



2007 ASSEMBLY BILL 137

March 5, 2007 - Introduced by Representatives SOLETSKI, NELSON, SHILLING, GRIGSBY, SHERIDAN, STASKUNAS, POCAN, MUSSER, A. OTT, MASON, VRUWINK, CULLEN, HRAYCHUCK, SINICKI and SEIDEL, cosponsored by Senators HANSEN, LEHMAN, SCHULTZ, MILLER, ERPENBACH, BRESKE, PLALE, LASSA, SULLIVAN and COGGS. Referred to Committee on Health and Healthcare Reform.

1 **AN ACT to renumber and amend** 49.688 (11); **to amend** 49.688 (4); and **to**
2 **create** 49.688 (4) (b) 2., 49.688 (4) (b) 3. and 49.688 (11) (b) of the statutes;
3 **relating to:** eligibility for and deductible amounts under the prescription drug
4 assistance program for the elderly, providing an exemption from emergency
5 rule procedures, and requiring the exercise of rule-making authority.

Analysis by the Legislative Reference Bureau

Under current law, elderly persons may purchase prescription drugs at reduced amounts under a program commonly known as “Senior Care.” A person is eligible for Senior Care if he or she is a state resident, is at least 65 years of age, is not a medical assistance (MA) recipient or does not receive prescription drug coverage as an MA recipient, and his or her annual household income, as determined by the Department of Health and Family Services (DHFS), does not exceed 240 percent of the federal poverty line. A person must pay an annual \$30 fee to enroll in Senior Care. An enrollee pays the “program payment rate” for prescription drugs (105 percent of the MA prescription drug payment rate plus a dispensing fee) until the enrollee has met an annual deductible, if applicable, and thereafter pays only a copayment of \$5 for generic prescription drugs and a copayment of \$15 for nongeneric prescription drugs. A person whose annual household income is 160 percent or less of the federal poverty line pays no deductible; if the person’s annual household income is more than 160 percent but not more than 200 percent of the federal poverty line, the deductible is \$500; and if the person’s annual household income exceeds 200 percent of the federal poverty line, the deductible is \$850.

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Other persons who meet all of the requirements except the income limitation are also eligible to purchase prescription drugs for the \$5 and \$15 copayment amounts for the time remaining in a 12-month period after spending the difference between their annual household income and 240 percent of the federal poverty line by paying for prescription drugs at the retail price and satisfying the \$850 deductible by purchasing prescription drugs at the program payment rate.

The U.S. Department of Health and Family Services granted DHFS a Medicaid waiver that allows DHFS to use federal Medicaid dollars to partially fund Senior Care.

This bill directs DHFS to seek an amendment to the federal Medicaid waiver for Senior Care that would allow DHFS to deduct the amount of property taxes that a person is assessed on his or her principal dwelling when calculating the person's household income for purposes of determining eligibility for and the deductible amount under Senior Care. The bill requires DHFS to implement the waiver amendment if the U.S. Department of Health and Human Services approves it.

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

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

1 **SECTION 1.** 49.688 (4) of the statutes is amended to read:

2 49.688 (4) (a) The department shall devise and distribute a form for application
3 for the program under sub. (2), shall determine eligibility for each 12-month benefit
4 period of applicants and shall issue to eligible persons a prescription drug card for
5 use in purchasing prescription drugs, as specified in sub. (5).

6 (b) 1. The department shall promulgate rules that specify the criteria to be used
7 to determine household income under sub. (2) (a) 4. and (b) and (3) (b) 1. and 2.

8 **SECTION 2.** 49.688 (4) (b) 2. of the statutes is created to read:

9 49.688 (4) (b) 2. The rules under subd. 1. shall require that when determining
10 a person's household income the department deduct any amount that the person, or
11 any member of his or her household, is assessed in property taxes on the person's
12 principal dwelling for the calendar year in which the determination of household
13 income is made.

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1 **SECTION 3.** 49.688 (4) (b) 3. of the statutes is created to read:

2 49.688 (4) (b) 3. Subdivision 2. does not apply unless the waiver amendment
3 requested by the department under sub. (11) (b) is approved by the U.S. secretary of
4 health and human services.

5 **SECTION 4.** 49.688 (11) of the statutes is renumbered 49.688 (11) (a) and
6 amended to read:

7 49.688 (11) (a) The department shall request from the federal U.S. secretary
8 of health and human services a waiver, under 42 USC 1315 (a), of federal medicaid
9 laws necessary to permit the department of health and family services to conduct a
10 project, under all of the requirements of this section, to expand eligibility for medical
11 assistance, for purposes of receipt of prescription drugs as a benefit, to include
12 individuals who are eligible under sub. (2). The department may implement a waiver
13 requested under this subsection only if the conditions of the waiver are consistent
14 with the requirements of this section.

15 (c) The Except as provided in sub. (4) (b) 3., the department shall implement
16 the program under this section regardless of whether a waiver, as specified in this
17 subsection, is received.

18 **SECTION 5.** 49.688 (11) (b) of the statutes is created to read:

19 49.688 (11) (b) By the first day of the 4th month beginning after the effective
20 date of this paragraph [revisor inserts date], the department of health and family
21 services shall request from the U.S. secretary of health and human services an
22 amendment to the waiver received under par. (a) that allows the department of
23 health and family services to implement the requirement under sub. (4) (b) 2.

24 **SECTION 6. Nonstatutory provisions.**

