

2001 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB55)

Received: 07/20/2001

Received By: **kenneda**

Wanted: As time permits

Identical to LRB:

For: **Legislative Fiscal Bureau 266-8017**

By/Representing: **Carabell**

This file may be shown to any legislator: **NO**

Drafter: **kenneda**

May Contact:

Addl. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **ISR**

Submit via email: **NO**

Requester's email:

Pre Topic:

LFB:.....Carabell -

Topic:

Prescription drugs for elderly

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kenneda 07/22/2001	gilfokm 07/22/2001		_____			
/1			kfollet 07/22/2001	_____	lrb_docadmin 07/23/2001		
/2	kenneda 07/23/2001	jdye 07/23/2001	jfrantze 07/23/2001	_____	lrb_docadmin 07/23/2001		

Vers. Drafted Reviewed Typed Proofed Submitted Jacketcd Required

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<END>

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7/23

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1?	kenneda	1/27/01 King /22	cast the	cast the			

FE Sent For:

<END>

Prescrip drugs for elderly

2202
~~2203~~

* Agreed

7/20/01 From Rachel Carahell:

✓ MA Eligibility to 100% of poverty: OUT
Eligibility:

✓ * Administrative costs: \$1 mil. directly } (Senate)
\$1 mil. of Finance }

✓ Rebate: DHFS to provide documents

✓ * Notification about HIRSP: (Senate): OUT

* Payment rate: MA Payment rate + 5% + dispensing fee
See other drafts: program payment rate = product
of reimbursement + 5% + dispensing fee?

✓ * Spenddown

✓ * Copayments \$5 (generic); \$15 (brand name)

✓ * Enrollment: \$20

✓ * Deductible: \$500

✓ * Prior authorization limitations: OUT

✓ * Everyone eligible whether / not insured? (Gov lang.)

Sum certain approp

Biennial

Badger Care enrollment trigger? - (NO)

Waiver - authorize DHFS to do? - (See later notes)

DHFS estab. bd. on prior authorizing. - (NO)

9:39 Fri. From Rachel

271-0461

Prescrip drugs:

- ✓ Elig. 240% of pov.
 - ✓ Ded \$500
 - ✓ Copay 15 5 gen
 - ✓ Exempt 160 pov level from deductible?
 - ✓ Stat req. DHS to seek 115 waiver to implement ^{prov.}; specify st. only plan ^{also forward regardless}
- Waiver only to be implemented if consist w/ statutory provisions

Beneficial sum certain 52,000,000

02-03

-0- 49,900,000

of this, 2,000,000 for admin

- ✓ No expanded MA eligibility
- ✓ Eligible only for drugs not covered by insurance
- ✓ Begins 9/1/2002
- ✓ \$500 deductible
- ✓ Incentive payments - yes
- ✓ Report to legis. on diff. betw/ Wis program + Fds

11:18 Rachel

Doug: agreed to lang. - sum ~~set~~ certain
DHFS can't decrease or modify ^{eligibility} enrollment
if funding is insufficient; wd. have ^{at the point at which} the
to reduce benefits instead to stay
w/in budget, although ^{shall} ~~may~~ continue
to enroll

funding is
\$-0-, the
benefits shall be
elim

and until ~~the~~ funding
is again available,
DHFS shall continue
to accept apps for
participation, ~~and~~
and shall indicate to
applicants that the
receipt of benefits is
conditional on the
availability of funding

Exception for pharmacies discount
+ DHFS

3:47 Rachel - Pharmacists + manufacturers shd. not
be on the hook if \$ runs out

2001

Date (time) needed TODAY (Sun.)

LRB b 2202/1

BUDGET AMENDMENT

DAK: Kug'ishmh

See form **AMENDMENTS — COMPONENTS & ITEMS.**

SENATE AMENDMENT TO SENATE SUBSTITUTE AMENDMENT 1 TO 2001 SENATE BILL 55

At the locations indicated, amend the substitute amendment as follows:

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

#. Page , line :

SDC:.....Keckhaver - CN8507, Prescription drugs for elderly

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

**CAUCUS SENATE AMENDMENT
TO SENATE SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55**

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 207, line 19: increase the dollar amount for fiscal year 2001-02 by
3 \$1,000,000 to increase funding for administration of the prescription drug assistance
4 for elderly program.

5 **2.** Page 208, line 12: after that line insert:

6 "(bv) Prescription drug assistance for
7 elderly; aids

GPR

✓ (B)

49,900,000

-0-

✓

8 **3.** Page 209, line 8: after that line insert:

1	“(j) Prescription drug assistance for				
2	elderly; manufacturer rebates	PR	C	-0-	-0-
3	(jb) Prescription drug assistance for				
4	elderly; enrollment fees	PR	C	-0-	-0-”.

5 **4.** Page 288, line 2: increase the dollar amount for fiscal year 2001–02 by
6 \$1,000,000 to increase funding for administration of the prescription drug assistance
7 for elderly program.

8 **5.** Page 358, line 11: after that line insert:

9 “**SECTION 707bg.** 20.435 (4) (bv) of the statutes is created to read:

10 20.435 (4) (bv) *Prescription drug assistance for elderly; aids.* ~~A sum sufficient~~

11 for payment to pharmacies and pharmacists under s. 49.688 (7) for prescription drug
12 assistance for elderly persons.”.

13 **6.** Page 359, line 8: after that line insert:

14 “**SECTION 711g.** 20.435 (4) (j) of the statutes is created to read:

15 20.435 (4) (j) *Prescription drug assistance for elderly; manufacturer rebates.*

16 All moneys received from rebate payments by manufacturers under s. 49.688 (6), to
17 be used for payment to pharmacies and pharmacists under s. 49.688 (7) for
18 prescription drug assistance for elderly persons.

19 **SECTION 711h.** 20.435 (4) (jb) of the statutes is created to read:

20 20.435 (4) (jb) *Prescription drug assistance for elderly; enrollment fees.* All

21 moneys received from payment of enrollment fees under s. 49.688 (3), to be used for
22 administration of the program under s. 49.688.”.

23 **7.** Page 646, line 22: after that line insert:

24 “**SECTION 1838gb.** 49.688 of the statutes is created to read:

Bisennially,
the amounts
in the schedule

1 **49.688 Prescription drug assistance for elderly persons.** (1) In this
2 section:

3 (a) "Generic name" has the meaning given in s. 450.12 (1) (b).

4 (b) "Poverty line" means the nonfarm federal poverty line for the continental
5 United States, as defined by the federal department of labor under 42 USC 9902 (2).

6 (c) "Prescription drug" means a prescription drug, as defined in s. 450.01 (20),
7 that is included in the drugs specified under s. 49.46 (2) (b) 6. h. and that is
8 manufactured by a drug manufacturer that enters into a rebate agreement in force
9 under sub. (6).

10 (d) "Prescription order" has the meaning given in s. 450.01 (21).

11 (e) "Program payment rate" means the rate of payment made for the identical
12 drug specified under s. 49.46 (2) (b) 6. h., plus 5%, plus a dispensing fee that is equal
13 to the dispensing fee permitted to be charged for prescription drugs for which
14 coverage is provided under s. 49.46 (2) (b) 6. h.

15 (2) (a) A person to whom all of the following applies is eligible to purchase a
16 prescription drug for the amounts specified in sub. (5) (a) 1. and 2.:

17 1. The person is a resident, as defined in s. 27.01 (10) (a), of this state.

18 2. The person is at least 65 years of age.

19 3. The person is not a recipient of medical assistance.

