



**ASSEMBLY AMENDMENT 2,
TO ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 SENATE BILL 55**

June 29, 2001 – Offered by Representatives KRUSICK, PLOUFF and MILLER.

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

2 **1.** Page 207, line 19: increase the dollar amount for fiscal year 2001-02 by
3 \$1,000,000 to increase funding for administration of the prescription drug assistance
4 for elderly program.

5 **2.** Page 208, line 12: after that line insert:

6 “(bv) Prescription drug assistance for
7 elderly; aids GPR S -0- -0-”.

8 **3.** Page 209, line 8: after that line insert:

9 “(j) Prescription drug assistance for
10 elderly; manufacturer rebates PR C -0- -0-
11 (jb) Prescription drug assistance for
12 elderly; enrollment fees PR C -0- -0-”.

1 **4.** Page 288, line 2: increase the dollar amount for fiscal year 2001–02 by
2 \$1,000,000 to increase funding for administration of the prescription drug assistance
3 for elderly program.

4 **5.** Page 358, line 11: after that line insert:

5 “**SECTION 707bg.** 20.435 (4) (bv) of the statutes is created to read:

6 20.435 (4) (bv) *Prescription drug assistance for elderly; aids.* A sum sufficient
7 for payment to pharmacies and pharmacists under s. 49.688 (7) for prescription drug
8 assistance for elderly persons.”.

9 **6.** Page 359, line 8: after that line insert:

10 “**SECTION 711g.** 20.435 (4) (j) of the statutes is created to read:

11 20.435 (4) (j) *Prescription drug assistance for elderly; manufacturer rebates.*
12 All moneys received from rebate payments by manufacturers under s. 49.688 (6), to
13 be used for payment to pharmacies and pharmacists under s. 49.688 (7) for
14 prescription drug assistance for elderly persons.

15 **SECTION 711h.** 20.435 (4) (jb) of the statutes is created to read:

16 20.435 (4) (jb) *Prescription drug assistance for elderly; enrollment fees.* All
17 moneys received from payment of enrollment fees under s. 49.688 (3), to be used for
18 administration of the program under s. 49.688.”.

19 **7.** Page 646, line 22: after that line insert:

20 “**SECTION 1838gb.** 49.688 of the statutes is created to read:

21 **49.688 Prescription drug assistance for elderly persons.** (1) In this
22 section:

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

1 (b) "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 (c) "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 drug manufacturer that enters into a rebate agreement in force
6 under sub. (6).

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

8 (e) "Program payment rate" means the rate of payment made for the identical
9 drug specified under s. 49.46 (2) (b) 6. h., plus 5%, plus a dispensing fee that is equal
10 to the dispensing fee permitted to be charged for prescription drugs for which
11 coverage is provided under s. 49.46 (2) (b) 6. h.

12 **(2)** (a) A person to whom all of the following applies is eligible to purchase a
13 prescription drug for the amounts specified in sub. (5) (a) 1. and 2.:

14 1. The person is a resident, as defined in s. 27.01 (10) (a), of this state.

15 2. The person is at least 65 years of age.

16 3. The person is not a recipient of medical assistance.

17 4. The person's annual household income, as determined by the department,
18 does not exceed 300% of the federal poverty line for a family the size of the person's
19 eligible family.

20 5. The person pays the program enrollment fee specified in sub. (3) (a).

21 (b) A person to whom par. (a) 1. to 3. and 5. applies, but whose annual household
22 income, as determined by the department, exceeds 300% of the federal poverty line
23 for a family the size of the persons' eligible family, is eligible to purchase a
24 prescription drug at the amounts specified in sub. (5) (a) 4. only during the remaining
25 amount of any 12-month period in which the person has first paid the annual

1 deductible specified in sub. (3) (b) 2. a. in purchasing prescription drugs at the retail
2 price and has then paid the annual deductible specified in sub. (3) (b) 2. b.

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

4 (a) For each 12-month benefit period, a program enrollment fee of \$20.

5 (b) 1. For each 12-month benefit period, for a person specified in sub. (2) (a),
6 a deductible for prescription drugs of \$500, except that a person whose annual
7 household income, as determined by the department, is 175% or less of the federal
8 poverty line for a family the size of the person's eligible family pays no deductible.

