



1999 ASSEMBLY BILL 705

February 1, 2000 – Introduced by Representatives KRUSICK, BALOW, BERCEAU, BLACK, BOCK, BOYLE, CARPENTER, COGGS, COLON, GOETSCH, GRONEMUS, GUNDERSON, HAHN, HASENOHRL, HEBL, HOVEN, HUBER, HUBLER, HUNDERTMARK, JESKEWITZ, KAUFERT, KELSO, KESTELL, KLUSMAN, KREUSER, LA FAVE, F. LASEE, LASSA, J. LEHMAN, M. LEHMAN, MEYER, MEYERHOFER, MILLER, MORRIS-TATUM, MUSSER, OLSEN, OTT, PETTIS, PLALE, PLOUFF, POCAN, REYNOLDS, RICHARDS, RILEY, RYBA, SCHNEIDER, SCHOOFF, SHERMAN, SINICKI, SPILLNER, STASKUNAS, STEINBRINK, TRAVIS, TURNER, UNDERHEIM, WASSERMAN, WAUKAU, WILLIAMS and YOUNG, cosponsored by Senators BURKE, PANZER, ROBSON, SHIBILSKI, BAUMGART, BRESKE, DARLING, DRZEWIECKI, ERPENBACH, FARROW, GEORGE, GROBSCHMIDT, A. LASEE, MOORE, PLACHE, RISSER, ROESSLER, ROSENZWEIG, WIRCH and ZIEN, by request of Coalition of Wisconsin Aging Groups, AARP, State Board on Aging and Long Term Care, Community Care Organization of Milwaukee, Dane County Commission on Aging, Franklin Senior Citizens, Medical College of Wisconsin, Medical Society of Milwaukee County, Milwaukee Police Association, Oil Gear Retirees Club, Older Women's League Milwaukee Chapter, Southeastern Wisconsin Area Agency on Aging, UAW Local 249 Retiree Chapter, Veterans of Foreign Wars Auxillary Cudahy, Wisconsin Alzheimer's Association, Wisconsin Association of Aging Unit Directors, Wisconsin Council of Senior Citizens, Wisconsin Homecare Organization and Wisconsin Retired Educators Association. Referred to Committee on Health.

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

Analysis by the Legislative Reference Bureau

This bill creates a program for prescription drug assistance for elderly persons in the department of health and family services (DHFS) and appropriates \$7,000,000 in general purpose revenues in fiscal year 2000-01 for the program. Under the program, beginning April 1, 2001, persons who are aged at least 65 years, who have been residents of this state for at least six months, who are ineligible for medical assistance and whose gross incomes are not more than 150% of the federal poverty line may apply for assistance of up to \$1,200 per year in paying for prescription drugs. Prescription drugs for which a program participant may receive coverage are those prescription drugs that are covered under the medical assistance program. Participants in the prescription drug assistance program must pay an annual enrollment fee of \$25 and copayments of \$4 for each generic prescription drug and

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\$8 for each brand-name drug. Under the program, DHFS is the payer of last resort for coverage for prescription drugs and must reimburse pharmacist providers at the rate under which pharmacists are reimbursed under the medical assistance program. DHFS must also maintain or contract for the maintenance of a toll-free telephone number to provide information, including application information, about the prescription drug assistance program. In addition, if prescription drug assistance for the number of eligible applicants exceeds the amounts of general purpose revenues appropriated under the bill for the program and the program revenue resulting from the annual enrollment fees and copayments, DHFS is authorized to create waiting lists of eligible applicants. In order for drugs manufactured by a manufacturer doing business in this state to be included in the program, the manufacturer must enter with DHFS into a rebate agreement that is modeled on rebate agreements under federal medicaid law. The rebate agreement must provide that the manufacturer make payments to DHFS each calendar quarter or as scheduled by DHFS and that the rebate payment amounts be determined by the method specified in federal medicaid law. Beginning in 2002, DHFS must annually, after consulting with pharmacists and advocates for elderly persons, submit to the legislature a report on the previous year's operation of the program and include in the report any recommendations for program changes. The bill appropriates \$1,000,000 in general purpose revenues in each of fiscal years 1999-2000 and 2000-01 to the general program supplementation appropriation account of the joint committee on finance (JCF) and requires DHFS to submit to JCF a plan for expenditure of these funds for administration of the prescription drug assistance program. If the cochairpersons of JCF do not notify the secretary of health and family services of the committee's intent to schedule a meeting to review the plan, JCF must supplement the DHFS general program operations appropriation account as provided in the DHFS plan. If the cochairpersons of JCF notify the secretary of health and family services that JCF intends to schedule a meeting to review the plan, the DHFS appropriation account may be supplemented only as approved by JCF.