20 4. The person's annual household income, as determined by the department,
21 does not exceed ~~300%~~ of the federal poverty line for a family the size of the person's
22 eligible family. 240

23 5. The person pays the program enrollment fee specified in sub. (3) (a).

24 (b) A person to whom par. (a) 1. to 3. and 5. applies, but whose annual household
25 income, as determined by the department, exceeds ~~300%~~ of the federal poverty line

1 for a family the size of the persons' eligible family, is eligible to purchase a
2 prescription drug at the amounts specified in sub. (5) (a) 4. only during the remaining
3 amount of any 12-month period in which the person has first paid the annual
4 deductible specified in sub. (3) (b) 2. a. in purchasing prescription drugs at the retail
5 price and has then paid the annual deductible specified in sub. (3) (b) 2. b.

6 (3) Program participants shall pay all of the following:

7 (a) For each 12-month benefit period, a program enrollment fee of \$20.

8 (b) 1. For each 12-month benefit period, for a person specified in sub. (2) (a),
9 a deductible for prescription drugs of \$500, except that a person whose annual
10 household income, as determined by the department, is ~~175%~~ ¹⁶⁰ or less of the federal
11 poverty line for a family the size of the person's eligible family pays no deductible.

12 2. For each 12-month benefit period, for a person specified in sub. (2) (b), a
13 deductible for prescription drugs that equals all of the following:

14 a. The difference between the person's annual household income and ~~300%~~ ²⁴⁰ of
15 the federal poverty line for a family the size of the person's eligible family.

16 b. Five hundred dollars.

17 (c) After payment of any applicable deductible under par. (b), all of the
18 following:

19 1. A copayment of \$5 for each prescription drug that bears only a generic name.

20 2. A copayment of ~~\$10~~ ¹⁵ for each prescription drug that does not bear only a
21 generic name.

22 (d) Notwithstanding s. 49.002, if a person who is eligible under this section has
23 other available coverage for payment of a prescription drug, this section applies only
24 to costs for prescription drugs for the persons that are not covered under the person's
25 other available coverage.

1 (4) The department shall devise and distribute a form for application for the
2 program under sub. (2), shall determine eligibility for each 12-month benefit period
3 of applicants and shall issue to eligible persons a prescription drug card for use in
4 purchasing prescription drugs, as specified in sub. (5). The department shall
5 promulgate rules that specify the criteria to be used to determine household income
6 under sub. (2) (a) 4. and (b) and (3) (b) 1.

7 (5) (a) Beginning ^{on} September 1, 2002, as a condition of participation by a
8 pharmacy or pharmacist in the program under s. 49.45, 49.46, or 49.47, the
9 pharmacy or pharmacist may not charge a person who presents a valid prescription
10 order and a card indicating that he or she meets eligibility requirements under sub.
11 (2) an amount for a prescription drug under the order that exceeds the following:

12 1. For a deductible, as specified in sub. (3) (b) 1. and 2. b., the program payment
13 rate.

14 2. After any applicable deductible under subd. 1. is charged, the copayment, as
15 applicable, that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged
16 to a person under this subdivision.

17 3. For a deductible, as specified in sub. (3) (b) 2. a., the retail price.

18 4. After the deductible under subd. 3. is charged, the copayment, as applicable,
19 that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged to a person
20 under this subdivision.

21 (b) The department shall calculate and transmit to pharmacies and
22 pharmacists that are certified providers of medical assistance amounts that may be
23 used in calculating charges under par. (a). The department shall periodically update
24 this information and transmit the updated amounts to pharmacies and pharmacists.

except as provided in
sub. (7) (b),

1 (6) The department, or an entity with which the department contracts, shall
 2 provide to a drug manufacturer that sells drugs for prescribed use in this state
 3 documents designed for use by the manufacturer in entering into a rebate agreement
 4 with the department or entity that is modeled on the rebate agreement specified
 5 under 42 USC 1396r-8. A rebate agreement under this subsection shall include all
 6 of the following as requirements:

, except as provided in sub. (7)(b);

7 (a) That ~~the~~ manufacturer shall make rebate payments for each prescription
 8 drug of the manufacturer that is prescribed for and purchased by persons who meet
 9 criteria under sub. (2) (a) and persons who meet criteria under sub. (2) (b) and have
 10 paid the deductible under sub. (3) (b) 2. a., to the state treasurer to be credited to the
 11 appropriation account under s. 20.435 (4) (j), each calendar quarter or according to
 12 a schedule established by the department.

13 (b) That ~~the~~ amount of the rebate payment shall be determined by a method
 14 specified in 42 USC 1396r-8 (c).

(a) Except as ^{as} provided in par. (b),

15 (7) From the appropriation accounts under s. 20.435 (4) (bv) and (j), beginning ~~on~~
 16 September 1, 2002, the department shall, under a schedule that is identical to that
 17 used by the department for payment of pharmacy provider claims under medical
 18 assistance, provide to pharmacies and pharmacists payments for prescription drugs
 19 sold by the pharmacies or pharmacists to persons eligible under sub. (2) who have
 20 paid the deductible specified under sub. (3) (b) 1. or 2. or who, under sub. (3) (b) 1.,
 21 are not required to pay a deductible. The payment for each prescription drug under
 22 this ~~subsection~~ ^{paragraph} shall be at the program payment rate, minus any copayment paid by
 23 the person under sub. (5) (a) 2. or 4., and plus, if applicable, incentive payments that
 24 are similar to those provided under s. 49.45 (8v). The department shall devise and
 25 distribute a claim form for use by pharmacies and pharmacists under this ~~subsection~~ ^{paragraph}

paragraph

1 and may limit payment under this ~~subsection~~ ^{paragraph} to those prescription drugs for which
2 payment claims are submitted by pharmacists or pharmacies directly to the
3 department. The department may apply to the program under this [✓] section the same
4 utilization and cost control procedures that apply under rules promulgated by the
5 department to medical assistance under subch. IV of ch. 49.

✓
INSERT 7-5
6 (8) The department shall, under methods promulgated by the department by
7 rule, monitor compliance by pharmacies and pharmacists that are certified providers
8 of medical assistance with the requirements of sub. (5) and shall annually report to
9 the legislature under s. 13.172 (2) concerning the compliance. The report shall
10 include information on any pharmacies or pharmacists that discontinue
11 participation as certified providers of medical assistance and the reasons given for
12 the discontinuance.

13 (9) (a) The department shall promulgate rules relating to prohibitions on fraud
14 that are substantially similar to applicable provisions under s. 49.49 (1) (a).

15 (b) A person who is convicted of violating a rule promulgated by the department
16 under par. (a) in connection with that person's furnishing of prescription drugs under
17 this section may be fined not more than \$25,000, or imprisoned for not more than 7
18 years and 6 months, or both.

19 (c) A person other than a person specified in par. (b) who is convicted of violating
20 a rule promulgated by the department under par. (a) may be fined not more than
21 \$10,000, or imprisoned for not more than one year, or both.

22 (10) If federal law is amended to provide coverage for prescription drugs for
23 outpatient care as a benefit under medicare or to provide similar coverage under
24 another program, the department shall submit to appropriate standing committees
25 of the legislature under s. 13.172 (3) a report that contains an analysis of the

1 differences between such a federal program and the program under this section and
2 that provides recommendations concerning alignment, if any, of the differences.

INSER 8-2

3 (11) Except as provided in subs. (8) to (10) and except for the department's
4 rule-making requirements and authority, the department may enter into a contract
5 with an entity to perform the duties and exercise the powers of the department under
6 this section."

