

**1999 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-AB815)**

Received: **03/30/2000**

Received By: **kenneda**

Wanted: **As time permits**

Identical to LRB:

For: **Alice Clausing (608) 266-7745**

By/Representing: **Julia Sherman (aide)**

This file may be shown to any legislator: NO

Drafter: **kenneda**

May Contact:

Alt. Drafters:

Subject: **Health - miscellaneous**

Extra Copies: **ISR**

**Pre Topic:**

No specific pre topic given

**Topic:**

Prescription drug assistance for elderly persons

**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>
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/3	kenneda 04/04/2000	jgeller 04/04/2000	kfollet 04/04/2000	_____	lrb-docadmin 04/04/2000	lrb-docadmin 04/04/2000	

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Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

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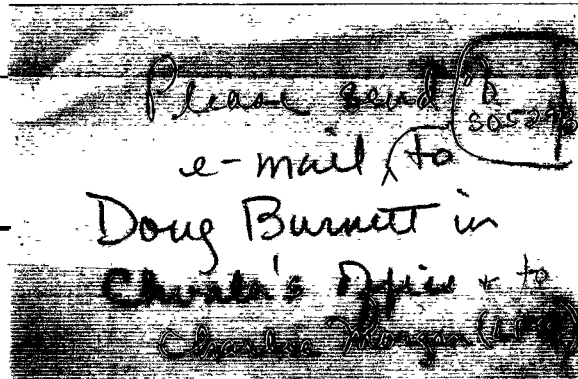
No specific pre topic given

Topic:

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Instructions:

See Attached



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FE Sent For:

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1999

Date (time) needed

TODAY  
2:30

LRB s 0529 / 1

**SUBSTITUTE AMENDMENT  
[TO A BILL]**

DAK: jlg:  
WLi

Use the appropriate components and routines developed for substitute amendments.

**S** ~~AS~~ **SUBSTITUTE AMENDMENT**

TO 1999 ~~SB~~ **AB** 815 ~~(LRB 0529 / 1)~~

AN ACT . . . [generate catalog] *to repeal* . . . ; *to renumber* . . . ; *to consolidate and renumber* . . . ; *to renumber and amend* . . . ; *to consolidate, renumber and amend* . . . ; *to amend* . . . ; *to repeal and recreate* . . . ; and *to create* . . . of the statutes; relating to: .....

.....  
.....  
.....  
.....

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

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

**SECTION #.**

## Kennedy, Debora

---

**From:** Sherman, Julia  
**Sent:** Thursday, March 30, 2000 9:17 AM  
**To:** Kennedy, Debora  
**Subject:** Drugs

I need 2 subs to AB 815:

The first sub should be identical to SB 335.

The second sub is that dial up dial down of the program we worked on last week. Here are the parameters:

- ✓ \$30,000 per household income limit with the spend down provisions
- ✓ \$25 annual enrollment fee per person
- ✓ reimbursement fee AWP - 10% + dispensing fee
- ✓ enrollee pays 25% of AWP + \$5.00 generic/\$10 name brand for each prescription
- ✓ \$500 annual deductible - 10%
- ✓ effect on existing prior authorization language — *draft nothing on that*
- ✓ rebate language as before

Please call if you have questions, 266-7745.

# 1999 BILL

↓  
Reger

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; and making appropriations. ✓

### *Analysis by the Legislative Reference Bureau*

Under current state law, pharmacies and pharmacists that are certified providers of medical assistance services are reimbursed for the provision of certain prescription drugs to medical assistance (MA) recipients at a rate established by the department of health and family services (DHFS). Under current federal law, persons entitled to coverage under part B of medicare do not receive coverage for prescription drugs for outpatient care as a benefit.

The bill specifies that, beginning July 1, 2001, as a condition of participation by a pharmacy or pharmacist in the MA program, the pharmacy or pharmacist may not charge eligible persons an amount for certain prescription drugs for outpatient care that exceeds a copayment of \$5 for each generic drug and \$10 for each drug that is not a generic drug. Persons who are eligible for reduced charges are those who are at least 65 years of age and ineligible for MA and who have household incomes (as defined in the bill) that do not exceed \$35,000. A person with a household income of

**BILL**

more than \$35,000 may also be eligible if \$35,000 or less is the figure that results from multiplying by four the total amount of his or her prescription drug costs for three consecutive months in the 12-month period prior to application and subtracting the resulting amount from his or her household income. In order to purchase the drugs, eligible persons must provide to pharmacies or pharmacists a card, issued by DHFS after a determination of eligibility and payment of an annual enrollment fee of \$25. Prescription drugs for which the reduced charges must be made are those that are available as an MA benefit. DHFS must monitor compliance by pharmacies and pharmacists with the requirement to charge low-income persons for the specified prescription drugs at the copayment amounts and annually report to the legislature concerning the compliance.

