



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #471

Governor's Prescription Drug Assistance Proposal (DHFS -- Medical Assistance)

[LFB 2001-03 Budget Summary: Page 355, #7]

CURRENT LAW

Currently, there is no state prescription drug assistance program targeted to low-income seniors in Wisconsin.

GOVERNOR

Require DHFS and DOA to engage in the following activities that are intended to provide prescription drug assistance to certain individuals.

MA Prescription Drug Assistance Project. Require DHFS to request a demonstration project waiver from the Secretary of the U.S. Department of Health and Human Services (DHHS) to permit DHFS to expand MA to certain individuals at least 65 years of age and to limit MA coverage to prescription drugs only. Specify that the project would include the following provisions.

Eligibility. Specify that individuals who are at least 65 years of age, who are otherwise ineligible for MA and whose annual household income is no more than 185% of the federal poverty level (FPL), and have been without available prescription drug coverage, other than MA, for 12 months would be eligible for prescription drug coverage under the project. Eligible individuals would be issued a prescription drug card for the purchase of prescription drugs after applying on a form provided by DHFS and after paying a \$25 annual program enrollment fee. Based on the 2001 FPL, annual household income equal to 185% of the FPL would be \$15,892 for one person and \$21,479 for a two-person family.

Deductibles. Specify that, once enrolled in the project, individuals would be required to pay the following deductibles before MA would provide prescription drug coverage on their behalf: (a) no deductible would be required for individuals with annual household income of no more than 110% of the FPL; (b) a \$300 annual deductible would be required for individuals with annual household income above 110% of the FPL but no more than 130% of the FPL; (c) a \$600 annual deductible would be required for individuals with annual household income above 130% of the FPL but no more than 155% of the FPL; and (d) a deductible equivalent to the MA reimbursement rate for each drug purchased would be required for individuals with annual household income above 155% of the FPL. All drugs purchased during the deductible period would be available to the individual at the reimbursement rate paid to pharmacies and pharmacists under MA.

For individuals enrolled in the project with household income above 155% of the FPL, the MA program would not pay a benefit on their behalf. Rather, they would only be eligible to purchase drugs at a discount from the retail price of the drugs purchased. This discount would be equivalent to the difference between the retail value of the drug purchased and the reimbursement rate paid by the MA program.

Copayments. Specify that, for individuals with annual household income at or below 155% of the FPL, after payment of any required deductibles, the individual would be required to pay a copayment of \$10 for each prescription drug with a generic name and a copayment of \$20 for each prescription drug with a brand name. Individuals with annual household income above 155% of the FPL would be responsible for the entire cost of the drug at the MA reimbursement rate.

Reimbursement for Pharmacies and Pharmacists. Specify that, from the MA benefits appropriations, DHFS would pay pharmacies and pharmacists the MA reimbursement rate, less the required copayments, for prescription drugs purchased by individuals enrolled in MA under the waiver, after payment of any required deductible. As a condition of participation in the MA program, a pharmacy or pharmacist could not charge an individual who is eligible for MA under the waiver and that presents a valid prescription order, an amount for that prescription that exceeds the applicable deductibles and copayments.

Prohibitions on Implementation. Prohibit DHFS from implementing the MA prescription drug project unless: (a) the DHHS Secretary grants a waiver consistent with the provisions in the bill and that waiver is in effect; and (b) sufficient state and federal funds are available for the program. Specify that, if the waiver is granted and a national prescription drug benefit program for seniors is created that would provide similar benefits to a similar population, DHFS could only implement the program if it first submits a plan for implementation that is approved by DOA and the Joint Committee on Finance. Provide that the Joint Committee on Finance could approve the plan under a 14-day passive approval process. If a waiver were granted, at the end of the period the waiver would be in effect, DHFS would be required to request any available extension of the waiver.

Other Provisions. Create a PR appropriation for receipt of revenue from the \$25 annual enrollment fee paid by participants and specify that this revenue would be used to pay for administration of the waiver. Additionally, define "Medicare," "pharmacy discount rate," "poverty line," "prescription drug" and "prescription order" for purposes of the project.

The provision that requires DHFS to submit a waiver request that includes all of these program components would take effect on the bill's general effective date. The administration anticipates that, if the waiver were approved, the program would be implemented by July 1, 2002.