7 **8.** Page 1338, line 20: after that line insert:

8 "(16h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY; ADMINISTRATION. Before July
9 1, 2002, the department of health and family services may develop and submit to the
10 department of administration a proposal for expenditure of the funds appropriated
11 under section 20.865 (4) (a) of the statutes for administration of the prescription drug
12 assistance for elderly program under section 49.688 of the statutes, as created by this
13 act. The department of administration may approve, disapprove, or modify and
14 approve any proposal it receives under this subsection. If the department of
15 administration approves the proposal, the department shall submit the proposal,
16 together with any modifications, to the cochairpersons of the joint committee on
17 finance. If the cochairpersons of the committee do not notify the secretaries of
18 administration and health and family services within 14 working days after
19 receiving the proposal that the cochairpersons have scheduled a meeting for the
20 purpose of reviewing the proposal, the secretary of administration may transfer from
21 the appropriation account under section 20.865 (4) (a) of the statutes to the
22 appropriation account under section 20.435 (4) (a) of the statutes the amount
23 specified in the proposal or any proposed modifications of the proposal for
24 expenditure as specified in the proposal or any proposed modifications of the

1 proposal and may approve any position authority specified in the proposal or any
2 proposed modifications of the proposal. If, within 14 working days after receiving the
3 proposal, the cochairpersons notify the secretaries of administration and health and
4 family services that the cochairpersons have scheduled a meeting for the purpose of
5 reviewing the proposal, the secretary of administration may not transfer any amount
6 specified in the proposal or any proposed modifications of the proposal from the
7 appropriation account under section 20.865 (4) (a) of the statutes and may not
8 approve any position authority specified in the proposal or any proposed
9 modifications of the proposal, except as approved by the committee. " ✓

10 (16j) NOTIFICATION OF ELIGIBILITY FOR THE HEALTH INSURANCE RISK-SHARING PLAN.
11 Before January 1, 2002, the department of health and family services shall provide,
12 to the extent permitted under federal law, to every resident of this state who is
13 covered by medicare because he or she is disabled under 42 USC 423 and who is not
14 covered under the health insurance risk-sharing plan under chapter 149 of the
15 statutes, notice by mail of all of the following:
16 (a) That he or she may be eligible for coverage under the health insurance
17 risk-sharing plan.
18 (b) How to apply for coverage under the health insurance risk-sharing plan."

19 **9.** Page 1420, line 19: after that line insert:

20 "(19h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY. The treatment of section
21 20.435 (4) (bv) of the statutes takes effect on September 1, 2002."

22 (END)

INSERT 7-5 ✓

text. treat ✓

During any period in which ✓

(b) ~~§~~ funding under s. 20.435 (4) (j) is completely

expended for the payments specified in par. (a), the

requirements of subs. (3)(c), (5) and (6)(a) and (b) do not

apply, but the department shall continue to

accept applications and determine eligibility under

sub. (4) and shall indicate to applicants that

the eligibility of program participants to purchase

prescription drugs as specified in sub. (3), under

the requirements of sub. (5), is conditioned on

the availability of funding under s. 20.435

(4)(j).

INSERT 8-2 ✓

text: treat

(B)

federal secretary

(ii) The department shall request from the ~~of the federal department~~ of health and human services

a waiver, ~~under~~ 42 USC 1315(a), of federal medicaid

laws necessary to permit the department of health and

family services to conduct a project, under all of the

requirements of this section, to expand eligibility

for purposes of receipt of prescription drugs as a benefit,

for medical assistance to include individuals

who are eligible under sub. (2). The department

may implement a waiver requested under this

~~paragraph~~ subsection only if the conditions of the waiver are

consistent with the requirements of this section.

The department shall implement the program

under this section regardless of whether subsection,

a waiver, as specified in this paragraph is

received.

LFB:.....Carabell - Prescription drugs for elderly

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 207, line 19: increase the dollar amount for fiscal year 2001-02 by
3 \$1,000,000 to increase funding for administration of the prescription drug assistance
4 for elderly program.

5 2. Page 208, line 12: after that line insert:

6 “(bv) Prescription drug assistance for
7 elderly; aids GPR B -0- 49,900,000”

8 3. Page 209, line 8: after that line insert:

1	“(j) Prescription drug assistance for				
2	elderly; manufacturer rebates	PR	C	-0-	-0-
3	(jb) Prescription drug assistance for				
4	elderly; enrollment fees	PR	C	-0-	-0-”.

5 **4.** Page 288, line 2: increase the dollar amount for fiscal year 2001–02 by
6 \$1,000,000 to increase funding for administration of the prescription drug assistance
7 for elderly program.

8 **5.** Page 358, line 11: after that line insert:

9 “**SECTION 707bg.** 20.435 (4) (bv) of the statutes is created to read:

10 20.435 (4) (bv) *Prescription drug assistance for elderly; aids.* Biennially, the
11 amounts in the schedule for payment to pharmacies and pharmacists under s. 49.688
12 (7) for prescription drug assistance for elderly persons.”.

13 **6.** Page 359, line 8: after that line insert:

14 “**SECTION 711g.** 20.435 (4) (j) of the statutes is created to read:

15 20.435 (4) (j) *Prescription drug assistance for elderly; manufacturer rebates.*
16 All moneys received from rebate payments by manufacturers under s. 49.688 (6), to
17 be used for payment to pharmacies and pharmacists under s. 49.688 (7) for
18 prescription drug assistance for elderly persons.

19 **SECTION 711h.** 20.435 (4) (jb) of the statutes is created to read:

20 20.435 (4) (jb) *Prescription drug assistance for elderly; enrollment fees.* All
21 moneys received from payment of enrollment fees under s. 49.688 (3), to be used for
22 administration of the program under s. 49.688.”.

23 **7.** Page 646, line 22: after that line insert:

24 “**SECTION 1838gb.** 49.688 of the statutes is created to read:

1 **49.688 Prescription drug assistance for elderly persons.** (1) In this
2 section:

3 (a) “Generic name” has the meaning given in s. 450.12 (1) (b).

4 (b) “Poverty line” means the nonfarm federal poverty line for the continental
5 United States, as defined by the federal department of labor under 42 USC 9902 (2).

6 (c) “Prescription drug” means a prescription drug, as defined in s. 450.01 (20),
7 that is included in the drugs specified under s. 49.46 (2) (b) 6. h. and that is
8 manufactured by a drug manufacturer that enters into a rebate agreement in force
9 under sub. (6).

10 (d) “Prescription order” has the meaning given in s. 450.01 (21).

11 (e) “Program payment rate” means the rate of payment made for the identical
12 drug specified under s. 49.46 (2) (b) 6. h., plus 5%, plus a dispensing fee that is equal
13 to the dispensing fee permitted to be charged for prescription drugs for which
14 coverage is provided under s. 49.46 (2) (b) 6. h.

15 (2) (a) A person to whom all of the following applies is eligible to purchase a
16 prescription drug for the amounts specified in sub. (5) (a) 1. and 2.:

17 1. The person is a resident, as defined in s. 27.01 (10) (a), of this state.

18 2. The person is at least 65 years of age.

19 3. The person is not a recipient of medical assistance.

20 4. The person’s annual household income, as determined by the department,
21 does not exceed 240% of the federal poverty line for a family the size of the person’s
22 eligible family.

23 5. The person pays the program enrollment fee specified in sub. (3) (a).

