

## 1999 SENATE BILL 335

January 21, 2000 – Introduced by Senators CLAUSING, WIRCH, ROBSON, RISSER, GROBSCHMIDT, BURKE, MOEN, ERPENBACH, BAUMGART, BRESKE, CHVALA, SHIBILSKI, DRZEWIECKI and DARLING, cosponsored by Representatives WAUKAU, KRUSICK, HASENOHRL, LA FAVE, KREUSER, GRONEMUS, SCHOOFF, MUSSEY and PETTIS. Referred to Health, Utilities, Veterans and Military Affairs.

1     **AN ACT to create** 20.435 (4) (bv), 20.435 (4) (j) and 49.688 of the statutes;  
2             **relating to:** prescription drug assistance for elderly persons and making  
3             appropriations.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an entitlement program for prescription drug assistance for elderly persons in the department of health and family services (DHFS) and a sum sufficient appropriation of general purpose revenues for the program. Under the program, beginning January 1, 2001, state residents who are aged at least 65 years, who are ineligible for medical assistance and whose gross incomes, if single, are not more than \$50,000 or, if married, are not more than \$75,000 per couple, as annually indexed for inflation, may apply for assistance of up to \$10,000 per year in paying for prescription drugs. Prescription drugs for which a program participant may receive coverage are those prescription drugs that are covered under the medical assistance program. Participants in the prescription drug assistance program must pay 25% of the cost of the prescription drug, at the rate under which pharmacists are reimbursed under the medical assistance program, plus copayments of \$5 for each generic prescription drug and \$10 for each brand-name drug. Under the program, DHFS is the payer of last resort for coverage for prescription drugs and must reimburse pharmacist providers at the rate under which pharmacists are reimbursed under the medical assistance program. DHFS must also maintain or contract for the maintenance of a toll-free telephone number to provide application information about the prescription drug assistance program. In order for drugs

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manufactured by a manufacturer doing business in this state to be included in the program, the manufacturer must enter with DHFS into a rebate agreement that is modeled on rebate agreements under federal medicaid law. The rebate agreement must provide that the manufacturer make payments to DHFS each calendar quarter or as scheduled by DHFS and that the rebate payment amounts be determined by the method specified in federal medicaid law. The bill appropriates \$1,000,000 in general purpose revenues in fiscal year 1999–2000 to the general program supplementation appropriation account of the joint committee on finance (JCF) and requires DHFS to submit to JCF a plan for expenditure of these funds for administration of the prescription drug assistance program. If the cochairpersons of JCF do not notify the secretary of health and family services of the committee's intent to schedule a meeting to review the plan, JCF must supplement the DHFS general program operations appropriation account as provided in the DHFS plan. If the cochairpersons of JCF notify the secretary of health and family services that JCF intends to schedule a meeting to review the plan, the DHFS appropriation account may be supplemented only as approved by JCF.

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

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

1           **SECTION 1.** 20.435 (4) (bv) of the statutes is created to read:

2           20.435 (4) (bv) *Prescription drug assistance for elderly; aids.* A sum sufficient  
3 for the program for prescription drug assistance for elderly persons under s. 49.688.

4           **SECTION 2.** 20.435 (4) (j) 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 (5), to  
7 be used for prescription drug assistance for elderly persons under s. 49.688.

8           **SECTION 3.** 49.688 of the statutes is created to read:

9           **49.688 Prescription drug assistance for elderly persons. (1)** In this  
10 section:

11           (a) “Brand name” has the meaning given in s. 450.12 (1) (a).

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

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1 (c) “Gross income” means all income, from whatever source derived and in  
2 whatever form realized, whether in money, property or services.

3 (d) “Prescription drug” has the meaning given in s. 450.01 (20).

