

**SENATE SUBSTITUTE AMENDMENT 1,  
TO 1999 ASSEMBLY BILL 815**

March 30, 2000 – Offered by Senator CLAUSING.

1     **AN ACT** *to create* 20.435 (4) (bv), 20.435 (4) (j), 20.435 (4) (jb) and 49.688 of the  
2         statutes; **relating to:** requiring pharmacies and pharmacists, as a condition of  
3         medical assistance participation, to charge elderly persons with specified  
4         income limitations for prescription drugs no more than specific amounts;  
5         authorizing the department of health and family services to enter into rebate  
6         agreements with drug manufacturers; requiring the exercise of rule-making  
7         authority; and making appropriations.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

8         **SECTION 1.** 20.435 (4) (bv) of the statutes is created to read:  
9         20.435 **(4)** (bv) *Prescription drug assistance for elderly; aids.* The amounts in  
10        the schedule for payment to pharmacies and pharmacists under s. 49.688 (9) for  
11        prescription drug assistance for elderly persons.

12        **SECTION 2.** 20.435 (4) (j) of the statutes is created to read:

1           20.435 (4) (j) *Prescription drug assistance for elderly; manufacturer rebates.*  
2 All moneys received from rebate payments by manufacturers under s. 49.688 (8), to  
3 be used for payment to pharmacies and pharmacists under s. 49.688 (9) for  
4 prescription drug assistance for elderly persons.

5           **SECTION 3.** 20.435 (4) (jb) of the statutes is created to read:

6           20.435 (4) (jb) *Prescription drug assistance for elderly; enrollment fees.* All  
7 moneys received from payment of enrollment fees under s. 49.688 (2), to be used for  
8 administration of the program under s. 49.688.

9           **SECTION 4.** 49.688 of the statutes is created to read:

10           **49.688 Prescription drug assistance for elderly persons. (1)** In this  
11 section:

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

13           (b) “Household income” has the meaning given in s. 71.52 (5).

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

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

19           **(2)** A person who is a resident, as defined in s. 27.01 (10) (a), of this state, who  
20 is at least 65 years of age, who is ineligible for medical assistance, whose income does  
21 not exceed the limitation specified in sub. (3) and who pays the program enrollment  
22 fee specified in sub. (4) (a) is eligible to purchase a prescription drug at the amounts  
23 specified in sub. (4) (c). The person may apply to the department, on a form provided  
24 by the department together with program enrollment fee payment, for a

1 determination of eligibility and issuance of a prescription drug card for purchase of  
2 prescription drugs under this section.

3 **(3)** The household income of a person may not exceed \$30,000 unless the  
4 amount that results from the following calculation is \$30,000 or less:

5 (a) The total amount of the person's prescription drug costs for 3 consecutive  
6 months in the 12 months immediately preceding the month in which the person  
7 applies under sub. (2) is multiplied by 4.

8 (b) The result under par. (a) is subtracted from the person's household income.

9 **(4)** Program participants shall pay all of the following:

10 (a) Annually, a program enrollment fee of \$25.

11 (b) Annually, a deductible of \$500, as applied to a legend drug, as specified  
12 under s. 49.46 (2) (b) 6. h.

13 (c) After payment of the deductible under par. (b), all of the following:

14 1. For each prescription drug, 25% of the average wholesale price minus 5%.

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

16 3. A copayment of \$10 for each prescription drug that does not bear only a  
17 generic name.

18 **(5)** The department shall devise and distribute a form for application for the  
19 program under sub. (2), shall determine eligibility of applicants and shall issue to  
20 eligible persons a prescription drug card for use in purchasing prescription drugs, as  
21 specified in sub. (6).

22 **(6)** Beginning July 1, 2001, as a condition of participation by a pharmacy or  
23 pharmacist in the program under s. 49.45, 49.46 or 49.47, the pharmacy or  
24 pharmacist may not charge a person who presents a valid prescription order and a  
25 card indicating that he or she meets eligibility requirements under sub. (2) an

1 amount for a prescription drug under the order that exceeds the amounts specified  
2 in sub. (4) (c).

3 (7) (a) The rate for reimbursement for a prescription drug shall be calculated  
4 at the average wholesale price minus 5% or the maximum allowable cost, as  
5 determined by the department, whichever is less.

6 (b) A pharmacy or pharmacist may charge a person specified in sub. (2) the  
7 copayment, as applicable, that is specified in sub. (4) (c) 2. or 3.

8 (c) The department shall calculate and transmit to pharmacies and  
9 pharmacists that are certified providers of medical assistance the average wholesale  
10 prices of the prescription drugs provided under the program. The department shall  
11 periodically update this information and transmit the updated amounts to  
12 pharmacies and pharmacists.

13 (8) The department or an entity with which the department contracts may  
14 enter into a rebate agreement that is modeled on the rebate agreement specified  
15 under 42 USC 1396r-8 with a drug manufacturer that sells drugs for prescribed use  
16 in this state. The rebate agreement, if negotiated, shall include all of the following  
17 as requirements:

18 (a) That the manufacturer shall make rebate payments for each prescription  
19 drug of the manufacturer that is prescribed for persons who are eligible under sub.  
20 (2) and have paid the deductible under sub. (4) (b), to the state treasurer to be  
21 credited to the appropriation under s. 20.435 (4) (j), each calendar quarter or  
22 according to a schedule established by the department.

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

1           **(9)** From the appropriation accounts under s. 20.435 (4) (bv) and (j), beginning  
2 July 1, 2001, the department shall provide to pharmacies and pharmacists  
3 payments, under a schedule that is identical to that used by the department for  
4 payment of pharmacy provider claims under medical assistance, that correspond to  
5 the rate specified in sub. (7) (a) for a prescription drug provided by the pharmacy or  
6 pharmacist to an eligible person, minus the amount paid by the person to the  
7 pharmacy or pharmacist under sub. (4) (b) or (c), plus a dispensing fee that is equal  
8 to the dispensing fee that is permitted to be charged for prescription drugs for which  
9 coverage is provided under s. 49.46 (2) (b) 6. h. and plus, if applicable, incentive  
10 payments that are similar to those provided under s. 49.45 (8v). The department  
11 shall devise and distribute a form for reports by pharmacies and pharmacists under  
12 this subsection.

13           **(10)** The department shall monitor compliance by pharmacies and  
14 pharmacists that are certified providers of medical assistance with the requirements  
15 of sub. (6) and shall annually report to the legislature under s. 13.172 (2) concerning  
16 the compliance. The report shall include information on any pharmacies or  
17 pharmacists that discontinue participation as certified providers of medical  
18 assistance and the reasons given for the discontinuance.

19           **(11)** If federal law is amended to provide coverage for prescription drugs for  
20 outpatient care as a benefit under medicare or to provide similar coverage under  
21 another program, the department shall submit a report concerning this fact to  
22 appropriate standing committees of the legislature under s. 13.172 (3).

23           **(12)** Except as provided in subs. (10), (11) and (13), the department may enter  
24 into a contract with an entity to perform the duties and exercise the powers of the  
25 department under this section.

