



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-2777/1
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2023 SENATE BILL 263

May 2, 2023 - Introduced by Senators QUINN, CABRAL-GUEVARA, COWLES, FEYEN, JACQUE, JAMES, TOMCZYK, WANGGAARD, BALLWEG and MARKLEIN, cosponsored by Representatives HURD, EDMING, SCHRAA, ARMSTRONG, BRANDTJEN, BROOKS, CALLAHAN, DUCHOW, GREEN, GUNDRUM, KITCHENS, MACCO, MAXEY, MICHALSKI, MOSES, MURPHY, MURSAU, NOVAK, O'CONNOR, PETRYK, PLUMER, RETTINGER, ROZAR, SAPIK, SCHMIDT, SUMMERFIELD, TITTL, TRANEL and TUSLER. Referred to Committee on Licensing, Constitution and Federalism.

1 **AN ACT to create** 49.688 (3m) of the statutes; **relating to:** 100-day prescription
2 drug supplies under SeniorCare and amending an administrative rule related
3 to 100-day prescription drug supplies permitted under SeniorCare.

Analysis by the Legislative Reference Bureau

This bill allows SeniorCare participants to purchase, per a prescription order by the prescribing health care provider, 100-day supplies of prescription drugs authorized under administrative rules promulgated by the Department of Health Services and otherwise covered through the SeniorCare program, at the rates provided under the program. The bill requires DHS to apply for any waiver or amendment to a waiver of federal Medicaid laws necessary to permit DHS to implement the provisions of the bill.

The SeniorCare program provides assistance to the elderly in the purchase of prescription drugs. Under current law, to be eligible for SeniorCare, a person must be a resident of the state, be at least 65 years of age, not be a recipient of prescription drug coverage through Medical Assistance, have a household income that does not exceed 240 percent of the federal poverty line, and pay a program enrollment fee. Under current law, under the SeniorCare program, only certain maintenance drugs specified by DHS may be dispensed in amounts up to a 100-day supply. All other prescription drugs dispensed under the SeniorCare program may be dispensed only in amounts not to exceed a 34-day supply.

Contingent upon approval by the federal secretary of health and human services of a waiver or amendment to a waiver requested as required under the bill,

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the bill amends the existing DHS administrative rule that allows SeniorCare providers to dispense certain maintenance drugs in amounts up to but not exceeding a 100-day supply, as prescribed by a physician. As amended under the bill, the DHS administrative rule would allow SeniorCare providers to dispense the maintenance drugs allowed under current law, or any other drug, as determined by DHS on the basis of clinical considerations, safety, costs, and other factors. If the federal secretary of health and human services denies the request for a waiver or an amendment to a waiver, the bill's treatment of the administrative rule is void.

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 (3m) of the statutes is created to read:

2 49.688 (**3m**) Per a prescription order by the prescribing health care provider,
3 a person eligible under sub. (2) may purchase, and a pharmacist, pharmacy, or
4 dispensing physician may dispense, a prescription drug authorized under
5 administrative rules promulgated by the department and otherwise covered under
6 this section at the rates provided in this section in amounts up to a 100-day supply.

7 **SECTION 2.** DHS 109.31 (3) (e) of the administrative code is amended to read:

8 DHS 109.31 (3) (e) SeniorCare providers may dispense certain maintenance
9 drugs specified under s. DHS 107.10 (3) (e) or any other drug, as determined by the
10 department on the basis of clinical considerations, safety, costs, and other factors, in
11 amounts up to but not to exceed a 100-day supply, as prescribed by a physician.

12 **SECTION 3. Nonstatutory provisions.**

13 (1) SENIORCARE 100-DAY PRESCRIPTION DRUG SUPPLIES. The department of health
14 services shall request from the federal secretary of health and human services any
15 waiver of federal medicaid laws or amendment to a waiver of federal medicaid laws
16 necessary to permit the department of health services to implement s. 49.688 (3m).
17 The department shall implement any waiver or amendment to a waiver received

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1 under this subsection. The department shall notify the legislative reference bureau
2 of the approval or denial of any waiver or amendment to a waiver received under this
3 subsection. If a waiver or amendment to a waiver under this subsection is approved,
4 the legislative reference bureau shall publish the notice in the Wisconsin
5 Administrative Register with a statement of the date on which the treatment of the
6 administrative rules takes effect, as determined under SECTION 4 of this act.

7 **SECTION 4. Effective dates.** This act takes effect on the day after publication,
8 except as follows:

9 (1) The treatment of administrative rules takes effect upon approval by the
10 federal secretary of health and human services of a waiver or amendment to a waiver
11 requested under SECTION 3 (1). If a waiver or amendment to a waiver requested
12 under Section 3 (1) is denied, the treatment of administrative rules is void.

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(END)