DHFS is authorized, under the bill, to enter with drug manufacturers into rebate agreements, which are modeled on federal medicaid rebate agreements, under which the manufacturer must make payments to the state treasurer for credit to a program revenue appropriation account for each of the manufacturer's drugs that is prescribed under the program. The amount of the rebate payment under the agreement is required to be determined by the method that is specified under the federal medicaid rebate agreements. The amounts of the rebate payments must, in turn, together with general purpose revenues, be paid by DHFS to pharmacies or pharmacists that have reduced charges for prescription drugs for the eligible persons. This reimbursement to pharmacies and pharmacists is at the rate of the prescription drug average wholesale price, as determined by DHFS, less 5% of this price and less the amount of copayment paid by the eligible person, plus a dispensing fee. DHFS must calculate and transmit to pharmacies and pharmacists that participate in the MA program the average wholesale prices of the prescription drugs provided under the program and periodically update and transmit the updated information.

DHFS is authorized to enter into a contract with an entity to perform DHFS' duties and exercise its powers under the prescription drug assistance program.

DHFS must report to the legislature if federal law is changed to provide coverage for outpatient prescription drugs as a benefit under medicare. The bill appropriates \$500,000 in general purpose revenues in fiscal year 2000-01 to DHFS for administration of the program; in addition, the moneys obtained from the \$25 enrollment fee are appropriated for administration of the program.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1                    <sup>x</sup>  
**SECTION 1. 20.435 (4) (bv) of the statutes is created to read:**

**BILL**

1           20.435 (4) (bv) *Prescription drug assistance for elderly; aids. The amounts in*  
2 *the schedule for payment to pharmacies and pharmacists under s. 49.688 (9) for*  
3 *prescription drug assistance for elderly persons.*

4           **SECTION 2.** 20.435 (4) (j)<sup>X</sup> of the statutes is created to read:

5           20.435 (4) (j) *Prescription drug assistance for elderly; manufacturer rebates.*  
6 *All moneys received from rebate payments by manufacturers under s. 49.688 (8), to*  
7 *be used for payment to pharmacies and pharmacists under s. 49.688 (9) for*  
8 *prescription drug assistance for elderly persons.*

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

10           20.435 (4) (jb) *Prescription drug assistance for elderly; enrollment fees. All*  
11 *moneys received from payment of enrollment fees under s. 49.688 (2), to be used for*  
12 *administration of the program under s. 49.688.*

13           **SECTION 4.** 49.688<sup>X</sup> of the statutes is created to read:

14           **49.688 Prescription drug assistance for elderly persons. (1)** In this  
15 section:

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

17           (b) "Household income" has the meaning given in s. 71.52 (5).

18           (c) "Prescription drug" means a prescription drug, as defined in s. 450.01 (20),  
19 that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

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

21           (2) A person who is a resident, as defined in s. 27.01 (10) (a), of this state, who  
22 is at least 65 years of age, who is ineligible for medical assistance, whose income does  
23 not exceed the limitation specified in sub. (3) and who pays the program enrollment  
24 fee specified in sub. (4) (a) is eligible to purchase a prescription drug at the amounts  
25 specified in sub. (7) (b). The person may apply to the department, on a form provided

BILL

1 by the department together with program enrollment fee payment, for a  
2 determination of eligibility and issuance of a prescription drug card for purchase of  
3 prescription drugs under this section.

4 (3) The household income of a person may not exceed ~~\$35,000~~ unless the  
5 amount that results from the following calculation is ~~\$25,000~~ or less:

✓  
\$30,000

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

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

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

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

INSERT 4 -11

12 (b) A copayment of \$5 for each prescription drug that bears only a generic name.

