



D. [initials]

[initials]

DOA:.....Kraus - Prescription drug assistance program

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

*which requires that the project be cost neutral,*

*solely for the purpose of purchasing prescription drugs,*

*with a household income of up to 155% of the federal poverty line*

1 AN ACT...; relating to: the budget.

Do NOT GEN

**Analysis by the Legislative Reference Bureau  
HEALTH AND HUMAN SERVICES  
MEDICAL ASSISTANCE**

*other than under MA [unclear]*

*for prescription drugs*

Under current state law, pharmacies and pharmacists that are certified providers of medical assistance (MA) services are reimbursed, at a rate established by DHFS, for providing certain prescription drugs to MA recipients. 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.

Under the bill, DHFS must request from the secretary of the federal department of health and human services a waiver of federal medicaid laws to permit DHFS to conduct a project to expand MA eligibility for persons who are aged at least 65, who have not had outpatient prescription drug coverage from any source for 12 months, and whose annual household incomes do not exceed 185% of the federal poverty line for a family the size of the persons' eligible families. Under the waiver, the expanded MA eligibility would entitle an eligible person, after paying a \$25 annual enrollment fee and after paying specified deductible amounts at the MA rate amounts, to purchase a prescription drug for a copayment as specified in the bill. ~~that prescription drug, however, the benefit for persons with household incomes over 155% but less than 186% of the federal poverty line would be limited to their eligibility to purchase prescription drugs at the MA rate amounts.~~ The pharmacy or pharmacist who sells the drug at this reduced price receives reimbursement for the calculated

*pharmacy discount rate, as defined in the bill*

Pharmacy discount rate amount

the state's

, together with DOA,

difference between the copayment and the MA reimbursement amount from DHFS, from moneys received by DHFS under rebate agreements with drug manufacturers.

INSERT A

This bill requires that DOA and DHFS together work to develop, in conjunction with states other than Wisconsin and with associations, a multistate purchasing group for the negotiation with prescription drug manufacturers of prescription drug rebate agreements that result in lower MA costs for prescription drugs. Under the bill, DOA must also contract with a private entity to administer a discount program for the purchase of prescription drugs.

state general purpose revenues and federal Medicaid

purchase and mail order delivery

The bill requires that DHFS work with DOA to contract with a private entity for the bulk mail order purchase of prescription drugs for MA recipients who voluntarily participate in the program and who have chronic conditions. Further, DHFS must promote, on its Internet site and in health information, private prescription drug assistance plans that offer prescription drug discounts to members. DHFS must inform those entities, including tribes and federally qualified health centers (as defined in the bill), that are eligible for a federal prescription drug discount program about the eligibility and provide technical assistance to the entities in applying for and implementing benefits under the program. Lastly, DHFS must analyze health care data in Wisconsin so as to identify areas that could be eligible for and benefit from establishment of federally qualified health centers and shall provide interested entities in those areas with information about and technical assistance in developing the centers.

free and reduced-price drugs and

For further information see the *state and local* 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           **SECTION 1.** 16.735 of the statutes is created to read:
- 2           **16.735 Multistate purchasing of prescription drugs.** (1) In this section,
- 3           “prescription drug” means a prescription drug, as defined in s. 450.01 (20), that is
- 4           included in the drugs specified under s. 49.46 (2) (b) 6. h.
- 5           (2) The department and the department of health and family services shall
- 6           together work to develop, in conjunction with states other than this state and with
- 7           associations, a multistate purchasing group for the direct negotiation with
- 8           prescription drug manufacturers of rebates that are modeled on the rebate
- 9           agreement specified under 42 USC 1396r-8 and that result in significantly lower
- 10          costs for the purchase of prescription drugs under the medical assistance program

1 under subch. IV of ch. 49 in comparison with those costs in effect on the effective date  
2 of this subsection .... [revisor inserts date].

3 SECTION 2. 16.736 of the statutes is created to read:

4 16.736 Prescription drug discount program. (1) In this section,  
5 "prescription drug" means a prescription drug, as defined in s. 450.01 (20), that is  
6 included in the drugs specified under s. 49.46 (2) (b) 6. h.

7 (2) ~~After first consulting with the department of health and family services,~~ the  
8 department of administration shall contract with a private entity to administer a  
9 discount program for purchase of prescription drugs by persons of any age or income  
10 who pay to the entity nominal fees. *Requirements of ss. 16.75 (3t) (c) and*  
*16.752 (12) (a) do not apply to this subsection.*

11 SECTION 3. 20.435 (4) (jd) of the statutes is created to read:

12 20.435 (4) (jd) *Prescription drug assistance project; enrollment fees.* All moneys  
13 received from payment of enrollment fees under s. 49.477 (4) (a), to be used for  
14 administration of the program under s. 49.477. This paragraph applies only if s.  
15 49.477 (7) (a) applies and if s. 49.477 (7) (b) does not apply.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

16 SECTION 4. 49.45 (48) of the statutes is created to read:

17 49.45 (48) BULK ~~mail order~~ PURCHASE <sup>AND MAIL ORDER DELIVERY</sup> OF PRESCRIPTION DRUGS. (a) In this  
18 subsection, "prescription drug" means a prescription drug, as defined in s. 450.01  
19 (20), that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

20 (b) The department shall work with the department of administration to  
21 contract with a private entity for the bulk ~~mail order~~ purchase of prescription drugs  
22 and medical supplies for persons who meet eligibility requirements under s. 49.46  
23 (1), 49.468, 49.47 (4), or 49.472, or, if a waiver is granted, under s. 49.477, and who

*and mail order delivery*

1 have chronic conditions, including diabetes, asthma, and hypertension.  
 2 Participation by an eligible person under this subsection is voluntary. If the  
 3 department contracts under this subsection, the private entity with which the  
 4 department contracts shall administer and promote the bulk ~~mail order~~ purchase of  
 5 prescription drugs and shall, each 3 months, telephone participants to ascertain  
 6 their progress in administering self-care. *and mail order delivery*

7 (c) Annually, the department shall evaluate hospital and emergency room costs  
 8 of participants under par. (b) to determine the extent of savings, if any, achieved by  
 9 their participation in the bulk ~~mail order~~ purchase of prescription drugs.

10 SECTION 5. 49.45 (49) of the statutes is created to read:

11 49.45 (49) PROMOTION OF PRESCRIPTION DRUG ASSISTANCE PLANS. (a) In this  
 12 subsection, "prescription drug" means a prescription drug, as defined in s. 450.01  
 13 (20), that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

14 (b) ~~After first consulting~~ *, together* with the department of administration, the  
 15 department shall promote, in health information and on the ~~department's~~ *state's* Internet  
 16 site, private prescription drug assistance plans, including offers by prescription drug  
 17 manufacturers of specific no-cost or reduced-cost prescription drugs and private  
 18 plans that offer prescription drug discounts to members. ✓

19 SECTION 6. 49.45 (50) of the statutes is created to read:

20 49.45 (50) FEDERAL DISCOUNT DRUG PROGRAM. (a) In this subsection, "federally  
 21 qualified health center" has the meaning specified in 42 USC 1396d (L) (2) (B).

22 (b) The department shall inform those entities, including tribes and federally  
 23 qualified health centers, that are eligible for the federal prescription drug discount  
 24 program under 42 USC 256b about their eligibility and about the benefits of the

1 program and shall provide technical assistance to the entities in applying for and  
2 implementing benefits under the program.

3 **SECTION 7.** 49.45 (51) of the statutes is created to read:

4 49.45 (51) **FEDERALLY QUALIFIED HEALTH CENTERS.** (a) In this subsection,  
5 "federally qualified health center" has the meaning specified in 42 USC 1396 (L) (2)  
6 (B).

7 (b) The department shall analyze health care data in the state so as to identify  
8 areas that could be eligible for and benefit from establishment of federally qualified  
9 health centers and shall provide interested entities in the identified areas with  
10 information about and technical assistance in developing federally qualified health  
11 centers.

12 **SECTION 8.** 49.477 of the statutes is created to read:

13 **49.477 Prescription drug assistance project.** (1) In this section:

14 (a) "Medicare" means coverage under part A or part B of Title XVIII of the  
15 federal Social Security Act, 42 USC 1395 to 1395y.

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

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. and that is  
20 manufactured by a manufacturer that enters into a rebate agreement in force under  
21 sub. (4).

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

23 (2) The department shall request from the secretary of the federal department  
24 of health and human services a waiver, under 42 USC 1315 (a), of federal medicaid  
25 laws necessary to permit the department to conduct, ~~beginning July 1, 2002,~~ a project

1 to expand eligibility for medical assistance to include individuals who meet the  
2 requirements specified under sub. (3). Eligibility for medical assistance under this  
3 subsection entitles an individual only to a benefit related to prescription drugs as  
4 specified under sub. (3).