24 (b) A person to whom par. (a) 1. to 3. and 5. applies, but whose annual household
25 income, as determined by the department, exceeds 240% of the federal poverty line

1 for a family the size of the persons' eligible family, is eligible to purchase a
2 prescription drug at the amounts specified in sub. (5) (a) 4. only during the remaining
3 amount of any 12-month period in which the person has first paid the annual
4 deductible specified in sub. (3) (b) 2. a. in purchasing prescription drugs at the retail
5 price and has then paid the annual deductible specified in sub. (3) (b) 2. b.

6 (3) Program participants shall pay all of the following:

7 (a) For each 12-month benefit period, a program enrollment fee of \$20.

8 (b) 1. For each 12-month benefit period, for a person specified in sub. (2) (a),
9 a deductible for prescription drugs of \$500, except that a person whose annual
10 household income, as determined by the department, is 160% or less of the federal
11 poverty line for a family the size of the person's eligible family pays no deductible.

12 2. For each 12-month benefit period, for a person specified in sub. (2) (b), a
13 deductible for prescription drugs that equals all of the following:

14 a. The difference between the person's annual household income and 240% of
15 the federal poverty line for a family the size of the person's eligible family.

16 b. Five hundred dollars.

17 (c) After payment of any applicable deductible under par. (b), all of the
18 following:

19 1. A copayment of \$5 for each prescription drug that bears only a generic name.

20 2. A copayment of \$15 for each prescription drug that does not bear only a
21 generic name.

22 (d) Notwithstanding s. 49.002, if a person who is eligible under this section has
23 other available coverage for payment of a prescription drug, this section applies only
24 to costs for prescription drugs for the persons that are not covered under the person's
25 other available coverage.

1 (4) The department shall devise and distribute a form for application for the
2 program under sub. (2), shall determine eligibility for each 12-month benefit period
3 of applicants and shall issue to eligible persons a prescription drug card for use in
4 purchasing prescription drugs, as specified in sub. (5). The department shall
5 promulgate rules that specify the criteria to be used to determine household income
6 under sub. (2) (a) 4. and (b) and (3) (b) 1.

7 (5) (a) Beginning on September 1, 2002, except as provided in sub. (7) (b), as
8 a condition of participation by a pharmacy or pharmacist in the program under s.
9 49.45, 49.46, or 49.47, the pharmacy or pharmacist may not charge a person who
10 presents a valid prescription order and a card indicating that he or she meets
11 eligibility requirements under sub. (2) an amount for a prescription drug under the
12 order that exceeds the following:

13 1. For a deductible, as specified in sub. (3) (b) 1. and 2. b., the program payment
14 rate.

15 2. After any applicable deductible under subd. 1. is charged, the copayment, as
16 applicable, that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged
17 to a person under this subdivision.

18 3. For a deductible, as specified in sub. (3) (b) 2. a., the retail price.

19 4. After the deductible under subd. 3. is charged, the copayment, as applicable,
20 that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged to a person
21 under this subdivision.

22 (b) The department shall calculate and transmit to pharmacies and
23 pharmacists that are certified providers of medical assistance amounts that may be
24 used in calculating charges under par. (a). The department shall periodically update
25 this information and transmit the updated amounts to pharmacies and pharmacists.

1 (6) The department, or an entity with which the department contracts, shall
2 provide to a drug manufacturer that sells drugs for prescribed use in this state
3 documents designed for use by the manufacturer in entering into a rebate agreement
4 with the department or entity that is modeled on the rebate agreement specified
5 under 42 USC 1396r-8. A rebate agreement under this subsection shall include all
6 of the following as requirements:

7 (a) That, except as provided in sub. (7) (b), the manufacturer shall make rebate
8 payments for each prescription drug of the manufacturer that is prescribed for and
9 purchased by persons who meet criteria under sub. (2) (a) and persons who meet
10 criteria under sub. (2) (b) and have paid the deductible under sub. (3) (b) 2. a., to the
11 state treasurer to be credited to the appropriation account under s. 20.435 (4) (j), each
12 calendar quarter or according to a schedule established by the department.

13 (b) That, except as provided in sub. (7) (b), the amount of the rebate payment
14 shall be determined by a method specified in 42 USC 1396r-8 (c).

15 (7) (a) Except as provided in par. (b), from the appropriation accounts under
16 s. 20.435 (4) (bv) and (j), beginning on September 1, 2002, the department shall,
17 under a schedule that is identical to that used by the department for payment of
18 pharmacy provider claims under medical assistance, provide to pharmacies and
19 pharmacists payments for prescription drugs sold by the pharmacies or pharmacists
20 to persons eligible under sub. (2) who have paid the deductible specified under sub.
21 (3) (b) 1. or 2. or who, under sub. (3) (b) 1., are not required to pay a deductible. The
22 payment for each prescription drug under this paragraph shall be at the program
23 payment rate, minus any copayment paid by the person under sub. (5) (a) 2. or 4., and
24 plus, if applicable, incentive payments that are similar to those provided under s.
25 49.45 (8v). The department shall devise and distribute a claim form for use by

1 pharmacies and pharmacists under this paragraph and may limit payment under
2 this paragraph to those prescription drugs for which payment claims are submitted
3 by pharmacists or pharmacies directly to the department. The department may
4 apply to the program under this section the same utilization and cost control
5 procedures that apply under rules promulgated by the department to medical
6 assistance under subch. IV of ch. 49.

7 (b) During any period in which funding under s. 20.435 (4) (j) is completely
8 expended for the payments specified in par. (a), the requirements of subs. (3) (c), (5),
9 and (6) (a) and (b) do not apply, but the department shall continue to accept
10 applications and determine eligibility under sub. (4) and shall indicate to applicants
11 that the eligibility of program participants to purchase prescription drugs as
12 specified in sub. (3), under the requirements of sub. (5), is conditioned on the
13 availability of funding under s. 20.435 (4) (j).

14 (8) The department shall, under methods promulgated by the department by
15 rule, monitor compliance by pharmacies and pharmacists that are certified providers
16 of medical assistance with the requirements of sub. (5) and shall annually report to
17 the legislature under s. 13.172 (2) concerning the compliance. The report shall
18 include information on any pharmacies or pharmacists that discontinue
19 participation as certified providers of medical assistance and the reasons given for
20 the discontinuance.

21 (9) (a) The department shall promulgate rules relating to prohibitions on fraud
22 that are substantially similar to applicable provisions under s. 49.49 (1) (a).

23 (b) A person who is convicted of violating a rule promulgated by the department
24 under par. (a) in connection with that person's furnishing of prescription drugs under

1 this section may be fined not more than \$25,000, or imprisoned for not more than 7
2 years and 6 months, or both.

3 (c) A person other than a person specified in par. (b) who is convicted of violating
4 a rule promulgated by the department under par. (a) may be fined not more than
5 \$10,000, or imprisoned for not more than one year, or both.

6 (10) If federal law is amended to provide coverage for prescription drugs for
7 outpatient care as a benefit under medicare or to provide similar coverage under
8 another program, the department shall submit to appropriate standing committees
9 of the legislature under s. 13.172 (3) a report that contains an analysis of the
10 differences between such a federal program and the program under this section and
11 that provides recommendations concerning alignment, if any, of the differences.

12 (11) The department shall request from the federal secretary of health and
13 human services a waiver, under 42 USC 1315 (a), of federal medicaid laws necessary
14 to permit the department of health and family services to conduct a project, under
15 all of the requirements of this section, to expand eligibility for medical assistance,
16 for purposes of receipt of prescription drugs as a benefit, to include individuals who
17 are eligible under sub. (2). The department may implement a waiver requested
18 under this subsection only if the conditions of the waiver are consistent with the
19 requirements of this section. The department shall implement the program under
20 this section regardless of whether a waiver, as specified in this subsection, is
21 received.