13 A 2.  
14 A 3.  
A copayment of \$10 for each prescription drug that does not bear only a  
generic name.

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

19 (6) Beginning July 1, 2001, as a condition of participation by a pharmacy or  
20 pharmacist in the program under ss. 49.45, 49.46 or 49.47, the pharmacy or  
21 pharmacist may not charge a person who presents a valid prescription order and a  
22 card indicating that he or she meets eligibility requirements under sub. (2) an  
23 amount for a prescription drug under the order that exceeds the amounts specified  
24 in sub. (7) (b).

BILL

10%

1 (7) (a) The rate for reimbursement for a prescription drug shall be calculated  
2 at the average wholesale price minus ~~10%~~ or the maximum allowable cost, as  
3 determined by the department, whichever is less.

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

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

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

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

20 (b) That the amount of the rebate payment shall be determined by a method  
21 specified in 42 USC 1396r-3 (c).

22 (9) From the appropriation accounts under s. 20.435 (4) (bv) and (j), beginning  
23 July 1, 2001, the department shall provide to pharmacies and pharmacists  
24 payments, under a schedule that is identical to that used by the department for  
25 payment of pharmacy provider claims under medical assistance, that correspond to

**BILL**

1 the rate specified in sub. (7) (a) for a prescription drug provided by the pharmacy or  
2 pharmacist to an eligible person, minus the amount of a copayment charged under  
3 sub. (7) (b), plus a dispensing fee that is equal to the dispensing fee that is permitted  
4 to be charged for prescription drugs for which coverage is provided under s. 49.46 (2)  
5 (b) 6. h. The department shall devise and distribute a form for reports by pharmacies  
6 and pharmacists under this subsection.

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

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

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

**SECTION 5. Appropriation changes.**

20 (1) **PRESCRIPTIONDRUGASSISTANCEFORELDERLYADMINISTRATION.** Intheschedule  
21 under section 20.005 (3) of the statutes for the appropriation to the joint committee  
22 on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1999,  
23 the dollar amount is increased by \$500,000 for fiscal year 2000-01 to increase  
24



BILL

1 funding for administration of the prescription drug assistance for elderly program  
2 under section 49.688 of the statutes, as created by this act.

3 **SECTION 6. Effective dates; health and family services.** This act takes  
4 effect on the day after publication, except as follows:

5 (1) **PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY.** The treatment of section 20.435  
6 (4) (bv) of the statutes takes effect on July 1, 2001.

7 (END)

text: treat

→ (b) Annually, a deductible of \$500. ✓

→ (c) After payment of the deductible under par. (b),

all of the following:

1. For each prescription drug, 25% of the average wholesale price minus 10%. ✓

(end ins)

3/30

From Julia

Require DHS to prom. rules to monitor  
compliance by pharms + deteminis. §  
eligib. under sub. (2)

Now

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

requiring the exercise of  
rule-making authority;

Regen

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; and making appropriations.

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

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8 **20.435 (4) (bv) Prescription drug assistance for elderly; aids.** The amounts in  
9 the schedule for payment to pharmacies and pharmacists under s. 49.688 (9) for  
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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) Hn 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.

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

17           (2) A person who is a resident, as defined in s. 27.01 (10) (a), of this state, who  
18 is at least 65 years of age, who is ineligible for medical assistance, whose income does  
19 not exceed the limitation specified in sub. (3) and who pays the program enrollment  
20 fee specified in sub. (4) (a) is eligible to purchase a prescription drug at the amounts  
21 specified in sub. (7) (b). The person may apply to the department, on a form provided  
22 by the department together with program enrollment fee payment, for a  
23 determination of eligibility and issuance of a prescription drug card for purchase of  
24 prescription drugs under this section.

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

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

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

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

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

9 (b) Annually, a deductible of \$500.

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

11 1. For each prescription drug, 25% of the average wholesale price minus 10%.

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

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

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

19 (6) Beginning July 1, 2001, as a condition of participation by a pharmacy or  
20 pharmacist in the program under ss. 49.45, 49.46 or 49.47, the pharmacy or  
21 pharmacist may not charge a person who presents a valid prescription order and a  
22 card indicating that he or she meets eligibility requirements under sub. (2) an  
23 amount for a prescription drug under the order that exceeds the amounts specified  
24 in sub. (7) (b).

1 (7) (a) The rate for reimbursement for a prescription drug shall be calculated  
2 at the average wholesale price minus 10% or the maximum allowable cost, as  
3 determined by the department, whichever is less.