5 (3) Notwithstanding ss. 49.46 (1) and 49.47 (4), a person who is a resident, as  
6 defined in s. 27.01 (10) (a), of this state, who is at least 65 years of age, who is  
7 otherwise ineligible for medical assistance, whose annual household income, as  
8 determined by the department, does not exceed 185% of the poverty line for a family  
9 the size of the individual's eligible family, who has not had available outpatient  
10 prescription drug coverage from any source other than under medical assistance for 12 months, and who pays the project  
11 enrollment fee specified in sub. (4) (a) is eligible for medical assistance for purposes  
12 of purchasing a prescription drug by paying the amounts specified in sub. (4). The  
13 person may apply to the department, on a form provided by the department together  
14 with program enrollment fee payment, for a determination of eligibility and issuance  
15 of a prescription drug card for purchase of prescription drugs under this section.

16 (4) Project participants shall pay all of the following:

17 (a) For each 12-month benefit period, a project enrollment fee of \$25.

18 (b) For each 12-month benefit period, a deductible that equals one of the  
19 following, except that an individual with an annual household income, as specified  
20 in sub. (3), that does not exceed 110% of the federal poverty line pays no deductible:

21 1. For an individual with an annual household income, as specified in sub. (3),  
22 that exceeds 110% but does not exceed 130% of the federal poverty line, \$300.

23 2. For an individual with an annual household income, as specified in sub. (3),  
24 that exceeds 130% but does not exceed 155% of the federal poverty line, \$600.

1           3. For an individual with an annual household income, as specified in sub. (3),  
 2 that exceeds 155% but does not exceed 185% of the federal poverty line, a deductible  
 3 that equals, for each prescription drug, the ~~medical assistance reimbursement~~  
 4 amount for the drug, ~~as determined by the department.~~ *pharmacy discount rate*

5           (c) For an individual with an annual household income, as specified in sub. (3)  
 6 that is less than 110% of the federal poverty line and, after payment of the deductible  
 7 under par (b), for the individuals specified in par. (b) 1. and 2., all of the following:

- 8           1. A copayment of \$10 for each prescription drug that bears only a generic  
 9 name.
- 10           2. A copayment of \$20 for each prescription drug that does not bear only a  
 11 generic name.

12           (5) Under the project under sub. (2), as a condition of participation by a  
 13 pharmacy or pharmacist in the program under s. 49.45, 49.46, or 49.47, the  
 14 pharmacy or pharmacist may not charge an individual who is eligible for medical  
 15 assistance under sub. (2) and who presents a valid prescription order an amount for  
 16 a prescription drug under the order that exceeds the amounts specified in sub. (4) (b)  
 17 and (c). *(4)* *(c)* *pharmacy discount*

18           (6) From the appropriations under s. 20.435 (4) (b) and (c), the department  
 19 shall pay the pharmacy or pharmacist for a prescription drug purchased as specified  
 20 under sub. (5) the ~~medical assistance reimbursement~~ rate amount for the drug.

21           (7) (a) The department may not implement the project under this section  
 22 unless all of the following apply:

- 23           1. A waiver that is consistent with all of the provisions of this section is granted  
 24 and in effect. If the department receives the waiver, at the end of the period during

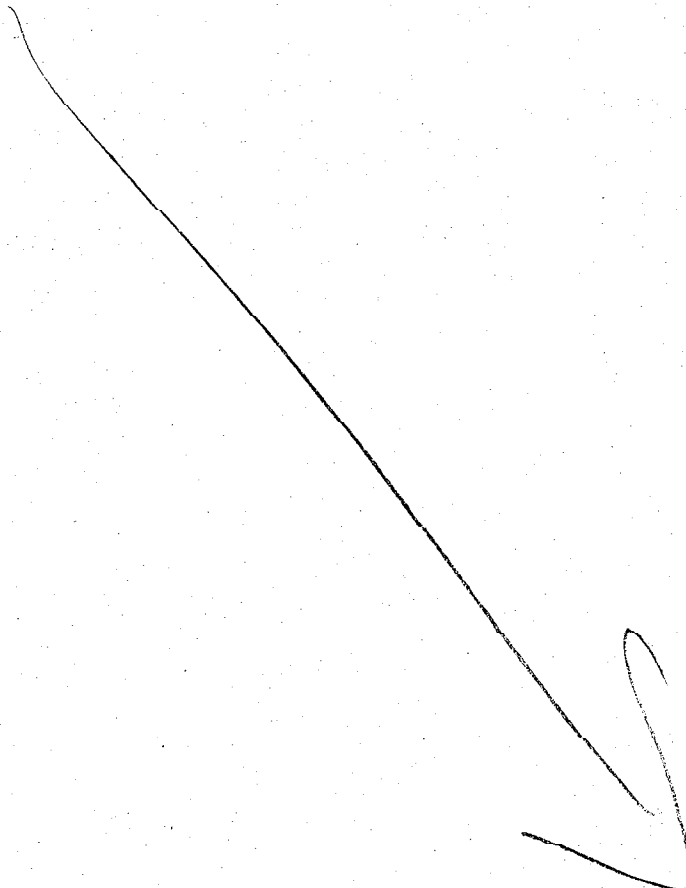
*, less copayments*

1 which the waiver remains in effect the department shall request any available  
2 extension of the waiver.

3 2. Sufficient state and federal funds for the project are available.

4 (b) The department may not implement the project under this section if a  
5 national prescription drug benefit program for seniors is created that renders the  
6 project unnecessary.

7  (END)





¶ (b) of a waiver, as specified under par. (a) 1.

is granted, the department may not implement the project under this section if a substantially similar national prescription

drug benefit program for seniors is created

and unless the department first submits a:

plan for project implementation that is approved by all of

the following:

¶ 1. The department of administration.

¶ 2. The joint committee on finance. If the cochairpersons of the committee do not notify the secretary of health and family services within 14 working days after the date of the department's submittal that the committee intends to schedule a meeting to review the plan, the department

may, if approved under subd. 1., implement the project, and if a national prescription drug benefit program for seniors has not been created,

project. If, within 14 working days after the date

of the department's submittal, the cochairpersons of the committee notify the secretary of health and family services that the committee intends to schedule a meeting to review the plan, the project may be implemented only if the committee approves the plan.

(End)

D-NOTE

INSERT A

no #

For persons with household incomes over

155% but less than 186% of the federal poverty

line, however, the benefit would be limited

to their eligibility to purchase prescription

drugs at the pharmacy discount rate.

no # Under the bill, this project may not

be implemented if the federal government

creates a national prescription drug benefit

program for seniors and unless DHFS first

secures approval from DOA and the joint

committee on finance of the legislature.

INSERT 5-15

# (b) "Pharmacy discount rate" means the  
= average wholesale price minus 10% or the  
maximum allowable cost, whichever is  
lower, plus a dispensing fee.

as determined by the department,

D-NOTE

DAK:cjs:

Pawasarat

Barkelar

TO Gene Pawasarat, Craig Barkelar, and Jennifer

Kraus:

¶ 1. Please scrutinize especially carefully

s. 49.477 (4) and (6) in this bill, to ensure that

the bill does what you want with respect to pharmacy

reimbursement and recipient cost sharing. note

that I added to s. 49.477 (6) reference to s. 49.477

<sup>4</sup>  
(~~4~~) (6); as previously referenced, it would have

required a double payment to pharmacists.

I did not refer in s. 49.477 (6) to deductibles,

after all, because the reference would probably

only be confusing.

¶ 2. I scrutinized again the cross-references

that Jeff Kuesel had given me as an amendment

to s. 16.736 (2) in the draft. I doubt that

services under the contract specified in s. 16.736

(2) would include those procurable from

(s. 16.75 (3E)(c), stats.)

prison industries or work centers for severely

handicapped individuals

(s. 16.752(12)(a), stats.)

and because they

otherwise would apply to the contract, I

have followed Jeff's advice and specifically

excluded them.

Please let me know if I may provide  
you with further assistance.

DAK

3. I added "substantially similar" to  
s. 49.477(7)(b) because there currently exists,

under the medical program, what might

be considered a "national prescription drug

benefit program for seniors"? Please review.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1706/2dn  
DAK:cjs:km

January 15, 2001

To Jane Pawasarat, Craig Barkelar, and Jennifer Kraus:

1. Please scrutinize especially carefully s. 49.477 (4) and (6) in this bill, to ensure that the bill does what you want with respect to pharmacy reimbursement and recipient cost sharing. Note that I added to s. 49.477 (6) reference to s. 49.477 (4) (c); as previously referenced, it would have required a double payment to pharmacists. I did not refer in s. 49.477 (6) to deductibles, after all, because the reference would probably only be confusing.
2. I scrutinized again the cross-references that Jeff Kuesel had given me as an amendment to s. 16.736 (2) in the draft. I doubt that services under the contract specified in s. 16.736 (2) would include those procurable from prison industries (s. 16.75 (3t) (c), stats.) or work centers for severely handicapped individuals (s. 16.752 (12) (a), stats.), and, because they otherwise would apply to the contract. I have followed Jeff's advice and specifically excluded them.
3. I added "substantially similar" to s. 49.477 (7) (b) because there currently exists, under the medicaid program, what might be considered a "national prescription drug benefit program for seniors." Please review.