22 (12) Except as provided in subs. (8) to (11) and except for the department's
23 rule-making requirements and authority, the department may enter into a contract
24 with an entity to perform the duties and exercise the powers of the department under
25 this section."

1 **8.** Page 1338, line 20: after that line insert:

2 “(16h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY, ADMINISTRATION. Before July
3 1, 2002, the department of health and family services may develop and submit to the
4 department of administration a proposal for expenditure of the funds appropriated
5 under section 20.865 (4) (a) of the statutes for administration of the prescription drug
6 assistance for elderly program under section 49.688 of the statutes, as created by this
7 act. The department of administration may approve, disapprove, or modify and
8 approve any proposal it receives under this subsection. If the department of
9 administration approves the proposal, the department shall submit the proposal,
10 together with any modifications, to the cochairpersons of the joint committee on
11 finance. If the cochairpersons of the committee do not notify the secretaries of
12 administration and health and family services within 14 working days after
13 receiving the proposal that the cochairpersons have scheduled a meeting for the
14 purpose of reviewing the proposal, the secretary of administration may transfer from
15 the appropriation account under section 20.865 (4) (a) of the statutes to the
16 appropriation account under section 20.435 (4) (a) of the statutes the amount
17 specified in the proposal or any proposed modifications of the proposal for
18 expenditure as specified in the proposal or any proposed modifications of the
19 proposal and may approve any position authority specified in the proposal or any
20 proposed modifications of the proposal. If, within 14 working days after receiving the
21 proposal, the cochairpersons notify the secretaries of administration and health and
22 family services that the cochairpersons have scheduled a meeting for the purpose of
23 reviewing the proposal, the secretary of administration may not transfer any amount
24 specified in the proposal or any proposed modifications of the proposal from the

1 appropriation account under section 20.865 (4) (a) of the statutes and may not
2 approve any position authority specified in the proposal or any proposed
3 modifications of the proposal, except as approved by the committee.”.

4 **9.** Page 1420, line 19: after that line insert:

5 “(19h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY. The treatment of section
6 20.435 (4) (bv) of the statutes takes effect on September 1, 2002.”.

7 (END)

From Rachel 7/23

p. 7, l. 7 - (j) should be (b)

p. 7, l. 8 - add par. (a)

~~3~~
also -

TODAY 7/23

LFB:.....Carabell - Prescription drugs for elderly

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 207, line 19: increase the dollar amount for fiscal year 2001-02 by
3 \$1,000,000 to increase funding for administration of the prescription drug assistance
4 for elderly program.

5 **2.** Page 208, line 12: after that line insert:

6 “(bv) Prescription drug assistance for
7 elderly; aids GPR B 49,900,000”
-0-

8 **3.** Page 209, line 8: after that line insert:

1	“(j) Prescription drug assistance for				
2	elderly; manufacturer rebates	PR	C	-0-	-0-
3	(jb) Prescription drug assistance for				
4	elderly; enrollment fees	PR	C	-0-	-0-”.

5 **4.** Page 288, line 2: increase the dollar amount for fiscal year 2001–02 by
6 \$1,000,000 to increase funding for administration of the prescription drug assistance
7 for elderly program.

8 **5.** Page 358, line 11: after that line insert:

9 “**SECTION 707bg.** 20.435 (4) (bv) of the statutes is created to read:

10 20.435 (4) (bv) *Prescription drug assistance for elderly; aids.* Biennially, the
11 amounts in the schedule for payment to pharmacies and pharmacists under s. 49.688
12 (7) for prescription drug assistance for elderly persons.”.

13 **6.** Page 359, line 8: after that line insert:

14 “**SECTION 711g.** 20.435 (4) (j) of the statutes is created to read:

15 20.435 (4) (j) *Prescription drug assistance for elderly; manufacturer rebates.*
16 All moneys received from rebate payments by manufacturers under s. 49.688 (6), to
17 be used for payment to pharmacies and pharmacists under s. 49.688 (7) for
18 prescription drug assistance for elderly persons.

19 **SECTION 711h.** 20.435 (4) (jb) of the statutes is created to read:

20 20.435 (4) (jb) *Prescription drug assistance for elderly; enrollment fees.* All
21 moneys received from payment of enrollment fees under s. 49.688 (3), to be used for
22 administration of the program under s. 49.688.”.

23 **7.** Page 646, line 22: after that line insert:

24 “**SECTION 1838gb.** 49.688 of the statutes is created to read:

1 **49.688 Prescription drug assistance for elderly persons.** (1) In this
2 section:

3 (a) “Generic name” has the meaning given in s. 450.12 (1) (b).

4 (b) “Poverty line” means the nonfarm federal poverty line for the continental
5 United States, as defined by the federal department of labor under 42 USC 9902 (2).

6 (c) “Prescription drug” means a prescription drug, as defined in s. 450.01 (20),
7 that is included in the drugs specified under s. 49.46 (2) (b) 6. h. and that is
8 manufactured by a drug manufacturer that enters into a rebate agreement in force
9 under sub. (6).

10 (d) “Prescription order” has the meaning given in s. 450.01 (21).

11 (e) “Program payment rate” means the rate of payment made for the identical
12 drug specified under s. 49.46 (2) (b) 6. h., plus 5%, plus a dispensing fee that is equal
13 to the dispensing fee permitted to be charged for prescription drugs for which
14 coverage is provided under s. 49.46 (2) (b) 6. h.

15 **(2) (a)** A person to whom all of the following applies is eligible to purchase a
16 prescription drug for the amounts specified in sub. (5) (a) 1. and 2.:

- 17 1. The person is a resident, as defined in s. 27.01 (10) (a), of this state.
- 18 2. The person is at least 65 years of age.
- 19 3. The person is not a recipient of medical assistance.
- 20 4. The person’s annual household income, as determined by the department,
21 does not exceed 240% of the federal poverty line for a family the size of the person’s
22 eligible family.
- 23 5. The person pays the program enrollment fee specified in sub. (3) (a).

24 (b) A person to whom par. (a) 1. to 3. and 5. applies, but whose annual household
25 income, as determined by the department, exceeds 240% of the federal poverty line

1 for a family the size of the persons' eligible family, is eligible to purchase a
2 prescription drug at the amounts specified in sub. (5) (a) 4. only during the remaining
3 amount of any 12-month period in which the person has first paid the annual
4 deductible specified in sub. (3) (b) 2. a. in purchasing prescription drugs at the retail
5 price and has then paid the annual deductible specified in sub. (3) (b) 2. b.

6 (3) Program participants shall pay all of the following:

7 (a) For each 12-month benefit period, a program enrollment fee of \$20.

8 (b) 1. For each 12-month benefit period, for a person specified in sub. (2) (a),
9 a deductible for prescription drugs of \$500, except that a person whose annual
10 household income, as determined by the department, is 160% or less of the federal
11 poverty line for a family the size of the person's eligible family pays no deductible.

12 2. For each 12-month benefit period, for a person specified in sub. (2) (b), a
13 deductible for prescription drugs that equals all of the following:

14 a. The difference between the person's annual household income and 240% of
15 the federal poverty line for a family the size of the person's eligible family.

16 b. Five hundred dollars.

17 (c) After payment of any applicable deductible under par. (b), all of the
18 following:

19 1. A copayment of \$5 for each prescription drug that bears only a generic name.

