



General Assembly

Raised Bill No. 295

February Session, 2004

LCO No. 1379

* SB00295PRI 030504 *

Referred to Committee on Program Review and Investigations

Introduced by:
(PRI)

***AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS
COMMITTEE RELATIVE TO PHARMACY BENEFITS.***

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

1 Section 1. Section 17b-274d of the general statutes, as amended by
2 section 19 of public act 03-2, section 63 of public act 03-278 and section
3 83 of public act 03-3 of the June 30 special session, is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2004*):

5 (a) Pursuant to 42 USC 1396r-8, there is established a Medicaid
6 Pharmaceutical and Therapeutics Committee within the Department of
7 Social Services. [Said committee shall convene on or before March 31,
8 2003.] The Commissioner of Social Services shall report monthly, in
9 accordance with section 11-4a, to the joint standing committees of the
10 General Assembly having cognizance of matters relating to
11 appropriations and the budgets of state agencies and human services
12 and to the Legislative Program Review and Investigations Committee
13 on the activities of the Medicaid Pharmaceutical and Therapeutics
14 Committee. The commissioner shall continue to make such monthly
15 reports until such time as a preferred drug list that includes three

16 classes of drugs, including proton pump inhibitors and two other
17 classes of drugs as determined by the commissioner, has been adopted
18 in accordance with subsection (e) of this section.

19 (b) The Medicaid Pharmaceutical and Therapeutics Committee shall
20 be comprised as specified in 42 USC 1396r-8 and shall consist of
21 fourteen members appointed by the Governor. Five members shall be
22 physicians licensed pursuant to chapter 370, including one general
23 practitioner, one pediatrician, one geriatrician, one psychiatrist and
24 one specialist in family planning, four members shall be pharmacists
25 licensed pursuant to chapter 400j, two members shall be visiting
26 nurses, one specializing in adult care and one specializing in
27 psychiatric care, one member shall be a clinician designated by the
28 Commissioner of Mental Health and Addiction Services, one member
29 shall be a representative of pharmaceutical manufacturers and one
30 member shall be a consumer representative. The committee may, on an
31 ad hoc basis, seek the participation of other state agencies or other
32 interested parties in its deliberations. The members shall serve for
33 terms of two years from the date of their appointment. Members may
34 be appointed to more than one term. The Commissioner of Social
35 Services, or the commissioner's designee, shall convene the committee
36 following the Governor's designation of appointments. The
37 administrative staff of the Department of Social Services shall serve as
38 staff for said committee and assist with all ministerial duties. The
39 Governor shall ensure that the committee membership includes
40 Medicaid participating physicians and pharmacists, with experience
41 serving all segments of the Medicaid population.

42 (c) Committee members shall select a chairperson and vice-
43 chairperson from the committee membership on an annual basis.

44 (d) The committee shall meet at least quarterly, and may meet at
45 other times at the discretion of the chairperson and committee
46 membership. The committee shall comply with all regulations adopted
47 by the department, including notice of any meeting of the committee,

48 pursuant to the requirements of chapter 54.

49 (e) [On or before July 1, 2003, the] The Department of Social
50 Services, in consultation with the Medicaid [and] Pharmaceutical and
51 Therapeutics Committee, shall adopt a preferred drug list for use in
52 the Medicaid, state-administered general assistance, HUSKY Plan, Part
53 A, HUSKY Plan, Part B, Connecticut AIDS drug assistance and
54 ConnPACE programs. To the extent feasible, the department shall
55 review all drugs included in the preferred drug list at least every
56 twelve months, and may recommend additions to, and deletions from,
57 the preferred drug list, to ensure that the preferred drug list provides
58 for medically appropriate drug therapies for Medicaid, state-
59 administered general assistance, HUSKY Plan, Part A, HUSKY Plan,
60 Part B, Connecticut AIDS drug assistance and ConnPACE patients. For
61 the fiscal year ending June 30, 2004, such drug list shall be limited to
62 use in the Medicaid and ConnPACE programs and cover three classes
63 of drugs, including proton pump inhibitors and two other classes of
64 drugs determined by the Commissioner of Social Services. [The
65 commissioner shall notify the joint standing committees of the General
66 Assembly having cognizance of matters relating to human services and
67 appropriations of the classes of drugs on the list by January 1, 2004.]
68 For the fiscal year ending June 30, 2005, such drug list shall be
69 expanded to include all eligible classes of drugs as determined by the
70 Department of Social Services in consultation with the Medicaid
71 Pharmaceutical and Therapeutics Committee.