Please let me know if I may provide you with further assistance.

Debora A. Kennedy  
Managing Attorney  
Phone: (608) 266-0137  
E-mail: debora.kennedy@legis.state.wi.us

1/17/01 From Craig Barkelan:

Proposed changes:

✓ ① p. 2, end of 2d par.: "that would generally be available to anyone, regardless of age or income"

② p. 3, ll 3+4 - instead of "significantly lower costs", use "proportionately larger rebates, on average".

✓ ③ p. 5, l. 14 - delete "interested"

✓ ④ p. 8, ll. 12 + 21 - instead of "substantially similar", use "additional" ... created "that would provide similar benefits to a similar population"



**Kennedy, Debora**

---

**From:** Kraus, Jennifer  
**Sent:** Friday, January 19, 2001 4:34 PM  
**To:** Kennedy, Debora  
**Subject:** FW: Statutory Language for Governor's Drugs for Seniors Proposal.

Hi Debora - can you please incorporate these two modifications into the Prescription Drug draft? Thanks

-----Original Message-----

**From:** Chao, Richard  
**Sent:** Friday, January 19, 2001 10:04 AM  
**To:** Kraus, Jennifer  
**Cc:** Bove, Fredi-Ellen  
**Subject:** Statutory Language for Governor's Drugs for Seniors Proposal.

Hi Jennifer:

We have the following two suggestions regarding the statutory language for the Governor's Prescription Drug Proposal. Please let me know if you have any questions.

Rich

*Ignore this: see JK instruction 1/23/01*

- X 1. In Section 1, the Multistate purchase pool - DHCF would like to see language that requires drug manufacturers to participate w/ WI and/or other states in providing the "significantly lower costs", or their drugs will be subject to prior authorization and a closed formulary under MA. Without such "teeth" in the statutes, there is little leverage for the state(s) to negotiate. We would suggest that other states in any multistate pool also have similar language.

*What is a closed formulary?*

- ✓ 2. In Section 8 - 49.477(7)(a)2.(b) on page 8, line 12: add ", as determined by the department," after "substantially similar". Without a definition of "substantially similar", there must be flexibility for the department to make this determination. There could any variety of national drug benefits plans approved which may or may not be considered "substantially similar".

Richard T. Chao  
Budget Section  
Department of Health and Family Services  
(608) 267-0356

1/23/01 Jan Kraus

✓ ① Ignore 1<sup>st</sup> DHS comment on multistate purch pool

✓ ② Craig Barkelan lang =

proport. larger rebates, on average

Should be: \$ basis

+ % basis

Try to make simpler + clearer

✓ ③ AWP - 10% change to AWP - 15% - apply to  
MA + prescrip. drug program. SEC 8 (1)(b)

Melissa, needs change for MA in general?

H9.477 (1)(b)

results, on average, in larger rebate amts  
than those achievable under the rebate  
agreement specified under 42 USC 1396r-8

④ p. 6, l. 4 delete "Sub. (4)" and substitute  
"medical assistance"

⑤ p. 7, l. 1 - indicate that deductible is paid at  
the pharmacy discount rate



DOA:.....Kraus - Prescription drug assistance program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

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**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

Under current state law, pharmacies and pharmacists that are certified providers of medical assistance (MA) services are reimbursed, at a rate established by DHFS, for providing certain prescription drugs to MA recipients. 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.

Under the bill, DHFS must request from the secretary of the federal department of health and human services a waiver of federal medicaid laws to permit DHFS to conduct a project to expand MA eligibility, solely for the purpose of purchasing prescription drugs, for persons who are aged at least 65, who have not had outpatient prescription drug coverage from any source other than under MA for 12 months, and whose annual household incomes do not exceed 185% of the federal poverty line for a family the size of the persons' eligible families. Under the waiver, which requires that the project be cost neutral, the expanded MA eligibility would entitle an eligible person with a household income of up to 155% of the federal poverty line, after paying a \$25 annual enrollment fee and after paying specified deductible amounts for prescription drugs calculated at the pharmacy discount rate, as defined in the bill, to purchase prescription drugs for copayments, as specified in the bill. The pharmacy or pharmacist who sells the drug at this reduced price

that would generally be available to anyone, regardless of age or income

that, as determined by DHFS, would provide similar benefits to a similar population

DHFS

receives reimbursement for the difference between the copayment and the pharmacy discount rate amount from DHFS, from state general purpose revenues and federal medicaid moneys. For persons with household incomes over 155% but less than 186% of the federal poverty line, however, the benefit would be limited to their eligibility to purchase prescription drugs at the pharmacy discount rate. Under the bill, this project may not be implemented if the federal government creates a national prescription drug benefit program for seniors and unless ~~DHFS~~ first secures approval from DOA and the joint committee on finance of the legislature.

This bill requires that DOA and DHFS together work to develop, in conjunction with states other than Wisconsin and with associations, a multistate purchasing group for the negotiation with prescription drug manufacturers of prescription drug rebate agreements that result in ~~lower MA costs~~ for prescription drugs. Under the bill, DOA must also contract with a private entity to administer a discount program for the purchase of prescription drugs. higher rebate amounts

The bill requires that DHFS work with DOA to contract with a private entity for the bulk purchase and mail order delivery of prescription drugs for MA recipients who voluntarily participate in the program and who have chronic conditions. Further, DHFS must, together with DOA, promote, on the state's Internet site and in health information, private prescription drug assistance plans that offer free and reduced-price drugs and prescription drug discounts to members. DHFS must inform those entities, including tribes and federally qualified health centers (as defined in the bill), that are eligible for a federal prescription drug discount program about the eligibility and provide technical assistance to the entities in applying for and implementing benefits under the program. Lastly, DHFS must analyze health care data in Wisconsin so as to identify areas that could be eligible for and benefit from establishment of federally qualified health centers and shall provide interested entities in those areas with information about and technical assistance in developing the centers.

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✓  
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3           (b) The department shall inform those entities, including tribes and federally  
4 qualified health centers, that are eligible for the federal prescription drug discount  
5 program under 42 USC 256b about their eligibility and about the benefits of the  
6 program and shall provide technical assistance to the entities in applying for and  
7 implementing benefits under the program.

8           **SECTION 7.** 49.45 (51) of the statutes is created to read:

9           49.45 (51) FEDERALLY QUALIFIED HEALTH CENTERS. (a) In this subsection,  
10 “federally qualified health center” has the meaning specified in 42 USC 1396 (L) (2)  
11 (B).

12           (b) The department shall analyze health care data in the state so as to identify  
13 areas that could be eligible for and benefit from establishment of federally qualified  
14 health centers and shall provide <sup>✓</sup>~~interested~~ entities in the identified areas with  
15 information about and technical assistance in developing federally qualified health  
16 centers.

17           **SECTION 8.** 49.477 of the statutes is created to read:

18           **49.477 Prescription drug assistance project.** (1) In this section:

19           (a) “Medicare” means coverage under part A or part B of Title XVIII of the  
20 federal Social Security Act, 42 USC 1395 to 1395y.

15%

21           (b) “Pharmacy discount rate” means the average wholesale price minus ~~10%~~  
22 or the maximum allowable cost, whichever is lower, as determined by the  
23 department, plus a dispensing fee.

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

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

4 ~~sub. (4)~~ medical assistance ✓

5 (e) "Prescription order" has the meaning given in s. 450.01 (21).

6 (2) The department shall request from the secretary of the federal department  
7 of health and human services a waiver, under 42 USC 1315 (a), of federal medicaid  
8 laws necessary to permit the department to conduct a project to expand eligibility for  
9 medical assistance to include individuals who meet the requirements specified under  
10 sub. (3). Eligibility for medical assistance under this subsection entitles an  
11 individual only to a benefit related to prescription drugs as specified under sub. (3).

