROUND). This bill makes program changes in ConnPACE to address the first stage, which offers Medicare beneficiaries the federally endorsed drug discount cards and provides a \$600 annual subsidy in the form of a credit on the card for lower-income participants with incomes under 135% of the federal poverty level (FPL).

Eligibility Adjustments

The bill allows people who sign up for the new two-year temporary Medicare prescription drug discount cards to still be eligible for ConnPACE. (Current law bars people who are insured under a policy that provides full or partial coverage for prescription drugs once a deductible is met.)

Current law already allows people who are insured for prescription drugs but expect to exhaust their coverage soon to apply for ConnPACE before they actually run out of coverage and have their participation take effect when the other coverage runs out. The bill also applies this principle to the discount cards.

Copayments

The bill makes the discount card beneficiary responsible for payment of any coinsurance requirements under the card, as long as those are not more than the ConnPACE copays (currently \$16.25 per prescription) and, if they are more, requires DSS to make payments to the pharmacy to cover costs above the ConnPACE copay amounts. (In order for them to receive the \$600 credit, the federal law requires these low-income people to pay per-prescription coinsurance of 10% for people with incomes under 135% of FPL and 5% for those with incomes under 100% of FPL. If the prescription's cost to the beneficiary is more than the remaining available discount card subsidy, the bill specifies that the beneficiary will not be responsible for any payment above the ConnPACE copay and requires DSS in such cases to pay the pharmacy to cover the excess costs.

Requirement for Certain Low-Income Residents to Obtain Discount Card as Condition of ConnPACE Eligibility

The bill requires an otherwise ConnPACE-eligible resident who is a

Medicare beneficiary and has income at or below 135% of the federal poverty level (the group that is eligible for the \$600 subsidy) to obtain an endorsed Medicare prescription discount card designated by the DSS commissioner as a condition of eligibility for participation in ConnPACE.

Commissioner's Option to Require Discount Card for Higher-Income ConnPACE Participants

The bill also allows the commissioner, at her discretion, to require the people with incomes above 135% of FPL to obtain a commissioner-designated discount card if the commissioner determines obtaining the card is cost-effective to the state. (This group is not eligible for the \$600 federal credit.) In that event, the commissioner may pay for the annual discount card enrollment fees, projected to be up to \$30 per person.

Pharmacies' Obligations

The bill restricts pharmacy participation in the ConnPACE program to only those pharmacies that accept all Medicare-approved discount cards that the commissioner has designated for use in conjunction with the ConnPACE program. It also allows the commissioner to require a participating pharmacy to accept any Medicare-endorsed discount card if that is required under federal law.

The bill also requires the pharmacy to make reasonable efforts to determine whether the client is entitled to the \$600 subsidy under the discount card, as it must for other types of insurance.

Implementation and Regulations

The bill allows the commissioner to implement the policies and procedures needed to carry out these provisions while still in the process of adopting them in regulation form, as long as she publishes the notice of intent to adopt the regulations not later than 20 days after the implementation. The policies and procedures will be valid until the final regulations are adopted.

BACKGROUND

ConnPACE

The ConnPACE program helps low-income seniors over age 65 and

younger disabled people, who are not poor enough for Medicaid, pay for prescription drugs. It requires participants to pay a \$16.25 per-prescription copayment and a \$30 annual registration fee. To be eligible, applicants must have no other prescription drug insurance or have exhausted their insurance. Their annual incomes must be less than \$20,800 if they are single or a combined income under \$28,100 if married. These income limits are adjusted annually for inflation every January. Legislation passed in 2003 also sets an asset limit of \$100,000 for single people and \$125,000 for married couples, but exempts participants' homes and certain other assets from being counted for eligibility determinations.

Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (P.L. 108-173)

Medicare Drug Discount Card. The federal temporary drug discount card program will run from June 2004 to January 2006. The discount card may save enrollees between 10% and 25% on their drug costs and will give limited federal assistance of up to \$600 annually with a 5% or 10% coinsurance requirement to certain low-income people. The cards will be offered by private entities such as health insurers, retail pharmacies, pharmaceutical companies, or other organizations that meet Medicare program standards. The cards' benefits and formularies can vary and people can choose which card they want to sign up for. The annual enrollment fee can be no more than \$30.

Medicare beneficiaries with incomes less than 135% of FPL (\$12,569 for one person and \$16,862 for two for 2004; 100% of the FPL for 2004 is \$9,310 for one person and \$12,490 for two) will receive "transitional" assistance of a credit of \$600 on the card for each of the two years the program is in operation. They must pay coinsurance of 5% if their income is under 100% of FPL and 10% if their income is under 135% of FPL until they use up their \$600 credit; unused credit amounts carry over from the first to the second year. There will be no asset test for the discount card. The federal government will pay the enrollment fee for people eligible for transitional assistance and states may also choose to pay the fee for others. But most people who now receive full Medicare-Medicaid dual benefits that cover prescriptions will not be eligible for the cards; rather, their Medicaid coverage for prescriptions will continue for now and they will be covered by federal benefits when the full program starts in 2006.

Medicare Part D Prescription Drug Program. The more comprehensive permanent program starting in January 2006 allows Medicare beneficiaries to enroll in private, federally subsidized prescription-only plans. (People in a Medicare HMO that covers drugs must receive their new coverage through the HMO.) The plans must offer at least a standard package with specified premiums, copays, annual deductibles, and coverage thresholds. However, the permanent program will give varying levels of extra federal help to enrollees with low incomes and assets and those eligible for both Medicare and Medicaid.

Related Bill

SB 295, which the Program Review and Investigations Committee reported favorably to the floor on March 3, would lower the ConnPACE copay for generic drugs from \$16.25 to \$10 and make changes concerning the required preferred drug list for ConnPACE and other state pharmacy programs.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute Change of Reference
Yea 18 Nay 0

Appropriations Committee

Joint Favorable Substitute
Yea 37 Nay 0