72 (f) Except for mental-health-related drugs and antiretroviral drugs,
73 reimbursement for a drug not included in the preferred drug list is
74 subject to prior authorization.

75 (g) The Department of Social Services shall publish and disseminate
76 the preferred drug list to all Medicaid providers in the state.

77 (h) The committee shall ensure that the pharmaceutical
78 manufacturers agreeing to provide a supplemental rebate pursuant to
79 42 USC 1396r-8(c) have an opportunity to present evidence supporting

80 inclusion of a product on the preferred drug list unless a court of
81 competent jurisdiction, in a final decision, determines that the
82 Secretary of Health and Human Services does not have authority to
83 allow such supplemental rebates, provided the inability to utilize
84 supplemental rebates pursuant to this subsection shall not impair the
85 committee's authority to maintain a preferred drug list. Upon timely
86 notice, the department shall ensure that any drug that has been
87 approved, or had any of its particular uses approved, by the United
88 States Food and Drug Administration under a priority review
89 classification, will be reviewed by the Medicaid Pharmaceutical and
90 Therapeutics Committee at the next regularly scheduled meeting. To
91 the extent feasible, upon notice by a pharmaceutical manufacturer, the
92 department shall also schedule a product review for any new product
93 at the next regularly scheduled meeting of the Medicaid
94 Pharmaceutical and Therapeutics Committee.

95 (i) Factors considered by the department and the Medicaid
96 Pharmaceutical and Therapeutics Committee in developing the
97 preferred drug list shall include, but not be limited to, clinical efficacy,
98 safety and cost effectiveness of a product.

99 (j) The Medicaid Pharmaceutical and Therapeutics Committee may
100 also make recommendations to the department regarding the prior
101 authorization of any prescribed drug covered by Medicaid in
102 accordance with the plan developed and implemented pursuant to
103 section 17b-491a.

104 (k) Medicaid recipients may appeal any department preferred drug
105 list determinations utilizing the Medicaid fair hearing process
106 administered by the Department of Social Services established
107 pursuant to chapter 54.

108 [(l) The provisions of this section shall apply to the state-
109 administered general assistance program.]

110 (l) The Commissioner of Social Services shall contract with a

111 pharmacy benefits organization or a single entity qualified to negotiate
112 with pharmaceutical manufacturers for supplemental rebates,
113 available pursuant to 42 USC 1396r-8(c), for drugs listed on the
114 preferred drug list established pursuant to subsection (e) of this
115 section.

116 Sec. 2. (NEW) (*Effective July 1, 2004*) The Commissioner of Social
117 Services, upon the renewal of a contract between the Department of
118 Social Services and a managed care organization providing
119 comprehensive medical services to the HUSKY Plan, Part A, or
120 HUSKY Plan, Part B, shall assign and consolidate all responsibility for
121 the administration of pharmacy benefits available under the HUSKY
122 Plan, Parts A and B to the department. The administration of
123 pharmacy benefits available under the HUSKY Plan, Parts A and B
124 shall be consolidated with the fee-for-service pharmacy programs
125 administered by the department.