9 2. For each 12-month benefit period, for a person specified in sub. (2) (b), a
10 deductible for prescription drugs that equals all of the following:

11 a. The difference between the person's annual household income and 300% of
12 the federal poverty line for a family the size of the person's eligible family.

13 b. Five hundred dollars.

14 (c) After payment of any applicable deductible under par. (b), all of the
15 following:

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

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

19 (d) Notwithstanding s. 49.002, if a person who is eligible under this section has
20 other available coverage for payment of a prescription drug, this section applies only
21 to costs for prescription drugs for the persons that are not covered under the person's
22 other available coverage.

23 **(4)** The department shall devise and distribute a form for application for the
24 program under sub. (2), shall determine eligibility for each 12-month benefit period
25 of applicants and shall issue to eligible persons a prescription drug card for use in

1 purchasing prescription drugs, as specified in sub. (5). The department shall
2 promulgate rules that specify the criteria to be used to determine household income
3 under sub. (2) (a) 4. and (b) and (3) (b) 1.

4 **(5)** (a) Beginning September 1, 2002, as a condition of participation by a
5 pharmacy or pharmacist in the program under s. 49.45, 49.46, or 49.47, the
6 pharmacy or pharmacist may not charge a person who presents a valid prescription
7 order and a card indicating that he or she meets eligibility requirements under sub.
8 (2) an amount for a prescription drug under the order that exceeds the following:

9 1. For a deductible, as specified in sub. (3) (b) 1. and 2. b., the program payment
10 rate.

11 2. After any applicable deductible under subd. 1. is charged, the copayment, as
12 applicable, that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged
13 to a person under this subdivision.

14 3. For a deductible, as specified in sub. (3) (b) 2. a., the retail price.

15 4. After the deductible under subd. 3. is charged, the copayment, as applicable,
16 that is specified in sub. (3) (c) 1. or 2. No dispensing fee may be charged to a person
17 under this subdivision.

18 (b) The department shall calculate and transmit to pharmacies and
19 pharmacists that are certified providers of medical assistance amounts that may be
20 used in calculating charges under par. (a). The department shall periodically update
21 this information and transmit the updated amounts to pharmacies and pharmacists.

22 **(6)** The department, or an entity with which the department contracts, shall
23 provide to a drug manufacturer that sells drugs for prescribed use in this state
24 documents designed for use by the manufacturer in entering into a rebate agreement
25 with the department or entity that is modeled on the rebate agreement specified

1 under 42 USC 1396r-8. A rebate agreement under this subsection shall include all
2 of the following as requirements:

3 (a) That the manufacturer shall make rebate payments for each prescription
4 drug of the manufacturer that is prescribed for and purchased by persons who meet
5 criteria under sub. (2) (a) and persons who meet criteria under sub. (2) (b) and have
6 paid the deductible under sub. (3) (b) 2. a., to the state treasurer to be credited to the
7 appropriation account under s. 20.435 (4) (j), each calendar quarter or according to
8 a schedule established by the department.

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

11 **(7)** From the appropriation accounts under s. 20.435 (4) (bv) and (j), beginning
12 September 1, 2002, the department shall, under a schedule that is identical to that
13 used by the department for payment of pharmacy provider claims under medical
14 assistance, provide to pharmacies and pharmacists payments for prescription drugs
15 sold by the pharmacies or pharmacists to persons eligible under sub. (2) who have
16 paid the deductible specified under sub. (3) (b) 1. or 2. or who, under sub. (3) (b) 1.,
17 are not required to pay a deductible. The payment for each prescription drug under
18 this subsection shall be at the program payment rate, minus any copayment paid by
19 the person under sub. (5) (a) 2. or 4., and plus, if applicable, incentive payments that
20 are similar to those provided under s. 49.45 (8v). The department shall devise and
21 distribute a claim form for use by pharmacies and pharmacists under this subsection
22 and may limit payment under this subsection to those prescription drugs for which
23 payment claims are submitted by pharmacists or pharmacies directly to the
24 department. The department may apply to the program under this section the same

1 utilization and cost control procedures that apply under rules promulgated by the
2 department to medical assistance under subch. IV of ch. 49.