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

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

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

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

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

22 (9) From the appropriation accounts under s. 20.435 (4) (bv) and (j), beginning  
23 July 1, 2001, the department shall provide to pharmacies and pharmacists  
24 payments, under a schedule that is identical to that used by the department for  
25 payment of pharmacy provider claims under medical assistance, that correspond to

1 the rate specified in sub. (7) (a) for a prescription drug provided by the pharmacy or  
 2 pharmacist to an eligible person, minus the amount of a copayment charged under  
 3 sub. (7) (b), plus a dispensing fee that is equal to the dispensing fee that is permitted  
 4 to be charged for prescription drugs for which coverage is provided under s. 49.46 (2)  
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13 (11) If federal law is amended to provide coverage for prescription drugs for  
 14 outpatient care as a benefit under medicare or to provide similar coverage under  
 15 another program, the department shall submit a report concerning this fact to  
 16 appropriate standing committees of the legislature under s. 13.172 (3). ✓

17 (12) Except as provided in subs. (10) <sup>2</sup> and <sup>13</sup> (11), the department may enter into  
 18 a contract with an entity to perform the duties and exercise the powers of the  
 19 department under this section. ✓

INSERT 5-19

20 SECTION 6. Appropriation changes.

21 (1) **PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY; ADMINISTRATION.** In the schedule  
 22 under section 20.005 (3) of the statutes for the appropriation to the joint committee  
 23 on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1999,  
 24 the dollar amount is increased by \$500,000 for fiscal year 2000-01 to increase



1 funding for administration of the prescription drug assistance for elderly program  
2 under section 49.688 of the statutes, as created by this act.

3 **SECTION 6. Effective dates; health and family services.** This act takes  
4 effect on the day after publication, except as follows:

5 (1) **PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY.** The treatment of section 20.435  
6 (4) (bv) of the statutes takes effect on July 1, 2001.

7 **(END)**

text:  
treat → IP (13) ⊕

The department shall promulgate all of the following as rules:

→ IP (a) The methods by which the departments shall monitor compliance by pharmacies and pharmacists under sub. (10). ✓

→ IP (b) Criteria and procedures for determinations of eligibility under sub. (2). ✓

S 0529/2 : Redraft

4/4/00 From Julia Sherman :

Use a 2321/1, but change rate to  
AWP - 5%



**SENATE AMENDMENT,  
TO SENATE SUBSTITUTE AMENDMENT (LRBs0529/2),  
TO 1999 ASSEMBLY BILL 815**

Reimb: = AWP - 5% disp. fee + payments  
that corresp. to incentive  
payments, as app. under  
49.45 (8v)

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

policy -  
(same as  
AB 815)

2 ✓ 1. Page 2, line 15: after "6. h." insert "and that is manufactured by a drug  
3 manufacturer that enters into a rebate agreement under sub. (8)." (yes)

policy -  
not specified  
in AB 815

4 ✓ 2. Page 3, line 9: after "\$500" insert ", as applied to a legend drug, as specified  
5 under s. 49.46 (2) (b) 6. h". (yes) Not necessary to specify usual +  
customary & is implied, bec. doesn't

change to  
AWP - 5%

6 → ✓ 3. Page 3, line 11: delete "average wholesale price minus 10%" and substitute  
7 "rate paid for legend drugs provided as a benefit under s. 49.46 (2) (b) 6. h". - 5%  
require  
AWP

technical

8 ✓ 4. Page 3, line 24: delete "(7) (b)" and substitute "(4) (c)". (yes)

change to  
AWP - 5%

9 5. Page 4, line 2: delete lines 2 and 3 and substitute "at amounts that  
10 correspond to payments made for legend drugs under s. 49.45, including, as  
11 applicable, amounts for incentive payments under s. 49.45 (8v)."

1 **6.** Page 4, line 7: delete the material beginning with “average” and ending with  
2 “program” on line 8 and substitute “rate paid for legend drugs provided as a benefit  
3 under s. 49.46 (2) (b) 6. h”.

4 ✓ **7.** Page 5, line 2: delete the material beginning with “of” and ending with “(c)”  
5 on line 3 and substitute “paid by the person to the pharmacy or pharmacist under  
6 sub. (4) (b) or (c)”.

7 ✓ **8.** Page 5, line 21: delete “departments” and substitute “department”.

8 (END)

*delete*

*technical*

*technical*

TODAY 4:00

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

1 *Regen*  
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.