20 2. A copayment of \$15 for each prescription drug that does not bear only a
21 generic name.

22 (d) Notwithstanding s. 49.002, if a person who is eligible under this section has
23 other available coverage for payment of a prescription drug, this section applies only
24 to costs for prescription drugs for the persons that are not covered under the person's
25 other available coverage.

1 (4) The department shall devise and distribute a form for application for the
2 program under sub. (2), shall determine eligibility for each 12-month benefit period
3 of applicants and shall issue to eligible persons a prescription drug card for use in
4 purchasing prescription drugs, as specified in sub. (5). The department shall
5 promulgate rules that specify the criteria to be used to determine household income
6 under sub. (2) (a) 4. and (b) and (3) (b) 1.

7 (5) (a) Beginning on September 1, 2002, except as provided in sub. (7) (b), as
8 a condition of participation by a pharmacy or pharmacist in the program under s.
9 49.45, 49.46, or 49.47, the pharmacy or pharmacist may not charge a person who
10 presents a valid prescription order and a card indicating that he or she meets
11 eligibility requirements under sub. (2) an amount for a prescription drug under the
12 order that exceeds the following:

13 1. For a deductible, as specified in sub. (3) (b) 1. and 2. b., the program payment
14 rate.

15 2. After any applicable deductible under subd. 1. is charged, the copayment, as
16 applicable, that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged
17 to a person under this subdivision.

18 3. For a deductible, as specified in sub. (3) (b) 2. a., the retail price.

19 4. After the deductible under subd. 3. is charged, the copayment, as applicable,
20 that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged to a person
21 under this subdivision.

22 (b) The department shall calculate and transmit to pharmacies and
23 pharmacists that are certified providers of medical assistance amounts that may be
24 used in calculating charges under par. (a). The department shall periodically update
25 this information and transmit the updated amounts to pharmacies and pharmacists.

1 (6) The department, or an entity with which the department contracts, shall
2 provide to a drug manufacturer that sells drugs for prescribed use in this state
3 documents designed for use by the manufacturer in entering into a rebate agreement
4 with the department or entity that is modeled on the rebate agreement specified
5 under 42 USC 1396r–8. A rebate agreement under this subsection shall include all
6 of the following as requirements:

7 (a) That, except as provided in sub. (7) (b), the manufacturer shall make rebate
8 payments for each prescription drug of the manufacturer that is prescribed for and
9 purchased by persons who meet criteria under sub. (2) (a) and persons who meet
10 criteria under sub. (2) (b) and have paid the deductible under sub. (3) (b) 2. a., to the
11 state treasurer to be credited to the appropriation account under s. 20.435 (4) (j), each
12 calendar quarter or according to a schedule established by the department.

13 (b) That, except as provided in sub. (7) (b), the amount of the rebate payment
14 shall be determined by a method specified in 42 USC 1396r–8 (c).

15 (7) (a) Except as provided in par. (b), from the appropriation accounts under
16 s. 20.435 (4) (bv) and (j), beginning on September 1, 2002, the department shall,
17 under a schedule that is identical to that used by the department for payment of
18 pharmacy provider claims under medical assistance, provide to pharmacies and
19 pharmacists payments for prescription drugs sold by the pharmacies or pharmacists
20 to persons eligible under sub. (2) who have paid the deductible specified under sub.
21 (3) (b) 1. or 2. or who, under sub. (3) (b) 1., are not required to pay a deductible. The
22 payment for each prescription drug under this paragraph shall be at the program
23 payment rate, minus any copayment paid by the person under sub. (5) (a) 2. or 4., and
24 plus, if applicable, incentive payments that are similar to those provided under s.
25 49.45 (8v). The department shall devise and distribute a claim form for use by

1 pharmacies and pharmacists under this paragraph and may limit payment under
 2 this paragraph to those prescription drugs for which payment claims are submitted
 3 by pharmacists or pharmacies directly to the department. The department may
 4 apply to the program under this section the same utilization and cost control
 5 procedures that apply under rules promulgated by the department to medical
 6 assistance under subch. IV of ch. 49.

7 (b) During any period in which funding under s. 20.435 (4) ^{to drugs purchased during that period} is completely
 8 expended for the payments specified in par. (a), the requirements of subs. (3) (c), (5),
 9 and (6) (a) and (b) do not apply, but the department shall continue to accept
 10 applications and determine eligibility under sub. (4) and shall indicate to applicants
 11 that the eligibility of program participants to purchase prescription drugs as
 12 specified in sub. (3), under the requirements of sub. (5), is conditioned on the
 13 availability of funding under s. 20.435 (4) ^(bv) ^{par. (a) and}

14 (8) The department shall, under methods promulgated by the department by
 15 rule, monitor compliance by pharmacies and pharmacists that are certified providers
 16 of medical assistance with the requirements of sub. (5) and shall annually report to
 17 the legislature under s. 13.172 (2) concerning the compliance. The report shall
 18 include information on any pharmacies or pharmacists that discontinue
 19 participation as certified providers of medical assistance and the reasons given for
 20 the discontinuance.

21 (9) (a) The department shall promulgate rules relating to prohibitions on fraud
 22 that are substantially similar to applicable provisions under s. 49.49 (1) (a).

23 (b) A person who is convicted of violating a rule promulgated by the department
 24 under par. (a) in connection with that person's furnishing of prescription drugs under

1 this section may be fined not more than \$25,000, or imprisoned for not more than 7
2 years and 6 months, or both.

3 (c) A person other than a person specified in par. (b) who is convicted of violating
4 a rule promulgated by the department under par. (a) may be fined not more than
5 \$10,000, or imprisoned for not more than one year, or both.

6 (10) If federal law is amended to provide coverage for prescription drugs for
7 outpatient care as a benefit under medicare or to provide similar coverage under
8 another program, the department shall submit to appropriate standing committees
9 of the legislature under s. 13.172 (3) a report that contains an analysis of the
10 differences between such a federal program and the program under this section and
11 that provides recommendations concerning alignment, if any, of the differences.

12 (11) The department shall request from the federal secretary of health and
13 human services a waiver, under 42 USC 1315 (a), of federal medicaid laws necessary
14 to permit the department of health and family services to conduct a project, under
15 all of the requirements of this section, to expand eligibility for medical assistance,
16 for purposes of receipt of prescription drugs as a benefit, to include individuals who
17 are eligible under sub. (2). The department may implement a waiver requested
18 under this subsection only if the conditions of the waiver are consistent with the
19 requirements of this section. The department shall implement the program under
20 this section regardless of whether a waiver, as specified in this subsection, is
21 received.

22 (12) Except as provided in subs. (8) to (11) and except for the department's
23 rule-making requirements and authority, the department may enter into a contract
24 with an entity to perform the duties and exercise the powers of the department under
25 this section.”.

