



General Assembly

January Session, 2009

Governor's Bill No. 6379

LCO No. 3059

*03059 _____ *

Referred to Committee on Human Services

Introduced by:

REP. CAFERO, 142nd Dist.

SEN. MCKINNEY, 28th Dist.

**AN ACT IMPLEMENTING THE GOVERNOR'S BUDGET
RECOMMENDATIONS CONCERNING MAXIMIZATION OF PHARMACY
REBATES.**

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

1 Section 1. Subsection (e) of section 17b-491 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (e) [The commissioner shall establish an application form whereby a
5 pharmaceutical manufacturer may apply to participate in the program.
6 Upon receipt of a completed application, the department shall issue a
7 certificate of participation to the manufacturer.] Participation by a
8 pharmaceutical manufacturer shall require that the department shall
9 receive a rebate from the pharmaceutical manufacturer for
10 prescriptions covered under the program and for prescriptions
11 covered by the department pursuant to subsection (c) of section 17b-
12 265e, as amended by this act. Rebate amounts for brand name
13 prescription drugs shall be equal to those under the Medicaid

14 program. Rebate amounts for generic prescription drugs shall be
15 established by the commissioner, provided such amounts may not be
16 less than those under the Medicaid program. A participating
17 pharmaceutical manufacturer shall make quarterly rebate payments to
18 the department for the total number of dosage units of each form and
19 strength of a prescription drug which the department reports as
20 reimbursed to providers of prescription drugs, provided such
21 payments shall not be due until thirty days following the
22 manufacturer's receipt of utilization data from the department
23 including the number of dosage units reimbursed to providers of
24 prescription drugs during the quarter for which payment is due. The
25 department may enter into contracts for supplemental rebates for
26 drugs that are on a preferred drug list or formulary established by the
27 department.

28 Sec. 2. Subsection (c) of section 17b-265e of the general statutes is
29 repealed and the following is substituted in lieu thereof (*Effective from*
30 *passage*):

31 (c) The Department of Social Services shall, in accordance with the
32 provisions of this section, pay claims for prescription drugs for
33 Medicare Part D beneficiaries, who are also either Medicaid or
34 ConnPACE recipients and who are denied coverage by the Medicare
35 Part D plan in which such beneficiary is enrolled because a prescribed
36 drug is not on the formulary utilized by such Medicare Part D plan.
37 Payment shall initially be made by the department for a thirty-day
38 supply, subject to any applicable copayment. The beneficiary shall
39 appoint the commissioner as such beneficiary's representative for the
40 purpose of appealing any denial of Medicare Part D benefits and for
41 any other purpose allowed under federal law and deemed necessary
42 by the commissioner. Pharmaceutical manufacturers shall pay rebate
43 amounts [established pursuant to section 17b-491] to the department
44 for prescriptions paid by the department pursuant to this section on or
45 after January 1, 2007. [The beneficiary shall appoint the commissioner
46 as such beneficiary's representative for the purpose of appealing any

47 denial of Medicare Part D benefits and for any other purpose allowed
48 under said act and deemed necessary by the commissioner.] For
49 ConnPACE recipients, unit rebate amounts shall be equal to unit
50 rebate amounts paid under the Medicaid program. For recipients of
51 both Medicaid and Medicare, the unit rebate amount shall be
52 calculated as follows: (1) For noninnovator multiple source drugs, the
53 average manufacturer's price multiplied by eleven per cent; and (2) for
54 single source or innovator drugs, the greater of the average
55 manufacturer's price multiplied by fifteen and one tenth per cent or the
56 average manufacturer's price minus best price. In the event the
57 calculated rebate would establish a new Medicaid best price, the unit
58 rebate amount will be capped at the average manufacturer's price
59 minus best price. A manufacturer shall not be required to provide a
60 rebate for a prescription drug that is new to the marketplace until the
61 quarter in which the manufacturer has established a Medicaid best
62 price for the product. The department may enter into contracts for
63 supplemental rebates for drugs that are on a preferred drug list or
64 formulary established by the department.

65 Sec. 3. Section 17b-491c of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective from passage*):

67 [Except as provided in subsection (c) of section 17b-265e,] (a) On
68 and after February 1, 2008, any pharmaceutical manufacturer of a
69 prescription drug covered by the Department of Social Services under
70 [any of the] a state medical assistance [programs] program
71 administered by the department that is a federally qualified state
72 pharmacy assistance program shall provide rebates to the department
73 for prescription drugs paid for by the department [on or after February
74 1, 2008. The amount of rebates and the administration of the program
75 shall be in accordance with subsections (e) and (f) of section 17b-491]
76 under such program in unit rebate amounts equal to the unit rebate
77 amounts paid under the Medicaid program.

78 (b) On and after February 1, 2008, any pharmaceutical manufacturer

79 of a prescription drug covered by the department under a state
80 medical assistance program that is not a federally qualified state
81 pharmacy assistance program shall provide rebates to the department.
82 The unit rebate amount shall be calculated as follows: (1) For
83 noninnovator multiple source drugs, the average manufacturer's price
84 multiplied by eleven per cent, and (2) for single source or innovator
85 drugs, the greater of the average manufacturer's price multiplied by
86 fifteen and one tenth per cent or the average manufacturer's price
87 minus best price. In the event the calculated rebate would establish a
88 new Medicaid best price, the unit rebate amount will be capped at the
89 average manufacturer's price minus best price.

90 (c) The department may enter into contracts for supplemental
91 rebates for drugs that are on a preferred drug list or formulary
92 established by the department.

93 (d) Pharmaceutical manufacturers shall submit written confirmation
94 of participation on a form prescribed by the Commissioner of Social
95 Services, that states the terms of participation, including, but not
96 limited to, the process by which a manufacturer may discontinue
97 participation. The department shall provide advance notice to
98 participating manufacturers if a new pharmacy assistance program is
99 established and shall provide the manufacturers with the opportunity
100 to discontinue participation. The department shall promptly notify
101 participating manufacturers if a state pharmacy assistance program
102 becomes disqualified. If a program becomes disqualified and a
103 manufacturer has paid rebates at the rate for a qualified program, the
104 department shall reimburse the manufacturer the amount overpaid as
105 a result of disqualification.

106 (e) A manufacturer shall not be required to provide a rebate for a
107 prescription drug that is new to the marketplace until the quarter in
108 which the manufacturer has established a Medicaid best price for the
109 product.

110 (f) No payment shall be made by the department for the

111 prescription drugs of a manufacturer that does not provide rebates to
112 the department pursuant to this section unless a specific drug is
113 determined by the department to be medically necessary for an
114 individual client.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17b-491(e)
Sec. 2	<i>from passage</i>	17b-265e(c)
Sec. 3	<i>from passage</i>	17b-491c

Statement of Purpose:

To implement the Governor's budget recommendations.

[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.]