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

17 (2) A person who is a resident, as defined in s. 27.01 (10) (a), of this state, who  
18 is at least 65 years of age, who is ineligible for medical assistance, whose income does  
19 not exceed the limitation specified in sub. (3) and who pays the program enrollment  
20 fee specified in sub. (4) (a) is eligible to purchase a prescription drug at the amounts  
21 specified in sub. (7) (b). The person may apply to the department, on a form provided  
22 by the department together with program enrollment fee payment, for a  
23 determination of eligibility and issuance of a prescription drug card for purchase of  
24 prescription drugs under this section.

and that is manufactured  
by a drug  
manufacturer  
that enters into  
a rebate  
agreement under  
sub.  
(8).

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

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

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

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

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

9 (b) Annually, a deductible of \$500. *as applied to a legend drug, as specified under s. 49.46(2)(b) 6.h ✓* ✓ *50%*

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

11 1. For each prescription drug, 25% of the average wholesale price minus ~~10%~~.

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

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

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

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

24 0 in sub. ~~(5)(b)~~. *(4)(c) ✓*



5% ✓

1 (7) (a) The rate for reimbursement for a prescription drug shall be calculated  
2 at the average wholesale price minus ~~10%~~ or the maximum allowable cost, as  
3 determined by the department, whichever is less.

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

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

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

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

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

22 (9) From the appropriation accounts under s. 20.435 (4) (bv) and (j), beginning  
23 July 1, 2001, the department shall provide to pharmacies and pharmacists  
24 payments, under a schedule that is identical to that used by the department for  
25 payment of pharmacy provider claims under medical assistance, that correspond to

paid by the person to the pharmacy or pharmacist under sub. (4) (b) or (c)

1 the rate specified in sub. (7) (a) for a prescription drug provided by the pharmacy or  
2 pharmacist to an eligible person, minus the amount ~~of a payment charged under~~  
3 ~~sub. (7) (a)~~, plus a dispensing fee that is equal to the dispensing fee that is permitted  
4 to be charged for prescription drugs for which coverage is provided under s. 49.46 (2)  
5 (b) 6. h. The department shall devise and distribute a form for reports by pharmacies  
6 and pharmacists under this subsection. [INSERT 5-5] ✓

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

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

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

20 (13) The department shall promulgate all of the following as rules:  
21 (a) The methods by which the department shall monitor compliance by  
22 pharmacies and pharmacists under sub. (10).

23 (b) Criteria and procedures for determinations of eligibility under sub. (2).

24 SECTION 5. Appropriation changes.

4 | 5.00 Redraft ~~§~~ 50529/3: From Charlie Morgan + Julia

① Fix x ref on p. 2, l. 23 - should be "(4) (c)"

② Require that rebates cover prescrip drugs  
after deductible is paid. - otherwise, rebate costs  
wd be very high + would be dis incentive to enter

At - @ - Δ -

Now

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

Regen

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. ~~(7)(b)~~. The person may apply to the department, on a form provided  
 24 by the department together with program enrollment fee payment, for a

(4)(c) ✓

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 persons 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:

*and have paid the deductible under sub. (4)(b) ✓*

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) ✓ to the state treasurer to be credited to the appropriation under s. 20.435 (4) (j),  
21 each calendar quarter or according to a schedule established by the department.

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

24 (9) From the appropriation accounts under s. 20.435 (4) (bv) and (j), beginning  
25 July 1, 2001, the department shall provide to pharmacies and pharmacists

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

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

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

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

24 (13) The department shall promulgate all of the following as rules:



1 (a) The methods by which the department shall monitor compliance by  
2 pharmacies and pharmacists under sub. (10). ✓

3 (b) Criteria and procedures for determinations of eligibihty under sub. (2).

4 **SECTION 5. Appropriation changes.**

5 (1) **PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY; ADMINISTRATION.** Intheschedule  
6 under section 20.005 (3) of the statutes for the appropriation to the joint committee  
7 on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1999,  
8 the dollar amount is increased by \$500,000 for fiscal year 2000-01 to increase  
9 funding for administration of the prescription drug assistance for elderly program  
10 under section 49.688 of the statutes, as created by this act.

11 **SECTION 6. Effective dates; health and family services.** This act takes  
12 effect on the day after publication, except as follows:

13 (1) **PRESCRIPTIONDRUGAWISTANCEFORELDERLY.** Thetreatmentofsection20.435  
14 (4) (bv) of the statutes takes effect on July 1, 2001.

15 **(END)**