12 (3) Notwithstanding ss. 49.46 (1) and 49.47 (4), a person who is a resident, as  
13 defined in s. 27.01 (10) (a), of this state, who is at least 65 years of age, who is  
14 otherwise ineligible for medical assistance, whose annual household income, as  
15 determined by the department, does not exceed 185% of the poverty line for a family  
16 the size of the individual's eligible family, who has not had available outpatient  
17 prescription drug coverage from any source other than under medical assistance for  
18 12 months, and who pays the project enrollment fee specified in sub. (4) (a) is eligible  
19 for medical assistance for purposes of purchasing a prescription drug by paying the  
20 amounts specified in sub. (4). The person may apply to the department, on a form  
21 provided by the department together with program enrollment fee payment, for a  
22 determination of eligibility and issuance of a prescription drug card for purchase of  
23 prescription drugs under this section.

24 (4) Project participants shall pay all of the following:

25 (a) For each 12-month benefit period, a project enrollment fee of \$25.



*paid at the pharmacy discount rate*

1 (b) For each 12-month benefit period, a deductible that equals one of the  
2 following, except that an individual with an annual household income, as specified  
3 in sub. (3), that does not exceed 110% of the federal poverty line pays no deductible:

4 1. For an individual with an annual household income, as specified in sub. (3),  
5 that exceeds 110% but does not exceed 130% of the federal poverty line, \$300.

6 2. For an individual with an annual household income, as specified in sub. (3),  
7 that exceeds 130% but does not exceed 155% of the federal poverty line, \$600.

8 3. For an individual with an annual household income, as specified in sub. (3),  
9 that exceeds 155% but does not exceed 185% of the federal poverty line, a deductible  
10 that equals, for each prescription drug, the pharmacy discount rate amount for the  
11 drug.

12 (c) For an individual with an annual household income, as specified in sub. (3),  
13 that is less than 110% of the federal poverty line and, after payment of the deductible  
14 under par. (b), for the individuals specified in par. (b) 1. and 2., all of the following:

15 1. A copayment of \$10 for each prescription drug that bears only a generic  
16 name.

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

19 (5) Under the project under sub. (2), as a condition of participation by a  
20 pharmacy or pharmacist in the program under s. 49.45, 49.46, or 49.47, the  
21 pharmacy or pharmacist may not charge an individual who is eligible for medical  
22 assistance under sub. (2) and who presents a valid prescription order an amount for  
23 a prescription drug under the order that exceeds the amounts specified in sub. (4) (b)  
24 and (c).

1 (6) From the appropriations under s. 20.435 (4) (b) and (o), the department  
2 shall pay the pharmacy or pharmacist for a prescription drug purchased as specified  
3 under sub. (4) (c) the pharmacy discount rate amount for the drug, less copayments.

4 (7) (a) The department may not implement the project under this section  
5 unless all of the following apply:

6 1. A waiver that is consistent with all of the provisions of this section is granted  
7 and in effect. If the department receives the waiver, at the end of the period during  
8 which the waiver remains in effect the department shall request any available  
9 extension of the waiver.

10 2. Sufficient state and federal funds for the project are available.

11 (b) If a waiver, as specified under par. (a), 1. is granted, the department may  
12 not implement the project under this section if a ~~substantially similar~~ national  
13 prescription drug benefit program for seniors is created and unless the department  
14 first submits a plan for project implementation that is approved by all of the  
15 following:

16 1. The department of administration.

17 2. The joint committee on finance. If the cochairpersons of the committee do  
18 not notify the secretary of health and family services within 14 working days after  
19 the date of the department's submittal that the committee intends to schedule a  
20 meeting to review the plan, the department may, if approved under subd. 1., and if  
21 a substantially similar national prescription drug benefit program for seniors has  
22 not been created, implement the project. If, within 14 working days after the date  
23 of the department's submittal, the cochairpersons of the committee notify the  
24 secretary of health and family services that the committee intends to schedule a

1 meeting to review the plan, the project may be implemented only if the committee  
2 approves the plan.

3 (END)

## Kennedy, Debora

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**From:** Kraus, Jennifer  
**Sent:** Friday, January 26, 2001 1:24 PM  
**To:** Kennedy, Debora  
**Subject:** Rx Drugs draft

Debora - I hate to ask this but can you make two minor changes to the most recent version of this draft?

1) PEO is concerned about the language requested by DHFS that would allow them to determine what is meant by a national plan with similar benefits - please delete the phrase "as determined by the department" on page 8 line 14 - I know I asked for that to be put in in the first place and I apologize!

2) Can you replace language on page 5 that defines the pharmacy discount to not use the specific AWP rate but rather just mention the MA rate, in case AWP changes in the future?

Thanks

Jennifer



SOON - In edit 1/26  
State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1706/24  
DAK:jld&cjs:ljf

DOA:.....Kraus - Prescription drug assistance program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1

don't gen  
AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

Under current state law, pharmacies and pharmacists that are certified providers of medical assistance (MA) services are reimbursed, at a rate established by DHFS, for providing certain prescription drugs to MA recipients. 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.

Under the bill, DHFS must request from the secretary of the federal department of health and human services a waiver of federal medicaid laws to permit DHFS to conduct a project to expand MA eligibility, solely for the purpose of purchasing prescription drugs, for persons who are aged at least 65, who have not had outpatient prescription drug coverage from any source other than under MA for 12 months, and whose annual household incomes do not exceed 185% of the federal poverty line for a family the size of the persons' eligible families. Under the waiver, which requires that the project be cost neutral, the expanded MA eligibility would entitle an eligible person with a household income of up to 155% of the federal poverty line, after paying a \$25 annual enrollment fee and after paying specified deductible amounts for prescription drugs calculated at the pharmacy discount rate, as defined in the bill, to purchase prescription drugs for copayments, as specified in the bill. The pharmacy or pharmacist who sells the drug at this reduced price

receives reimbursement for the difference between the copayment and the pharmacy discount rate amount from DHFS, from state general purpose revenues and federal medicaid moneys. For persons with household incomes over 155% but less than 186% of the federal poverty line, however, the benefit would be limited to their eligibility to purchase prescription drugs at the pharmacy discount rate. Under the bill, this project may not be implemented if the federal government creates a national prescription drug benefit program for seniors that ~~is determined by DHFS~~ would provide similar benefits to a similar population and unless DHFS first secures approval from DOA and the joint committee on finance of the legislature.

This bill requires that DOA and DHFS together work to develop, in conjunction with states other than Wisconsin and with associations, a multistate purchasing group for the negotiation with prescription drug manufacturers of prescription drug rebate agreements that result in higher rebate amounts for prescription drugs. Under the bill, DOA must also contract with a private entity to administer a discount program for the purchase of prescription drugs that would generally be available to anyone, regardless of age or income.

The bill requires that DHFS work with DOA to contract with a private entity for the bulk purchase and mail order delivery of prescription drugs for MA recipients who voluntarily participate in the program and who have chronic conditions. Further, DHFS must, together with DOA, promote, on the state's Internet site and in health information, private prescription drug assistance plans that offer free and reduced-price drugs and prescription drug discounts to members. DHFS must inform those entities, including tribes and federally qualified health centers (as defined in the bill), that are eligible for a federal prescription drug discount program about the eligibility and provide technical assistance to the entities in applying for and implementing benefits under the program. Lastly, DHFS must analyze health care data in Wisconsin so as to identify areas that could be eligible for and benefit from establishment of federally qualified health centers and shall provide interested entities in those areas with information about and technical assistance in developing the centers.

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.** 16.735 of the statutes is created to read:
- 2           **16.735 Multistate purchasing of prescription drugs.** (1) In this section,
- 3           “prescription drug” means a prescription drug, as defined in s. 450.01 (20), that is
- 4           included in the drugs specified under s. 49.46 (2) (b) 6. h.

1           (2) The department and the department of health and family services shall  
2 together work to develop, in conjunction with states other than this state and with  
3 associations, a multistate purchasing group for the direct negotiation with  
4 prescription drug manufacturers of rebates that are, in part, modeled on the rebate  
5 agreement specified under 42 USC 1396r-8 and that result, on average, in larger  
6 rebate amounts than those achievable under the rebate agreement specified under  
7 42 USC 1396r-8.

8           **SECTION 2.** 16.736 of the statutes is created to read:

9           **16.736 Prescription drug discount program.** (1) In this section,  
10 “prescription drug” means a prescription drug, as defined in s. 450.01 (20), that is  
11 included in the drugs specified under s. 49.46 (2) (b) 6. h.

12           (2) The department of administration shall contract with a private entity to  
13 administer a discount program for purchase of prescription drugs by persons of any  
14 age or income who pay to the entity nominal fees. Requirements of ss. 16.75 (3t) (c)  
15 and 16.752 (12) (a) do not apply to this subsection.

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

17           20.435 (4) (jd) *Prescription drug assistance project; enrollment fees.* All moneys  
18 received from payment of enrollment fees under s. 49.477 (4) (a), to be used for  
19 administration of the program under s. 49.477. This paragraph applies only if s.  
20 49.477 (7) (a) applies and if s. 49.477 (7) (b) does not apply.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
reflected in the revised schedule in s. 20.005, stats.