3 (8) The department shall, under methods promulgated by the department by
4 rule, monitor compliance by pharmacies and pharmacists that are certified providers
5 of medical assistance with the requirements of sub. (5) and shall annually report to
6 the legislature under s. 13.172 (2) concerning the compliance. The report shall
7 include information on any pharmacies or pharmacists that discontinue
8 participation as certified providers of medical assistance and the reasons given for
9 the discontinuance.

10 (9) (a) The department shall promulgate rules relating to prohibitions on fraud
11 that are substantially similar to applicable provisions under s. 49.49 (1) (a).

12 (b) A person who is convicted of violating a rule promulgated by the department
13 under par. (a) in connection with that person's furnishing of prescription drugs under
14 this section may be fined not more than \$25,000, or imprisoned for not more than 7
15 years and 6 months, or both.

16 (c) A person other than a person specified in par. (b) who is convicted of violating
17 a rule promulgated by the department under par. (a) may be fined not more than
18 \$10,000, or imprisoned for not more than one year, or both.

19 (10) If federal law is amended to provide coverage for prescription drugs for
20 outpatient care as a benefit under medicare or to provide similar coverage under
21 another program, the department shall submit to appropriate standing committees
22 of the legislature under s. 13.172 (3) a report that contains an analysis of the
23 differences between such a federal program and the program under this section and
24 that provides recommendations concerning alignment, if any, of the differences.

1 **(11)** Except as provided in subs. (8) to (10) and except for the department's
2 rule-making requirements and authority, the department may enter into a contract
3 with an entity to perform the duties and exercise the powers of the department under
4 this section.”.

5 **8.** Page 1338, line 20: after that line insert:

6 “(16h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY; ADMINISTRATION. Before July
7 1, 2002, the department of health and family services may develop and submit to the
8 department of administration a proposal for expenditure of the funds appropriated
9 under section 20.865 (4) (a) of the statutes for administration of the prescription drug
10 assistance for elderly program under section 49.688 of the statutes, as created by this
11 act. The department of administration may approve, disapprove, or modify and
12 approve any proposal it receives under this subsection. If the department of
13 administration approves the proposal, the department shall submit the proposal,
14 together with any modifications, to the cochairpersons of the joint committee on
15 finance. If the cochairpersons of the committee do not notify the secretaries of
16 administration and health and family services within 14 working days after
17 receiving the proposal that the cochairpersons have scheduled a meeting for the
18 purpose of reviewing the proposal, the secretary of administration may transfer from
19 the appropriation account under section 20.865 (4) (a) of the statutes to the
20 appropriation account under section 20.435 (4) (a) of the statutes the amount
21 specified in the proposal or any proposed modifications of the proposal for
22 expenditure as specified in the proposal or any proposed modifications of the
23 proposal and may approve any position authority specified in the proposal or any
24 proposed modifications of the proposal. If, within 14 working days after receiving the

1 proposal, the cochairpersons notify the secretaries of administration and health and
2 family services that the cochairpersons have scheduled a meeting for the purpose of
3 reviewing the proposal, the secretary of administration may not transfer any amount
4 specified in the proposal or any proposed modifications of the proposal from the
5 appropriation account under section 20.865 (4) (a) of the statutes and may not
6 approve any position authority specified in the proposal or any proposed
7 modifications of the proposal, except as approved by the committee.

8 (16j) NOTIFICATION OF ELIGIBILITY FOR THE HEALTH INSURANCE RISK-SHARING PLAN.

9 Before January 1, 2002, the department of health and family services shall provide,
10 to the extent permitted under federal law, to every resident of this state who is
11 covered by medicare because he or she is disabled under 42 USC 423 and who is not
12 covered under the health insurance risk-sharing plan under chapter 149 of the
13 statutes, notice by mail of all of the following:

14 (a) That he or she may be eligible for coverage under the health insurance
15 risk-sharing plan.

16 (b) How to apply for coverage under the health insurance risk-sharing plan.”.

17 **9.** Page 1420, line 19: after that line insert:

18 “(19h) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY. The treatment of section
19 20.435 (4) (bv) of the statutes takes effect on September 1, 2002.”.

20 (END)