1 **8.** Page 1338, line 20: after that line insert:

2 “(16h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY; ADMINISTRATION. Before July
3 1, 2002, the department of health and family services may develop and submit to the
4 department of administration a proposal for expenditure of the funds appropriated
5 under section 20.865 (4) (a) of the statutes for administration of the prescription drug
6 assistance for elderly program under section 49.688 of the statutes, as created by this
7 act. The department of administration may approve, disapprove, or modify and
8 approve any proposal it receives under this subsection. If the department of
9 administration approves the proposal, the department shall submit the proposal,
10 together with any modifications, to the cochairpersons of the joint committee on
11 finance. If the cochairpersons of the committee do not notify the secretaries of
12 administration and health and family services within 14 working days after
13 receiving the proposal that the cochairpersons have scheduled a meeting for the
14 purpose of reviewing the proposal, the secretary of administration may transfer from
15 the appropriation account under section 20.865 (4) (a) of the statutes to the
16 appropriation account under section 20.435 (4) (a) of the statutes the amount
17 specified in the proposal or any proposed modifications of the proposal for
18 expenditure as specified in the proposal or any proposed modifications of the
19 proposal and may approve any position authority specified in the proposal or any
20 proposed modifications of the proposal. If, within 14 working days after receiving the
21 proposal, the cochairpersons notify the secretaries of administration and health and
22 family services that the cochairpersons have scheduled a meeting for the purpose of
23 reviewing the proposal, the secretary of administration may not transfer any amount
24 specified in the proposal or any proposed modifications of the proposal from the

1 appropriation account under section 20.865 (4) (a) of the statutes and may not
2 approve any position authority specified in the proposal or any proposed
3 modifications of the proposal, except as approved by the committee.”.

4 **9.** Page 1420, line 19: after that line insert:

5 “(19h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY. The treatment of section
6 20.435 (4) (bv) of the statutes takes effect on September 1, 2002.”.

7 (END)



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb2202/2
DAK:kmg&hnh:jf

LFB:.....Carabell – Prescription drugs for elderly

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

SENATE AMENDMENT

TO SENATE SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 207, line 19: increase the dollar amount for fiscal year 2001-02 by
3 \$1,000,000 to increase funding for administration of the prescription drug assistance
4 for elderly program.

5 **2.** Page 208, line 12: after that line insert:

6 “(bv) Prescription drug assistance for

7 elderly; aids GPR B -0- 49,900,000

8 ”.

9 **3.** Page 209, line 8: after that line insert:

1	“(j) Prescription drug assistance for				
2	elderly; manufacturer rebates	PR	C	-0-	-0-
3	(jb) Prescription drug assistance for				
4	elderly; enrollment fees	PR	C	-0-	-0-”.

5 **4.** Page 288, line 2: increase the dollar amount for fiscal year 2001–02 by
6 \$1,000,000 to increase funding for administration of the prescription drug assistance
7 for elderly program.

8 **5.** Page 358, line 11: after that line insert:

9 “**SECTION 707bg.** 20.435 (4) (bv) of the statutes is created to read:

10 20.435 (4) (bv) *Prescription drug assistance for elderly; aids.* Biennially, the
11 amounts in the schedule for payment to pharmacies and pharmacists under s. 49.688
12 (7) for prescription drug assistance for elderly persons.”.

13 **6.** Page 359, line 8: after that line insert:

14 “**SECTION 711g.** 20.435 (4) (j) of the statutes is created to read:

15 20.435 (4) (j) *Prescription drug assistance for elderly; manufacturer rebates.*
16 All moneys received from rebate payments by manufacturers under s. 49.688 (6), to
17 be used for payment to pharmacies and pharmacists under s. 49.688 (7) for
18 prescription drug assistance for elderly persons.

19 **SECTION 711h.** 20.435 (4) (jb) of the statutes is created to read:

20 20.435 (4) (jb) *Prescription drug assistance for elderly; enrollment fees.* All
21 moneys received from payment of enrollment fees under s. 49.688 (3), to be used for
22 administration of the program under s. 49.688.”.

23 **7.** Page 646, line 22: after that line insert:

24 “**SECTION 1838gb.** 49.688 of the statutes is created to read:

1 **49.688 Prescription drug assistance for elderly persons.** (1) In this
2 section:

3 (a) "Generic name" has the meaning given in s. 450.12 (1) (b).

4 (b) "Poverty line" means the nonfarm federal poverty line for the continental
5 United States, as defined by the federal department of labor under 42 USC 9902 (2).

6 (c) "Prescription drug" means a prescription drug, as defined in s. 450.01 (20),
7 that is included in the drugs specified under s. 49.46 (2) (b) 6. h. and that is
8 manufactured by a drug manufacturer that enters into a rebate agreement in force
9 under sub. (6).

10 (d) "Prescription order" has the meaning given in s. 450.01 (21).

11 (e) "Program payment rate" means the rate of payment made for the identical
12 drug specified under s. 49.46 (2) (b) 6. h., plus 5%, plus a dispensing fee that is equal
13 to the dispensing fee permitted to be charged for prescription drugs for which
14 coverage is provided under s. 49.46 (2) (b) 6. h.

15 (2) (a) A person to whom all of the following applies is eligible to purchase a
16 prescription drug for the amounts specified in sub. (5) (a) 1. and 2.:

17 1. The person is a resident, as defined in s. 27.01 (10) (a), of this state.

18 2. The person is at least 65 years of age.

19 3. The person is not a recipient of medical assistance.

20 4. The person's annual household income, as determined by the department,
21 does not exceed 240% of the federal poverty line for a family the size of the person's
22 eligible family.

23 5. The person pays the program enrollment fee specified in sub. (3) (a).

24 (b) A person to whom par. (a) 1. to 3. and 5. applies, but whose annual household
25 income, as determined by the department, exceeds 240% of the federal poverty line

1 for a family the size of the persons' eligible family, is eligible to purchase a
2 prescription drug at the amounts specified in sub. (5) (a) 4. only during the remaining
3 amount of any 12-month period in which the person has first paid the annual
4 deductible specified in sub. (3) (b) 2. a. in purchasing prescription drugs at the retail
5 price and has then paid the annual deductible specified in sub. (3) (b) 2. b.

6 (3) Program participants shall pay all of the following:

7 (a) For each 12-month benefit period, a program enrollment fee of \$20.

8 (b) 1. For each 12-month benefit period, for a person specified in sub. (2) (a),
9 a deductible for prescription drugs of \$500, except that a person whose annual
10 household income, as determined by the department, is 160% or less of the federal
11 poverty line for a family the size of the person's eligible family pays no deductible.

12 2. For each 12-month benefit period, for a person specified in sub. (2) (b), a
13 deductible for prescription drugs that equals all of the following:

14 a. The difference between the person's annual household income and 240% of
15 the federal poverty line for a family the size of the person's eligible family.

16 b. Five hundred dollars.

17 (c) After payment of any applicable deductible under par. (b), all of the
18 following:

19 1. A copayment of \$5 for each prescription drug that bears only a generic name.

20 2. A copayment of \$15 for each prescription drug that does not bear only a
21 generic name.

22 (d) Notwithstanding s. 49.002, if a person who is eligible under this section has
23 other available coverage for payment of a prescription drug, this section applies only
24 to costs for prescription drugs for the persons that are not covered under the person's
25 other available coverage.

1 (4) The department shall devise and distribute a form for application for the
2 program under sub. (2), shall determine eligibility for each 12-month benefit period
3 of applicants and shall issue to eligible persons a prescription drug card for use in
4 purchasing prescription drugs, as specified in sub. (5). The department shall
5 promulgate rules that specify the criteria to be used to determine household income
6 under sub. (2) (a) 4. and (b) and (3) (b) 1.

7 (5) (a) Beginning on September 1, 2002, except as provided in sub. (7) (b), as
8 a condition of participation by a pharmacy or pharmacist in the program under s.
9 49.45, 49.46, or 49.47, the pharmacy or pharmacist may not charge a person who
10 presents a valid prescription order and a card indicating that he or she meets
11 eligibility requirements under sub. (2) an amount for a prescription drug under the
12 order that exceeds the following:

13 1. For a deductible, as specified in sub. (3) (b) 1. and 2. b., the program payment
14 rate.