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

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

- 1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
2 the following amounts for the purposes indicated:

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1999-00 2000-01

**20.435 Health and family services, department
of**

(4) HEALTH SERVICES PLANNING, REGULATION AND
DELIVERY; HEALTH CARE FINANCING

(bv) Prescription drug assistance for
elderly; aids

GPR A -0- 7,000,000

SECTION 2. 20.435 (4) (bv) of the statutes is created to read:

20.435 (4) (bv) *Prescription drug assistance for elderly; aids.* The amounts in the schedule for the program for prescription drug assistance for elderly persons under s. 49.688.

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

20.435 (4) (j) *Prescription drug assistance for elderly; fees and manufacturer rebates.* All moneys received from payments of enrollment fees and rebate payments by manufacturers under s. 49.688 (5), to be used for prescription drug assistance for elderly persons under s. 49.688.

SECTION 4. 49.688 of the statutes is created to read:

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

(a) "Brand name" has the meaning given in s. 450.12 (1) (a).

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

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

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1 **(2)** From the appropriations under s. 20.435 (4) (bv) and (j), beginning April 1,
2 2001, the department shall reimburse pharmacists for the provision of up to \$1,200
3 of prescription drugs that correspond to those prescription drugs for which
4 reimbursement is made under s. 49.46 (2) (b) 6. h. and for which the manufacturer
5 has entered into a rebate agreement with the department under sub. (5), to persons
6 who meet criteria for eligibility under sub. (3). The department is the payer of last
7 resort for coverage for prescription drugs under this subsection. The payment rate
8 for provider reimbursement shall be the allowable charges under s. 49.46 (2) (b) 6.
9 h. for prescription drugs. The department shall maintain, or contract for the
10 maintenance of, a toll-free telephone number at department headquarters to
11 provide information about the program under this subsection, including information
12 about application procedures.

13 **(3)** (a) An individual is eligible for participation in the program under sub. (2)
14 if all of the following eligibility requirements are met:

15 1. The individual is at least 65 years of age, has been a resident of this state
16 for at least 6 months and is ineligible for medical assistance under s. 49.46, 49.465,
17 49.468 or 49.47.

18 2. The individual's gross income does not exceed 150% of the poverty line.

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

20 1. Annually, a program enrollment fee of \$25.

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

23 3. A copayment of \$8 for each prescription drug provided under the program
24 that bears a brand name.

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1 (4) If prescription drug assistance for the number of applying eligible
2 individuals under sub. (3) exceeds the amount appropriated under s. 20.435 (4) (bv)
3 and the amount available under s. 20.435 (4) (j), the department may place an
4 eligible applicant's name on a waiting list for the reimbursement program under sub.
5 (2).

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

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

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

15 (6) Beginning in 2002, the department shall annually, after consulting with
16 pharmacists and advocates for persons aged 65 or older, submit a report to the chief
17 clerk of each house of the legislature for distribution to the legislature under s.
18 13.172 (2). The report shall be on the operation of the program under this section for
19 the previous year and shall contain any recommendations for changes in the
20 program.

SECTION 5. Nonstatutory provisions.

21 (1) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY PERSONS; ADMINISTRATION. The
22 department of health and family services may request the joint committee on finance
23 to supplement, from the appropriation account under section 20.865 (4) (a) of the
24 statutes, the appropriation account under section 20.435 (4) (a) of the statutes, to pay
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1 the costs of administration of the program of prescription drug assistance for elderly
2 persons under section 49.688 of the statutes, as created by this act. If the department
3 of health and family services requests supplementation of the appropriation account
4 under section 20.435 (4) (a) of the statutes, the department shall submit a plan to the
5 joint committee on finance to expend not more than \$1,000,000 for fiscal year
6 1999-2000 and not more than \$1,000,000 for fiscal year 2000-01. If the
7 cochairpersons of the committee do not notify the secretary of the department within
8 14 working days after the date of the department's submittal that the committee
9 intends to schedule a meeting to review the request, the appropriation account shall
10 be supplemented as provided in the request. If, within 14 working days after the date
11 of the department's submittal, the cochairpersons of the committee notify the
12 secretary of the department that the committee intends to schedule a meeting to
13 review the request, the appropriation account shall be supplemented only as
14 approved by the committee. Notwithstanding section 13.101 (3) (a) 1. of the statutes,
15 the committee is not required to find that an emergency exists.

SECTION 6. Appropriation changes; joint committee on finance.

16 (1) PRESCRIPTION DRUG ASSISTANCE FOR ELDERLY; ADMINISTRATION. In the schedule
17 under section 20.005 (3) of the statutes for the appropriation to the joint committee
18 on finance under section 20.865 (4) (a) of the statutes, as affected by the acts of 1999,
19 the dollar amount is increased by \$1,000,000 for fiscal year 1999-00 and the dollar
20 amount is increased by \$1,000,000 for fiscal year 2000-01 to increase funding for
21 administration of the prescription drug assistance for elderly program under section
22 49.688 of the statutes, as created by this act.
23

24 (END)