21           **SECTION 4.** 49.45 (48) of the statutes is created to read:

**49.45 (48) BULK PURCHASE AND MAIL ORDER DELIVERY OF PRESCRIPTION DRUGS. (a)**

In this subsection, “prescription drug” means a prescription drug, as defined in s. 450.01 (20), that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

(b) The department shall work with the department of administration to contract with a private entity for the bulk purchase and mail order delivery of prescription drugs and medical supplies for persons who meet eligibility requirements under s. 49.46 (1), 49.468, 49.47 (4), or 49.472, or, if a waiver is granted, under s. 49.477, and who have chronic conditions, including diabetes, asthma, and hypertension. Participation by an eligible person under this subsection is voluntary. If the department contracts under this subsection, the private entity with which the department contracts shall administer and promote the bulk purchase and mail order delivery of prescription drugs and shall, each 3 months, telephone participants to ascertain their progress in administering self-care.

(c) Annually, the department shall evaluate hospital and emergency room costs of participants under par. (b) to determine the extent of savings, if any, achieved by their participation in the bulk purchase and mail order delivery of prescription drugs.

**SECTION 5. 49.45 (49) of the statutes is created to read:**

**49.45 (49) PROMOTION OF PRESCRIPTION DRUG ASSISTANCE PLANS. (a)** In this subsection, “prescription drug” means a prescription drug, as defined in s. 450.01 (20), that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

(b) The department shall, together with the department of administration, promote, in health information and on the state’s Internet site, private prescription drug assistance plans, including offers by prescription drug manufacturers of



1 specific no-cost or reduced-cost prescription drugs and private plans that offer  
2 prescription drug discounts to members.

3 **SECTION 6.** 49.45 (50) of the statutes is created to read:

4 **49.45 (50) FEDERAL DISCOUNT DRUG PROGRAM.** (a) In this subsection, “federally  
5 qualified health center” has the meaning specified in 42 USC 1396d (L) (2) (B).

6 (b) The department shall inform those entities, including tribes and federally  
7 qualified health centers, that are eligible for the federal prescription drug discount  
8 program under 42 USC 256b about their eligibility and about the benefits of the  
9 program and shall provide technical assistance to the entities in applying for and  
10 implementing benefits under the program.

11 **SECTION 7.** 49.45 (51) of the statutes is created to read:

12 **49.45 (51) FEDERALLY QUALIFIED HEALTH CENTERS.** (a) In this subsection,  
13 “federally qualified health center” has the meaning specified in 42 USC 1396 (L) (2)  
14 (B).

15 (b) The department shall analyze health care data in the state so as to identify  
16 areas that could be eligible for and benefit from establishment of federally qualified  
17 health centers and shall provide entities in the identified areas with information  
18 about and technical assistance in developing federally qualified health centers.

19 **SECTION 8.** 49.477 of the statutes is created to read:

20 **49.477 Prescription drug assistance project.** (1) In this section:

21 (a) “Medicare” means coverage under part A or part B of Title XVIII of the  
22 federal Social Security Act, 42 USC 1395 to 1395y.

23 (b) “Pharmacy discount rate” means the ~~average wholesale price minus 15%~~  
24 ~~or the maximum allowable cost, whichever is lower, as determined by the~~  
25 ~~department, plus a dispensing fee.~~

rate of payment made for  
the identical drug specified  
under s. 49.46(2)(b) 6. h.

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

3 (d) "Prescription drug" means a prescription drug, as defined in s. 450.01 (20),  
4 that is included in the drugs specified under s. 49.46 (2) (b) 6. h. and that is  
5 manufactured by a manufacturer that enters into a rebate agreement in force under  
6 medical assistance.

7 (e) "Prescription order" has the meaning given in s. 450.01 (21).

8 (2) The department shall request from the secretary of the federal department  
9 of health and human services a waiver, under 42 USC 1315 (a), of federal medicaid  
10 laws necessary to permit the department to conduct a project to expand eligibility for  
11 medical assistance to include individuals who meet the requirements specified under  
12 sub. (3). Eligibility for medical assistance under this subsection entitles an  
13 individual only to a benefit related to prescription drugs as specified under sub. (3).

14 (3) Notwithstanding ss. 49.46 (1) and 49.47 (4), a person who is a resident, as  
15 defined in s. 27.01 (10) (a), of this state, who is at least 65 years of age, who is  
16 otherwise ineligible for medical assistance, whose annual household income, as  
17 determined by the department, does not exceed 185% of the poverty line for a family  
18 the size of the individual's eligible family, who has not had available outpatient  
19 prescription drug coverage from any source other than under medical assistance for  
20 12 months, and who pays the project enrollment fee specified in sub. (4) (a) is eligible  
21 for medical assistance for purposes of purchasing a prescription drug by paying the  
22 amounts specified in sub. (4). The person may apply to the department, on a form  
23 provided by the department together with program enrollment fee payment, for a  
24 determination of eligibility and issuance of a prescription drug card for purchase of  
25 prescription drugs under this section.

1           (4) Project participants shall pay all of the following:

2           (a) For each 12-month benefit period, a project enrollment fee of \$25.

3           (b) For each 12-month benefit period, a deductible paid at the pharmacy  
4 discount rate that equals one of the following, except that an individual with an  
5 annual household income, as specified in sub. (3), that does not exceed 110% of the  
6 federal poverty line pays no deductible:

7           1. For an individual with an annual household income, as specified in sub. (3),  
8 that exceeds 110% but does not exceed 130% of the federal poverty line, \$300.

9           2. For an individual with an annual household income, as specified in sub. (3),  
10 that exceeds 130% but does not exceed 155% of the federal poverty line, \$600.

11           3. For an individual with an annual household income, as specified in sub. (3),  
12 that exceeds 155% but does not exceed 185% of the federal poverty line, a deductible  
13 that equals, for each prescription drug, the pharmacy discount rate amount for the  
14 drug.

15           (c) For an individual with an annual household income, as specified in sub. (3),  
16 that is less than 110% of the federal poverty line and, after payment of the deductible  
17 under par. (b), for the individuals specified in par. (b) 1. and 2., all of the following:

18           1. A copayment of \$10 for each prescription drug that bears only a generic  
19 name.

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

22           (5) Under the project under sub. (2), as a condition of participation by a  
23 pharmacy or pharmacist in the program under s. 49.45, 49.46, or 49.47, the  
24 pharmacy or pharmacist may not charge an individual who is eligible for medical  
25 assistance under sub. (2) and who presents a valid prescription order an amount for

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

3 (6) From the appropriations under s. 20.435 (4) (b) and (o), the department  
4 shall pay the pharmacy or pharmacist for a prescription drug purchased as specified  
5 under sub. (4) (c) the pharmacy discount rate amount for the drug, less copayments.

6 (7) (a) The department may not implement the project under this section  
7 unless all of the following apply:

8 1. A waiver that is consistent with all of the provisions of this section is granted  
9 and in effect. If the department receives the waiver, at the end of the period during  
10 which the waiver remains in effect the department shall request any available  
11 extension of the waiver.

12 2. Sufficient state and federal funds for the project are available.

13 (b) If a waiver, as specified under par. (a), 1. is granted, the department may  
14 not implement the project under this section if, ~~as determined by the department,~~ a  
15 national prescription drug benefit program for seniors is created that would provide  
16 similar benefits to a similar population and unless the department first submits a  
17 plan for project implementation that is approved by all of the following:

18 1. The department of administration.

19 2. The joint committee on finance. If the cochairpersons of the committee do  
20 not notify the secretary of health and family services within 14 working days after  
21 the date of the department's submittal that the committee intends to schedule a  
22 meeting to review the plan, the department may, if approved under subd. 1., and if  
23 a substantially similar national prescription drug benefit program for seniors has  
24 not been created, implement the project. If, within 14 working days after the date  
25 of the department's submittal, the cochairpersons of the committee notify the

1 secretary of health and family services that the committee intends to schedule a  
2 meeting to review the plan, the project may be implemented only if the committee  
3 approves the plan.

4 (END)



TODAY  
State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1706/5  
DAK:jld&cjs:

D-NOTE

DOA:.....Kraus - Prescription drug assistance program

FOR 2001-03 BUDGET - NOT READY FOR INTRODUCTION

Do not gen

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*  
**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

Under current state law, pharmacies and pharmacists that are certified providers of medical assistance (MA) services are reimbursed, at a rate established by DHFS, for providing certain prescription drugs to MA recipients. 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.