126 Sec. 3. Section 17b-363a of the general statutes, as amended by
127 section 1 of public act 03-116 and section 146 of public act 03-6 of the
128 June 30 special session, is repealed and the following is substituted in
129 lieu thereof (*Effective July 1, 2004*):

130 (a) Each long-term care facility shall return to the vendor pharmacy
131 which shall accept, for repackaging and reimbursement to the
132 Department of Social Services, drug products that were dispensed to a
133 patient and not used if such drug products are (1) prescription drug
134 products that are not controlled substances, (2) sealed in individually
135 packaged units, (3) returned to the vendor pharmacy within the
136 recommended period of shelf life for the purpose of redispensing such
137 drug products, (4) determined to be of acceptable integrity by a
138 licensed pharmacist, and (5) oral and parenteral medication in single-
139 dose sealed containers approved by the federal Food and Drug
140 Administration, topical or inhalant drug products in units of use
141 containers approved by the federal Food and Drug Administration or
142 parenteral medications in multiple-dose sealed containers approved by

143 the federal Food and Drug Administration from which no doses have
144 been withdrawn.

145 (b) Notwithstanding the provisions of subsection (a) of this section:

146 (1) If such drug products are packaged in manufacturer's unit-dose
147 packages, such drug products shall be returned to the vendor
148 pharmacy for redispensing and [reimbursement to] such vendor
149 pharmacy shall reimburse the Department of Social Services if such
150 drugs may be redispensed for use before the expiration date, if any,
151 indicated on the package.

152 (2) If such drug products are repackaged in manufacturer's unit-
153 dose or multiple-dose blister packs, such drug products shall be
154 returned to the vendor pharmacy for redispensing and
155 [reimbursement to] such vendor pharmacy shall reimburse the
156 Department of Social Services if: (A) [the] The date on which such drug
157 product was repackaged, such drug product's lot number and
158 expiration date are indicated clearly on the package of such
159 repackaged drug; (B) ninety days or fewer have elapsed from the date
160 of repackaging of such drug product; and (C) a repackaging log is
161 maintained by the pharmacy in the case of drug products repackaged
162 in advance of immediate needs.

163 (3) No drug products dispensed in a bulk dispensing container may
164 be returned to the vendor pharmacy.

165 (c) Each long-term care facility shall establish procedures for the
166 return of unused drug products to the vendor pharmacy from which
167 such drug products were purchased.

168 (d) A vendor pharmacy providing drug products to a long-term
169 care facility shall provide such drug products in packaging that
170 facilitates return of unused drug products to the vendor pharmacy in
171 accordance with subsections (a) and (b) of this section.

172 ~~[(d)]~~ (e) The Department of Social Services (1) shall reimburse [to]

173 the vendor pharmacy for the reasonable cost of services incurred in the
174 operation of this section, as determined by the commissioner, and (2)
175 may establish procedures, if feasible, for [reimbursement to]
176 reimbursing non Medicaid payors for drug products returned
177 pursuant to this section.

178 [(e)] (f) The Department of Agriculture and Consumer Protection, in
179 consultation with the Department of Social Services, shall adopt
180 regulations, in accordance with the provisions of chapter 54, which
181 shall govern the repackaging and labeling of drug products returned
182 pursuant to subsections (a) and (b) of this section. The Department of
183 Agriculture and Consumer Protection shall implement the policies and
184 procedures necessary to carry out the provisions of this section until
185 January 1, 2002, while in the process of adopting such policies and
186 procedures in regulation form, provided notice of intent to adopt the
187 regulations is published in the Connecticut Law Journal within twenty
188 days after implementation.