15 2. After any applicable deductible under subd. 1. is charged, the copayment, as
16 applicable, that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged
17 to a person under this subdivision.

18 3. For a deductible, as specified in sub. (3) (b) 2. a., the retail price.

19 4. After the deductible under subd. 3. is charged, the copayment, as applicable,
20 that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged to a person
21 under this subdivision.

22 (b) The department shall calculate and transmit to pharmacies and
23 pharmacists that are certified providers of medical assistance amounts that may be
24 used in calculating charges under par. (a). The department shall periodically update
25 this information and transmit the updated amounts to pharmacies and pharmacists.

1 **(6)** The department, or an entity with which the department contracts, shall
2 provide to a drug manufacturer that sells drugs for prescribed use in this state
3 documents designed for use by the manufacturer in entering into a rebate agreement
4 with the department or entity that is modeled on the rebate agreement specified
5 under 42 USC 1396r–8. A rebate agreement under this subsection shall include all
6 of the following as requirements:

7 (a) That, except as provided in sub. (7) (b), the manufacturer shall make rebate
8 payments for each prescription drug of the manufacturer that is prescribed for and
9 purchased by persons who meet criteria under sub. (2) (a) and persons who meet
10 criteria under sub. (2)(b) and have paid the deductible under sub. (3) (b) 2. a., to the
11 state treasurer to be credited to the appropriation account under s. 20.435 (4) (j), each
12 calendar quarter or according to a schedule established by the department.

13 (b) That, except as provided in sub. (7) (b), the amount of the rebate payment
14 shall be determined by a method specified in 42 USC 1396r–8 (c).

15 **(7)** (a) Except as provided in par. (b), from the appropriation accounts under
16 s. 20.435 (4) (bv) and (j), beginning on September 1, 2002, the department shall,
17 under a schedule that is identical to that used by the department for payment of
18 pharmacy provider claims under medical assistance, provide to pharmacies and
19 pharmacists payments for prescription drugs sold by the pharmacies or pharmacists
20 to persons eligible under sub. (2) who have paid the deductible specified under sub.
21 (3) (b) 1. or 2. or who, under sub. (3) (b) 1., are not required to pay a deductible. The
22 payment for each prescription drug under this paragraph shall be at the program
23 payment rate, minus any copayment paid by the person under sub. (5) (a) 2. or 4., and
24 plus, if applicable, incentive payments that are similar to those provided under s.
25 49.45 (8v). The department shall devise and distribute a claim form for use by

1 pharmacies and pharmacists under this paragraph and may limit payment under
2 this paragraph to those prescription drugs for which payment claims are submitted
3 by pharmacists or pharmacies directly to the department. The department may
4 apply to the program under this section the same utilization and cost control
5 procedures that apply under rules promulgated by the department to medical
6 assistance under subch. IV of ch. 49.

7 (b) During any period in which funding under s. 20.435 (4) (bv) is completely
8 expended for the payments specified in par. (a), the requirements of par. (a) and subs.
9 (3) (c), (5), and (6) (a) and (b) do not apply to drugs purchased during that period, but
10 the department shall continue to accept applications and determine eligibility under
11 sub. (4) and shall indicate to applicants that the eligibility of program participants
12 to purchase prescription drugs as specified in sub. (3), under the requirements of sub.
13 (5), is conditioned on the availability of funding under s. 20.435 (4) (bv).

14 (8) The department shall, under methods promulgated by the department by
15 rule, monitor compliance by pharmacies and pharmacists that are certified providers
16 of medical assistance with the requirements of sub. (5) and shall annually report to
17 the legislature under s. 13.172 (2) concerning the compliance. The report shall
18 include information on any pharmacies or pharmacists that discontinue
19 participation as certified providers of medical assistance and the reasons given for
20 the discontinuance.

21 (9) (a) The department shall promulgate rules relating to prohibitions on fraud
22 that are substantially similar to applicable provisions under s. 49.49 (1) (a).

23 (b) A person who is convicted of violating a rule promulgated by the department
24 under par. (a) in connection with that person's furnishing of prescription drugs under

1 this section may be fined not more than \$25,000, or imprisoned for not more than 7
2 years and 6 months, or both.

3 (c) A person other than a person specified in par. (b) who is convicted of violating
4 a rule promulgated by the department under par. (a) may be fined not more than
5 \$10,000, or imprisoned for not more than one year, or both.

6 (10) If federal law is amended to provide coverage for prescription drugs for
7 outpatient care as a benefit under medicare or to provide similar coverage under
8 another program, the department shall submit to appropriate standing committees
9 of the legislature under s. 13.172 (3) a report that contains an analysis of the
10 differences between such a federal program and the program under this section and
11 that provides recommendations concerning alignment, if any, of the differences.

12 (11) The department shall request from the federal secretary of health and
13 human services a waiver, under 42 USC 1315 (a), of federal medicaid laws necessary
14 to permit the department of health and family services to conduct a project, under
15 all of the requirements of this section, to expand eligibility for medical assistance,
16 for purposes of receipt of prescription drugs as a benefit, to include individuals who
17 are eligible under sub. (2). The department may implement a waiver requested
18 under this subsection only if the conditions of the waiver are consistent with the
19 requirements of this section. The department shall implement the program under
20 this section regardless of whether a waiver, as specified in this subsection, is
21 received.

22 (12) Except as provided in subs. (8) to (11) and except for the department's
23 rule-making requirements and authority, the department may enter into a contract
24 with an entity to perform the duties and exercise the powers of the department under
25 this section.”.

1 **8.** Page 1338, line 20: after that line insert:

2 “(16h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY; ADMINISTRATION. Before July
3 1, 2002, the department of health and family services may develop and submit to the
4 department of administration a proposal for expenditure of the funds appropriated
5 under section 20.865 (4) (a) of the statutes for administration of the prescription drug
6 assistance for elderly program under section 49.688 of the statutes, as created by this
7 act. The department of administration may approve, disapprove, or modify and
8 approve any proposal it receives under this subsection. If the department of
9 administration approves the proposal, the department shall submit the proposal,
10 together with any modifications, to the cochairpersons of the joint committee on
11 finance. If the cochairpersons of the committee do not notify the secretaries of
12 administration and health and family services within 14 working days after
13 receiving the proposal that the cochairpersons have scheduled a meeting for the
14 purpose of reviewing the proposal, the secretary of administration may transfer from
15 the appropriation account under section 20.865 (4) (a) of the statutes to the
16 appropriation account under section 20.435 (4) (a) of the statutes the amount
17 specified in the proposal or any proposed modifications of the proposal for
18 expenditure as specified in the proposal or any proposed modifications of the
19 proposal and may approve any position authority specified in the proposal or any
20 proposed modifications of the proposal. If, within 14 working days after receiving the
21 proposal, the cochairpersons notify the secretaries of administration and health and
22 family services that the cochairpersons have scheduled a meeting for the purpose of
23 reviewing the proposal, the secretary of administration may not transfer any amount
24 specified in the proposal or any proposed modifications of the proposal from the

1 appropriation account under section 20.865 (4) (a) of the statutes and may not
2 approve any position authority specified in the proposal or any proposed
3 modifications of the proposal, except as approved by the committee.”

4 **9.** Page 1420, line 19: after that line insert:

5 “(19h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY. The treatment of section
6 20.435 (4) (bv) of the statutes takes effect on September 1, 2002.”

7 (END)