Under the bill, DHFS must request from the secretary of the federal department of health and human services a waiver of federal medicaid laws to permit DHFS to conduct a project to expand MA eligibility, solely for the purpose of purchasing prescription drugs, for persons who are aged at least 65, who have not had outpatient prescription drug coverage from any source other than under MA for 12 months, and whose annual household incomes do not exceed 185% of the federal poverty line for a family the size of the persons' eligible families. Under the waiver, which requires that the project be cost neutral, the expanded MA eligibility would entitle an eligible person with a household income of up to 155% of the federal poverty line, after paying a \$25 annual enrollment fee and after paying specified deductible amounts for prescription drugs calculated at the pharmacy discount rate, as defined in the bill, to purchase prescription drugs for copayments, as specified in the bill. The pharmacy or pharmacist who sells the drug at this reduced price

receives reimbursement for the difference between the copayment and the pharmacy discount rate amount from DHFS, from state general purpose revenues and federal medicaid moneys. For persons with household incomes over 155% but less than 186% of the federal poverty line, however, the benefit would be limited to their eligibility to purchase prescription drugs at the pharmacy discount rate. Under the bill, this project may not be implemented if the federal government creates a national prescription drug benefit program for seniors that would provide similar benefits to a similar population and unless DHFS first secures approval from DOA and the joint committee on finance of the legislature.

This bill requires that DOA and DHFS together work to develop, in conjunction with states other than Wisconsin and with associations, a multistate purchasing group for the negotiation with prescription drug manufacturers of prescription drug rebate agreements that result in higher rebate amounts for prescription drugs. Under the bill, DOA must also contract with a private entity to administer a discount program for the purchase of prescription drugs that would generally be available to anyone, regardless of age or income.

The bill requires that DHFS work with DOA to contract with a private entity for the bulk purchase and mail order delivery of prescription drugs for MA recipients who voluntarily participate in the program and who have chronic conditions. Further, DHFS must, together with DOA, promote, on the state's Internet site and in health information, private prescription drug assistance plans that offer free and reduced-price drugs and prescription drug discounts to members. DHFS must inform those entities, including tribes and federally qualified health centers (as defined in the bill), that are eligible for a federal prescription drug discount program about the eligibility and provide technical assistance to the entities in applying for and implementing benefits under the program. Lastly, DHFS must analyze health care data in Wisconsin so as to identify areas that could be eligible for and benefit from establishment of federally qualified health centers and shall provide interested entities in those areas with information about and technical assistance in developing the centers.

For further information see the *state and local* 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           **SECTION 1.** 16.735 of the statutes is created to read:

2           **16.735 Multistate purchasing of prescription drugs.** (1) In this section,  
3           “prescription drug” means a prescription drug, as defined in s. 450.01 (20), that is  
4           included in the drugs specified under s. 49.46 (2) (b) 6. h.

1           (2) The department and the department of health and family services shall  
2 together work to develop, in conjunction with states other than this state and with  
3 associations, a multistate purchasing group for the direct negotiation with  
4 prescription drug manufacturers of rebates that are, in part, modeled on the rebate  
5 agreement specified under 42 USC 1396r-8 and that result, on average, in larger  
6 rebate amounts than those achievable under the rebate agreement specified under  
7 42 USC 1396r-8.

8           **SECTION 2.** 16.736 of the statutes is created to read:

9           **16.736 Prescription drug discount program.** (1) In this section,  
10 “prescription drug” means a prescription drug, as defined in s. 450.01 (20), that is  
11 included in the drugs specified under s. 49.46 (2) (b) 6. h.

12           (2) The department of administration shall contract with a private entity to  
13 administer a discount program for purchase of prescription drugs by persons of any  
14 age or income who pay to the entity nominal fees. Requirements of ss. 16.75 (3t) (c)  
15 and 16.752 (12) (a) do not apply to this subsection.

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

17           20.435 (4) (jd) *Prescription drug assistance project; enrollment fees.* All moneys  
18 received from payment of enrollment fees under s. 49.477 (4) (a), to be used for  
19 administration of the program under s. 49.477. This paragraph applies only if s.  
20 49.477 (7) (a) applies and if s. 49.477 (7) (b) does not apply.

\*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be reflected in the revised schedule in s. 20.005, stats.

21           **SECTION 4.** 49.45 (~~4~~) of the statutes is created to read:

52

MOVE THIS TO AFTER p. 5, l. 18.



52

1 49.45 (~~48~~) BULK PURCHASE AND MAIL ORDER DELIVERY OF PRESCRIPTION DRUGS. (a)

2 In this subsection, "prescription drug" means a prescription drug, as defined in s.  
3 450.01 (20), that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

MOVE  
THIS  
TO  
AFTER  
P-5,  
1.  
18

4 (b) The department shall work with the department of administration to  
5 contract with a private entity for the bulk purchase and mail order delivery of  
6 prescription drugs and medical supplies for persons who meet eligibility  
7 requirements under s. 49.46 (1), 49.468, 49.47 (4), or 49.472, or, if a waiver is granted,  
8 under s. 49.477, and who have chronic conditions, including diabetes, asthma, and  
9 hypertension. Participation by an eligible person under this subsection is voluntary.  
10 If the department contracts under this subsection, the private entity with which the  
11 department contracts shall administer and promote the bulk purchase and mail  
12 order delivery of prescription drugs and shall, each 3 months, telephone participants  
13 to ascertain their progress in administering self-care.

14 (c) Annually, the department shall evaluate hospital and emergency room costs  
15 of participants under par. (b) to determine the extent of savings, if any, achieved by  
16 their participation in the bulk purchase and mail order delivery of prescription  
17 drugs.

18 SECTION 5. 49.45 (49) of the statutes is created to read:

19 49.45 (49) PROMOTION OF PRESCRIPTION DRUG ASSISTANCE PLANS. (a) In this  
20 subsection, "prescription drug" means a prescription drug, as defined in s. 450.01  
21 (20), that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

22 (b) The department shall, together with the department of administration,  
23 promote, in health information and on the state's Internet site, private prescription  
24 drug assistance plans, including offers by prescription drug manufacturers of

1 specific no-cost or reduced-cost prescription drugs and private plans that offer  
2 prescription drug discounts to members.

3 **SECTION 6.** 49.45 (50) of the statutes is created to read:

4 **49.45 (50) FEDERAL DISCOUNT DRUG PROGRAM.** (a) In this subsection, "federally  
5 qualified health center" has the meaning specified in 42 USC 1396d (L) (2) (B).

6 (b) The department shall inform those entities, including tribes and federally  
7 qualified health centers, that are eligible for the federal prescription drug discount  
8 program under 42 USC 256b about their eligibility and about the benefits of the  
9 program and shall provide technical assistance to the entities in applying for and  
10 implementing benefits under the program.

11 **SECTION 7.** 49.45 (51) of the statutes is created to read:

12 **49.45 (51) FEDERALLY QUALIFIED HEALTH CENTERS.** (a) In this subsection,  
13 "federally qualified health center" has the meaning specified in 42 USC 1396 (L) (2)  
14 (B).

15 (b) The department shall analyze health care data in the state so as to identify  
16 areas that could be eligible for and benefit from establishment of federally qualified  
17 health centers and shall provide entities in the identified areas with information  
18 about and technical assistance in developing federally qualified health centers.

19 **SECTION 8.** 49.477 of the statutes is created to read:

20 **49.477 Prescription drug assistance project.** (1) In this section:

21 (a) "Medicare" means coverage under part A or part B of Title XVIII of the  
22 federal Social Security Act, 42 USC 1395 to 1395y.

23 (b) "Pharmacy discount rate" means the rate of medical assistance payment for  
24 the identical drug specified under s. 49.46 (2) (b) 6. h.

✓  
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5-18

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

3 (d) "Prescription drug" means a prescription drug, as defined in s. 450.01 (20),  
4 that is included in the drugs specified under s. 49.46 (2) (b) 6. h. and that is  
5 manufactured by a manufacturer that enters into a rebate agreement in force under  
6 medical assistance.

7 (e) "Prescription order" has the meaning given in s. 450.01 (21).

8 (2) The department shall request from the secretary of the federal department  
9 of health and human services a waiver, under 42 USC 1315 (a), of federal medicaid  
10 laws necessary to permit the department to conduct a project to expand eligibility for  
11 medical assistance to include individuals who meet the requirements specified under  
12 sub. (3). Eligibility for medical assistance under this subsection entitles an  
13 individual only to a benefit related to prescription drugs as specified under sub. (3).

14 (3) Notwithstanding ss. 49.46 (1) and 49.47 (4), a person who is a resident, as  
15 defined in s. 27.01 (10) (a), of this state, who is at least 65 years of age, who is  
16 otherwise ineligible for medical assistance, whose annual household income, as  
17 determined by the department, does not exceed 185% of the poverty line for a family  
18 the size of the individual's eligible family, who has not had available outpatient  
19 prescription drug coverage from any source other than under medical assistance for  
20 12 months, and who pays the project enrollment fee specified in sub. (4) (a) is eligible  
21 for medical assistance for purposes of purchasing a prescription drug by paying the  
22 amounts specified in sub. (4). The person may apply to the department, on a form  
23 provided by the department together with program enrollment fee payment, for a  
24 determination of eligibility and issuance of a prescription drug card for purchase of  
25 prescription drugs under this section.