189 [(f)] (g) Any long-term care facility that violates or fails to comply
190 with the provisions of this section shall be fined [thirty] one thousand
191 dollars for each incidence of noncompliance. The [commissioner]
192 Commissioner of Social Services may offset payments due a facility to
193 collect the penalty. Prior to imposing any penalty pursuant to this
194 subsection, the commissioner shall notify the long-term care facility of
195 the alleged violation and the accompanying penalty and shall permit
196 such facility to request that the department review its findings. A
197 facility shall request such review [within] not later than fifteen days
198 [of] after receipt of the notice of violation from the department. The
199 department shall stay the imposition of any penalty pending the
200 outcome of the review. The commissioner may impose a penalty upon
201 a facility pursuant to this subsection regardless of whether a change in
202 ownership of the facility has taken place since the time of the violation,
203 provided the department issued notice of the alleged violation and the
204 accompanying penalty prior to the effective date of the change in
205 ownership and record of such notice is readily available in a central

206 registry maintained by the department. Payments of fines received
207 pursuant to this subsection shall be deposited in the General Fund and
208 credited to the Medicaid account.

209 ~~[(g)]~~ (h) The Commissioner of Social Services, in consultation with
210 the pharmacy review panel established in section 17b-362a, as
211 amended, shall update and expand by June 30, 2003, and annually
212 thereafter, the list of drugs that are included in the drug return
213 program. Such list shall include, but not be limited to, the fifty drugs
214 with the highest average wholesale price that meet the requirements
215 for the program, as established in subsection (a) of this section.

216 Sec. 4. Subsection (a) of section 17b-491 of the general statutes, as
217 amended by section 14 of public act 03-2, is repealed and the following
218 is substituted in lieu thereof (*Effective July 1, 2004*):

219 (a) There shall be a "Connecticut Pharmaceutical Assistance
220 Contract to the Elderly and the Disabled Program" which shall be
221 within the Department of Social Services. The program shall consist of
222 payments by the state to pharmacies for the reasonable cost of
223 prescription drugs dispensed to eligible persons minus a copayment
224 charge. The pharmacy shall collect the copayment charge from the
225 eligible person at the time of each purchase of prescription drugs, and
226 shall not waive, discount or rebate in whole or in part such amount.
227 The copayment for each prescription shall be as follows:

228 (1) Ten dollars for generic prescription drugs if the participant is (A)
229 not married and has an annual income of less than twenty thousand
230 three hundred dollars, or (B) is married and has an annual income that,
231 when combined with the participant's spouse, is less than twenty-
232 seven thousand five hundred dollars.

233 ~~[(1)]~~ (2) Sixteen dollars and twenty-five cents for brand name
234 prescription drugs if the participant is (A) not married and has an
235 annual income of less than twenty thousand three hundred dollars, or
236 (B) is married and has an annual income that, when combined with the

237 participant's spouse, is less than twenty-seven thousand five hundred
238 dollars.

239 [(2)] (3) Upon the granting of a federal waiver to expand the
240 program in accordance with section 17b-492, as amended, the
241 copayment for brand name prescription drugs shall be twenty dollars
242 for a participant who is (A) not married and has an annual income that
243 equals or exceeds twenty thousand three hundred dollars, or (B)
244 married and has an annual income that, when combined with the
245 participant's spouse, equals or exceeds twenty-seven thousand five
246 hundred dollars.

247 Sec. 5. (NEW) (*Effective July 1, 2004*) (a) As used in this section:

248 (1) "Prescription drugs" means (A) legend drugs, as defined in
249 section 20-571 of the general statutes, as amended, (B) any other drugs
250 which by state law or regulation require the prescription of a licensed
251 practitioner for dispensing, except products prescribed for cosmetic
252 purposes as specified in regulations adopted pursuant to section 17b-
253 494 of the general statutes, diet pills, smoking cessation gum,
254 contraceptives, multivitamin combinations, cough preparations and
255 antihistamines, and (C) insulin, insulin syringes and insulin needles;

256 (2) "State agency" means each state board, authority, commission,
257 department, office, institution, council or other agency of the state,
258 including, but not limited to, each constituent unit of higher education
259 and each public institution of higher education.

260 (b) On or before October 15, 2004, and annually thereafter, each state
261 agency that purchases prescription drugs shall prepare and submit to
262 the Office of Policy and Management a report that includes: (1) The
263 total amounts spent by the state agency on prescription drugs for the
264 preceding fiscal year, and (2) the total amount of any rebates or credits
265 received by such agency from prescription drug manufacturers,
266 wholesalers or group purchasing organizations of which the state is a
267 participating member. Any state agency with multiple institutions that

268 purchase prescription drugs shall provide the information required by
269 this section for each institution.