4 **(2)** From the appropriations under s. 20.435 (4) (bv) and (j), beginning January  
5 1, 2001, the department shall reimburse pharmacists for the provision of up to  
6 \$10,000 per year of prescription drugs that correspond to those prescription drugs  
7 for which reimbursement is made under s. 49.46 (2) (b) 6. h. and for which the  
8 manufacturer has entered into a rebate agreement with the department under sub.  
9 (5), to a person who meets criteria for eligibility under sub. (3). The department is  
10 the payer of last resort for coverage for prescription drugs under this subsection. The  
11 payment rate for provider reimbursement shall be the allowable charges paid under  
12 s. 49.46 (2) (b) 6. h. for prescription drugs. The department shall maintain, or  
13 contract for the maintenance of, a toll-free telephone number at department  
14 headquarters to provide information about participation in the program under this  
15 subsection.

16 **(3)** (a) An individual is eligible for participation in the program under sub. (2)  
17 if the individual meets all of the following requirements:

18 1. The individual is at least 65 years of age, is a resident, as defined in s. 27.01  
19 (10) (a), of this state and is ineligible for medical assistance under s. 49.46, 49.465,  
20 49.468 or 49.47.

21 2. If single, the individual’s gross income does not exceed \$50,000 or, if married,  
22 the couple’s gross income does not exceed \$75,000. These limitations shall be  
23 annually adjusted as specified in sub. (4).

24 (b) Program participants shall pay all of the following:

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1           1. Twenty-five percent of the allowable charge paid under s. 49.46 (2) (b) 6. h.  
2 for each prescription drug provided under the program.

3           2. A copayment of \$5 for each prescription drug provided under the program  
4 that bears only a generic name.

5           3. A copayment of \$10 for each prescription drug provided under the program  
6 that bears a brand name.

7           (c) No program participant may be required to demonstrate that he or she has  
8 no disability insurance policy, as defined in s. 632.895 (1) (a).

9           **(4)** Beginning by January 1, 2001, the department shall annually by January  
10 1 increase the dollar amounts specified under sub. (3) (a) 2. by a percentage equal to  
11 the percentage change between the U.S. consumer price index for all urban  
12 consumers, U.S. city average, for the month of December of the previous year and the  
13 U.S. consumer price index for all urban consumers, U.S. city average, for the month  
14 of December of the year before the previous year, as determined by the federal  
15 department of labor.

16           **(5)** A drug manufacturer that sells drugs for prescribed use in this state shall,  
17 as a condition of inclusion of those drugs in the program under this section, enter  
18 with the department into a rebate agreement that is modeled on the rebate  
19 agreement specified under 42 USC 1396r-8. The rebate agreement shall include all  
20 of the following as requirements:

21           (a) That the manufacturer shall make rebate payments to the department each  
22 calendar quarter or according to a schedule established by the department.

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

25           **SECTION 4. Nonstatutory provisions.**

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1           (1) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY PERSONS; ADMINISTRATION. The  
2 department of health and family services may request the joint committee on finance  
3 to supplement, from the appropriation account under section 20.865 (4) (a) of the  
4 statutes, the appropriation account under section 20.435 (4) (a) of the statutes, to pay  
5 the costs of staffing and administration of the program of prescription drug  
6 assistance for elderly persons under section 49.688 of the statutes, as created by this  
7 act. If the department of health and family services requests supplementation of the  
8 appropriation account under section 20.435 (4) (a) of the statutes, the department  
9 shall submit a plan to the joint committee on finance to expend not more than  
10 \$1,000,000 for fiscal year 1999–2000. The plan shall be based on a review by the  
11 department of health and family services of the pharmacy assistance programs of  
12 other states and the feasibility of contracting with the medical assistance fiscal agent  
13 for this state to administer the program under section 49.688 of the statutes, as  
14 created by this act. If the cochairpersons of the committee do not notify the secretary  
15 of the department within 14 working days after the date of the department’s  
16 submittal that the committee intends to schedule a meeting to review the request,  
17 the appropriation account shall be supplemented as provided in the request. If,  
18 within 14 working days after the date of the department’s submittal, the  
19 cochairpersons of the committee notify the secretary of the department that the  
20 committee intends to schedule a meeting to review the request, the appropriation  
21 account shall be supplemented only as approved by the committee. Notwithstanding  
22 section 13.101 (3) (a) 1. of the statutes, the committee is not required to find that an  
23 emergency exists.

**SECTION 5. Appropriation changes; joint committee on finance.**