1           (4) Project participants shall pay all of the following:

2           (a) For each 12-month benefit period, a project enrollment fee of \$25.

3           (b) For each 12-month benefit period, a deductible paid at the pharmacy  
4 discount rate that equals one of the following, except that an individual with an  
5 annual household income, as specified in sub. (3), that does not exceed 110% of the  
6 federal poverty line pays no deductible:

7           1. For an individual with an annual household income, as specified in sub. (3),  
8 that exceeds 110% but does not exceed 130% of the federal poverty line, \$300.

9           2. For an individual with an annual household income, as specified in sub. (3),  
10 that exceeds 130% but does not exceed 155% of the federal poverty line, \$600.

11           3. For an individual with an annual household income, as specified in sub. (3),  
12 that exceeds 155% but does not exceed 185% of the federal poverty line, a deductible  
13 that equals, for each prescription drug, the pharmacy discount rate amount for the  
14 drug.

15           (c) For an individual with an annual household income, as specified in sub. (3),  
16 that is less than 110% of the federal poverty line and, after payment of the deductible  
17 under par. (b), for the individuals specified in par. (b) 1. and 2., all of the following:

18           1. A copayment of \$10 for each prescription drug that bears only a generic  
19 name.

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

22           (5) Under the project under sub. (2), as a condition of participation by a  
23 pharmacy or pharmacist in the program under s. 49.45, 49.46, or 49.47, the  
24 pharmacy or pharmacist may not charge an individual who is eligible for medical  
25 assistance under sub. (2) and who presents a valid prescription order an amount for

**SECTION 8**

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

3 (6) From the appropriations under s. 20.435 (4) (b) and (o), the department  
4 shall pay the pharmacy or pharmacist for a prescription drug purchased as specified  
5 under sub. (4) (c) the pharmacy discount rate amount for the drug, less copayments.

6 (7) (a) The department may not implement the project under this section  
7 unless all of the following apply:

8 1. A waiver that is consistent with all of the provisions of this section is granted  
9 and in effect. If the department receives the waiver, at the end of the period during  
10 which the waiver remains in effect the department shall request any available  
11 extension of the waiver.

12 2. Sufficient state and federal funds for the project are available.

13 (b) If a waiver, as specified under par. (a), 1. is granted, the department may  
14 not implement the project under this section if a national prescription drug benefit  
15 program for seniors is created that would provide similar benefits to a similar  
16 population and unless the department first submits a plan for project  
17 implementation that is approved by all of the following:

18 1. The department of administration.

19 2. The joint committee on finance. If the cochairpersons of the committee do  
20 not notify the secretary of health and family services within 14 working days after  
21 the date of the department's submittal that the committee intends to schedule a  
22 meeting to review the plan, the department may, if approved under subd. 1., and if  
23 a substantially similar national prescription drug benefit program for seniors has  
24 not been created, implement the project. If, within 14 working days after the date  
25 of the department's submittal, the cochairpersons of the committee notify the

1 secretary of health and family services that the committee intends to schedule a  
2 meeting to review the plan, the project may be implemented only if the committee  
3 approves the plan.

4

(END)

D-NOTE

**2001-2002 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1706/5ins  
DAK:jld&cjs:rs

**INSERT 5-18**

\*\*\*NOTE: This is reconciled s. 49.45 (52) (formerly numbered <sup>s.</sup>49.45 (48)) This SECTION has been affected by drafts with the following LRB numbers: LRB-1706/4 and LRB-2016/1.

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1706/5dn  
DAK:jld~~jj~~:rs

To Jennifer Kraus:

This draft renumbers s. 49.45 (48) to <sup>S.</sup>49.45 (52). The draft reconciles LRB-1706/4 and LRB-2016/1. Both LRB-1706 and LRB-2016 should continue to appear in the compiled bill.

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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-1706/5dn  
DAK:jld:kjf

February 7, 2001

To Jennifer Kraus:

This draft renumbers s. 49.45 (48) to s. 49.45 (52). The draft reconciles LRB-1706/4 and LRB-2016/1. Both LRB-1706 and LRB-2016 should continue to appear in the compiled bill.

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State of Wisconsin  
2001 - 2002 LEGISLATURE

LRB-1706/5  
DAK:jld&cjs:kjf

DOA:.....Kraus - Prescription drug assistance program

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*  
**HEALTH AND HUMAN SERVICES**

**MEDICAL ASSISTANCE**

Under current state law, pharmacies and pharmacists that are certified providers of medical assistance (MA) services are reimbursed, at a rate established by DHFS, for providing certain prescription drugs to MA recipients. 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.

Under the bill, DHFS must request from the secretary of the federal department of health and human services a waiver of federal medicaid laws to permit DHFS to conduct a project to expand MA eligibility, solely for the purpose of purchasing prescription drugs, for persons who are aged at least 65, who have not had outpatient prescription drug coverage from any source other than under MA for 12 months, and whose annual household incomes do not exceed 185% of the federal poverty line for a family the size of the persons' eligible families. Under the waiver, which requires that the project be cost neutral, the expanded MA eligibility would entitle an eligible person with a household income of up to 155% of the federal poverty line, after paying a \$25 annual enrollment fee and after paying specified deductible amounts for prescription drugs calculated at the pharmacy discount rate, as defined in the bill, to purchase prescription drugs for copayments, as specified in the bill. The pharmacy or pharmacist who sells the drug at this reduced price

receives reimbursement for the difference between the copayment and the pharmacy discount rate amount from DHFS, from state general purpose revenues and federal medicaid moneys. For persons with household incomes over 155% but less than 186% of the federal poverty line, however, the benefit would be limited to their eligibility to purchase prescription drugs at the pharmacy discount rate. Under the bill, this project may not be implemented if the federal government creates a national prescription drug benefit program for seniors that would provide similar benefits to a similar population and unless DHFS first secures approval from DOA and the joint committee on finance of the legislature.

This bill requires that DOA and DHFS together work to develop, in conjunction with states other than Wisconsin and with associations, a multistate purchasing group for the negotiation with prescription drug manufacturers of prescription drug rebate agreements that result in higher rebate amounts for prescription drugs. Under the bill, DOA must also contract with a private entity to administer a discount program for the purchase of prescription drugs that would generally be available to anyone, regardless of age or income.

The bill requires that DHFS work with DOA to contract with a private entity for the bulk purchase and mail order delivery of prescription drugs for MA recipients who voluntarily participate in the program and who have chronic conditions. Further, DHFS must, together with DOA, promote, on the state's Internet site and in health information, private prescription drug assistance plans that offer free and reduced-price drugs and prescription drug discounts to members. DHFS must inform those entities, including tribes and federally qualified health centers (as defined in the bill), that are eligible for a federal prescription drug discount program about the eligibility and provide technical assistance to the entities in applying for and implementing benefits under the program. Lastly, DHFS must analyze health care data in Wisconsin so as to identify areas that could be eligible for and benefit from establishment of federally qualified health centers and shall provide interested entities in those areas with information about and technical assistance in developing the centers.

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.** 16.735 of the statutes is created to read:

2           **16.735 Multistate purchasing of prescription drugs.** (1) In this section,  
3           “prescription drug” means a prescription drug, as defined in s. 450.01 (20), that is  
4           included in the drugs specified under s. 49.46 (2) (b) 6. h.

1           (2) The department and the department of health and family services shall  
2 together work to develop, in conjunction with states other than this state and with  
3 associations, a multistate purchasing group for the direct negotiation with  
4 prescription drug manufacturers of rebates that are, in part, modeled on the rebate  
5 agreement specified under 42 USC 1396r-8 and that result, on average, in larger  
6 rebate amounts than those achievable under the rebate agreement specified under  
7 42 USC 1396r-8.

8           **SECTION 2.** 16.736 of the statutes is created to read:

9           **16.736 Prescription drug discount program.** (1) In this section,  
10 "prescription drug" means a prescription drug, as defined in s. 450.01 (20), that is  
11 included in the drugs specified under s. 49.46 (2) (b) 6. h.

12           (2) The department of administration shall contract with a private entity to  
13 administer a discount program for purchase of prescription drugs by persons of any  
14 age or income who pay to the entity nominal fees. Requirements of ss. 16.75 (3t) (c)  
15 and 16.752 (12) (a) do not apply to this subsection.