270 Sec. 6. (NEW) (*Effective July 1, 2004*) (a) For purposes of this section,
271 "state agency" means each state board, authority, commission,
272 department, office, institution, council or other agency of the state,
273 including, but not limited to, each constituent unit of higher education
274 and each public institution of higher education.

275 (b) The Commissioner of Administrative Services shall require each
276 state agency that obtains drug products through a contract negotiated
277 by the Department of Administrative Services and dispenses such
278 drug products directly to patients to return such drug products that
279 are unused to the vendor pharmacy. The vendor pharmacy shall
280 accept, for repackaging and reimbursement to any such state agency,
281 drug products that were dispensed to a patient and not used if such
282 drug products are (1) prescription drug products that are not
283 controlled substances, (2) sealed in individually packaged units, (3)
284 returned to the vendor pharmacy within the recommended period of
285 shelf life for the purpose of redispensing such drug products, (4)
286 determined to be of acceptable integrity by a licensed pharmacist, and
287 (5) oral and parenteral medication in single-dose sealed containers
288 approved by the federal Food and Drug Administration, topical or
289 inhalant drug products in units of use containers approved by the
290 federal Food and Drug Administration or parenteral medications in
291 multiple-dose sealed containers approved by the federal Food and
292 Drug Administration from which no doses have been withdrawn.

293 (c) Notwithstanding the provisions of subsection (b) of this section:

294 (1) If such drug products are packaged in manufacturer's unit-dose
295 packages, such drug products shall be returned to the vendor
296 pharmacy for redispensing and such vendor pharmacy shall reimburse
297 such state agency if such drugs may be redispensed for use before the
298 expiration date, if any, indicated on the package.

299 (2) If such drug products are repackaged in manufacturer's unit-
300 dose or multiple-dose blister packs, such drug products shall be
301 returned to the vendor pharmacy for redispensing and such vendor
302 pharmacy shall reimburse such state agency if: (A) The date on which
303 such drug product was repackaged, such drug product's lot number
304 and expiration date are indicated clearly on the package of such
305 repackaged drug; (B) ninety days or fewer have elapsed from the date
306 of repackaging of such drug product; and (C) a repackaging log is
307 maintained by the pharmacy in the case of drug products repackaged
308 in advance of immediate needs.

309 (3) No drug products dispensed in a bulk dispensing container may
310 be returned to the vendor pharmacy.

311 (d) The Department of Administrative Services shall establish
312 procedures for the return of unused drug products to the vendor
313 pharmacy from which such drug products were purchased.

314 (e) A state agency that obtains and dispenses drug products, as
315 provided in subsection (b) of this section, shall reimburse the vendor
316 pharmacy for the reasonable cost of services incurred in the operation
317 of this section, as determined by the Commissioner of Administrative
318 Services.

319 (f) The Department of Agriculture and Consumer Protection, in
320 consultation with the Department of Administrative Services, shall
321 adopt regulations, in accordance with the provisions of chapter 54 of
322 the general statutes, which shall govern the repackaging and labeling
323 of drug products returned pursuant to subsections (b) and (c) of this
324 section. The Department of Agriculture and Consumer Protection shall
325 adopt regulations, in accordance with the provisions of chapter 54 of
326 the general statutes, concerning the repackaging and return of unused
327 drug products.

This act shall take effect as follows:

Section 1	<i>July 1, 2004</i>
Sec. 2	<i>July 1, 2004</i>
Sec. 3	<i>July 1, 2004</i>
Sec. 4	<i>July 1, 2004</i>
Sec. 5	<i>July 1, 2004</i>
Sec. 6	<i>July 1, 2004</i>

PRI *Joint Favorable*