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

17           20.435 (4) (jd) *Prescription drug assistance project; enrollment fees.* All moneys  
18 received from payment of enrollment fees under s. 49.477 (4) (a), to be used for  
19 administration of the program under s. 49.477. This paragraph applies only if s.  
20 49.477 (7) (a) applies and if s. 49.477 (7) (b) does not apply.

      \*\*\*\*NOTE: This SECTION involves a change in an appropriation that must be  
reflected in the revised schedule in s. 20.005, stats.

21           **SECTION 4.** 49.45 (49) of the statutes is created to read:

1           **49.45 (49) PROMOTION OF PRESCRIPTION DRUG ASSISTANCE PLANS.** (a) In this  
2 subsection, “prescription drug” means a prescription drug, as defined in s. 450.01  
3 (20), that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

4           (b) The department shall, together with the department of administration,  
5 promote, in health information and on the state’s Internet site, private prescription  
6 drug assistance plans, including offers by prescription drug manufacturers of  
7 specific no-cost or reduced-cost prescription drugs and private plans that offer  
8 prescription drug discounts to members.

9           **SECTION 5.** 49.45 (50) of the statutes is created to read:

10           **49.45 (50) FEDERAL DISCOUNT DRUG PROGRAM.** (a) In this subsection, “federally  
11 qualified health center” has the meaning specified in 42 USC 1396d (L) (2) (B).

12           (b) The department shall inform those entities, including tribes and federally  
13 qualified health centers, that are eligible for the federal prescription drug discount  
14 program under 42 USC 256b about their eligibility and about the benefits of the  
15 program and shall provide technical assistance to the entities in applying for and  
16 implementing benefits under the program.

17           **SECTION 6.** 49.45 (51) of the statutes is created to read:

18           **49.45 (51) FEDERALLY QUALIFIED HEALTH CENTERS.** (a) In this subsection,  
19 “federally qualified health center” has the meaning specified in 42 USC 1396 (L) (2)  
20 (B).

21           (b) The department shall analyze health care data in the state so as to identify  
22 areas that could be eligible for and benefit from establishment of federally qualified  
23 health centers and shall provide entities in the identified areas with information  
24 about and technical assistance in developing federally qualified health centers.

25           **SECTION 7.** 49.45 (52) of the statutes is created to read:

1           49.45 (52) BULK PURCHASE AND MAIL ORDER DELIVERY OF PRESCRIPTION DRUGS. (a)  
2           In this subsection, “prescription drug” means a prescription drug, as defined in s.  
3           450.01 (20), that is included in the drugs specified under s. 49.46 (2) (b) 6. h.

4           (b) The department shall work with the department of administration to  
5           contract with a private entity for the bulk purchase and mail order delivery of  
6           prescription drugs and medical supplies for persons who meet eligibility  
7           requirements under s. 49.46 (1), 49.468, 49.47 (4), or 49.472, or, if a waiver is granted,  
8           under s. 49.477, and who have chronic conditions, including diabetes, asthma, and  
9           hypertension. Participation by an eligible person under this subsection is voluntary.  
10          If the department contracts under this subsection, the private entity with which the  
11          department contracts shall administer and promote the bulk purchase and mail  
12          order delivery of prescription drugs and shall, each 3 months, telephone participants  
13          to ascertain their progress in administering self-care.

14          (c) Annually, the department shall evaluate hospital and emergency room costs  
15          of participants under par. (b) to determine the extent of savings, if any, achieved by  
16          their participation in the bulk purchase and mail order delivery of prescription  
17          drugs.

      \*\*\*\*NOTE: This is reconciled s. 49.45 (52) (formerly numbered s. 49.45 (48)). This  
SECTION has been affected by drafts with the following LRB numbers: LRB-1706/4 and  
LRB-2016/1.

18          **SECTION 8.** 49.477 of the statutes is created to read:

19          **49.477 Prescription drug assistance project. (1)** In this section:

20          (a) “Medicare” means coverage under part A or part B of Title XVIII of the  
21          federal Social Security Act, 42 USC 1395 to 1395y.

22          (b) “Pharmacy discount rate” means the rate of medical assistance payment for  
23          the identical drug specified under s. 49.46 (2) (b) 6. h.

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

3 (d) "Prescription drug" means a prescription drug, as defined in s. 450.01 (20),  
4 that is included in the drugs specified under s. 49.46 (2) (b) 6. h. and that is  
5 manufactured by a manufacturer that enters into a rebate agreement in force under  
6 medical assistance.

7 (e) "Prescription order" has the meaning given in s. 450.01 (21).

8 (2) The department shall request from the secretary of the federal department  
9 of health and human services a waiver, under 42 USC 1315 (a), of federal medicaid  
10 laws necessary to permit the department to conduct a project to expand eligibility for  
11 medical assistance to include individuals who meet the requirements specified under  
12 sub. (3). Eligibility for medical assistance under this subsection entitles an  
13 individual only to a benefit related to prescription drugs as specified under sub. (3).

14 (3) Notwithstanding ss. 49.46 (1) and 49.47 (4), a person who is a resident, as  
15 defined in s. 27.01 (10) (a), of this state, who is at least 65 years of age, who is  
16 otherwise ineligible for medical assistance, whose annual household income, as  
17 determined by the department, does not exceed 185% of the poverty line for a family  
18 the size of the individual's eligible family, who has not had available outpatient  
19 prescription drug coverage from any source other than under medical assistance for  
20 12 months, and who pays the project enrollment fee specified in sub. (4) (a) is eligible  
21 for medical assistance for purposes of purchasing a prescription drug by paying the  
22 amounts specified in sub. (4). The person may apply to the department, on a form  
23 provided by the department together with program enrollment fee payment, for a  
24 determination of eligibility and issuance of a prescription drug card for purchase of  
25 prescription drugs under this section.

1 (4) Project participants shall pay all of the following:

2 (a) For each 12-month benefit period, a project enrollment fee of \$25.

3 (b) For each 12-month benefit period, a deductible paid at the pharmacy  
4 discount rate that equals one of the following, except that an individual with an  
5 annual household income, as specified in sub. (3), that does not exceed 110% of the  
6 federal poverty line pays no deductible:

7 1. For an individual with an annual household income, as specified in sub. (3),  
8 that exceeds 110% but does not exceed 130% of the federal poverty line, \$300.

9 2. For an individual with an annual household income, as specified in sub. (3),  
10 that exceeds 130% but does not exceed 155% of the federal poverty line, \$600.

11 3. For an individual with an annual household income, as specified in sub. (3),  
12 that exceeds 155% but does not exceed 185% of the federal poverty line, a deductible  
13 that equals, for each prescription drug, the pharmacy discount rate amount for the  
14 drug.

15 (c) For an individual with an annual household income, as specified in sub. (3),  
16 that is less than 110% of the federal poverty line and, after payment of the deductible  
17 under par. (b), for the individuals specified in par. (b) 1. and 2., all of the following:

18 1. A copayment of \$10 for each prescription drug that bears only a generic  
19 name.

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

22 (5) Under the project under sub. (2), as a condition of participation by a  
23 pharmacy or pharmacist in the program under s. 49.45, 49.46, or 49.47, the  
24 pharmacy or pharmacist may not charge an individual who is eligible for medical  
25 assistance under sub. (2) and who presents a valid prescription order an amount for



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

3 (6) From the appropriations under s. 20.435 (4) (b) and (o), the department  
4 shall pay the pharmacy or pharmacist for a prescription drug purchased as specified  
5 under sub. (4) (c) the pharmacy discount rate amount for the drug, less copayments.

6 (7) (a) The department may not implement the project under this section  
7 unless all of the following apply:

8 1. A waiver that is consistent with all of the provisions of this section is granted  
9 and in effect. If the department receives the waiver, at the end of the period during  
10 which the waiver remains in effect the department shall request any available  
11 extension of the waiver.

12 2. Sufficient state and federal funds for the project are available.

13 (b) If a waiver, as specified under par. (a) 1., is granted, the department may  
14 not implement the project under this section if a national prescription drug benefit  
15 program for seniors is created that would provide similar benefits to a similar  
16 population and unless the department first submits a plan for project  
17 implementation that is approved by all of the following:

18 1. The department of administration.

19 2. The joint committee on finance. If the cochairpersons of the committee do  
20 not notify the secretary of health and family services within 14 working days after  
21 the date of the department's submittal that the committee intends to schedule a  
22 meeting to review the plan, the department may, if approved under subd. 1., and if  
23 a substantially similar national prescription drug benefit program for seniors has  
24 not been created, implement the project. If, within 14 working days after the date  
25 of the department's submittal, the cochairpersons of the committee notify the

1 secretary of health and family services that the committee intends to schedule a  
2 meeting to review the plan, the project may be implemented only if the committee  
3 approves the plan.

4

**(END)**