MA Bulk Purchase and Mail Order Delivery of Prescription Drugs and Supplies. Require DHFS to work with DOA to contract with a private entity for the bulk purchase and mail order delivery of prescription drug and medical supplies for MA recipients who have chronic conditions such as diabetes, asthma and hypertension. Specify that participation by MA recipients in the program would be voluntary. Specify that, if DHFS contracts with a private entity, the private entity would be required to administer and promote the bulk purchase and mail order delivery of prescription drugs, and telephone participants every three months to ascertain their progress in administering self-care. Specify that the bulk purchase and mail order delivery of drugs would be limited to MA-covered drugs.

Require DHFS to annually evaluate hospital and emergency room costs of MA recipients receiving prescriptions and supplies through the mail and determine the extent to which savings are achieved through the bulk purchase and delivery of prescription drugs and supplies to these individuals.

Prescription Drug Discount Program. Require DOA to contract with a private entity to administer a discount program for the purchase of prescription drugs by individuals, regardless of age or income, who pay nominal fees to the private entity. Specify that procurement provisions requiring state agencies to first obtain materials and services produced by prison industries and work centers for the severely handicapped when procuring contracts would not apply to this contract. Prescription drugs covered under this program would be limited to MA-covered drugs.

Promotion of Prescription Drug Assistance Plans and Federal Discounts. Require DHFS to conduct the following activities in order to promote private prescription drug assistance plans for individuals and access to federal discounts for prescription drugs for certain providers.

Promotion of Private Assistance Plans. Require DHFS, together with DOA, to promote private prescription drugs assistance plans in health information and on the state's Internet site. DHFS would promote plans that include offers by prescription drug manufacturers of specific no-cost or reduced-cost prescription drugs and private plans that offer prescription drug discounts to members.

Promotion of Federal Discounts on Prescription Drugs Available to Certain Providers. Require DHFS to inform those entities, including tribes and federally qualified health centers (FQHCs), that are eligible for a federal prescription drug discount about their eligibility for and the benefits of participating in the federal discount program and provide technical assistance to those entities in applying for and implementing the federal discount benefit. Further, require DHFS to analyze health care data in the state to identify areas that could be eligible for and benefit from the establishment of an FQHC and provide entities in those areas with information about and technical assistance in developing an FQHC.

Under federal law, certain health care providers receiving federal funds, such as FQHCs, family planning projects, certain hospitals serving a disproportionate share of MA recipients and low-income persons, entities providing services for the treatment of sexually transmitted diseases or tuberculosis and other entities are eligible to purchase prescription and over-the-counter drugs from manufacturers at a discount based on the value of rebates available under MA.

Multistate Purchasing of Prescription Drugs. Require DOA and DHFS to work together and in conjunction with other states and associations, to develop a multistate purchasing group for direct negotiation with prescription drug manufacturers to obtain rebate agreements, modeled in part, on the federal rebate agreements negotiated on behalf of states, for prescription drugs purchased under MA. Require that these rebate agreements must result, on average, in larger rebate amounts than received under the current rebate agreements negotiated on behalf of states.

DISCUSSION POINTS

Prescription Drug Assistance Project

1. Under the Governor's proposal, if a federal waiver is granted, DHFS would pay pharmacies for drugs provided to program enrollees from the MA benefits appropriation. However, the bill does not increase MA benefits funding to make these payments. Rather, the administration assumes that DHFS would be able to demonstrate savings to the MA program, either through the creation of the drug assistance program or other initiatives implemented as part of the demonstration project.

2. Revenue received from the payment of the annual enrollment fee would be used to fund the ongoing administrative costs of the program. The bill does not provide funding for the initial start-up costs for implementing the waiver program, which the administration estimates could total \$1.5 million for necessary changes to the MA claims processing system. The administration anticipates that DHFS would use internal resources to fund any initial start-up costs or would request the Joint Committee on Finance to transfer funds from another appropriation under s. 13.10 of the statutes. It is also anticipated that any start-up costs would be eligible for 50% federal MA matching funds, since most MA administrative costs are funded on a 50% GPR/50% FED basis.

3. Under federal law, the DHHS Secretary is provided broad authority to waive

requirements of federal law for purposes of an experimental, pilot or demonstration project, which, in the judgment of the Secretary, is likely to assist in promoting the objectives of the MA program. Some of the federal law and regulations that would have to be waived in order to implement the demonstration project proposed in the bill include: (a) provisions which prohibit treatment of the elderly and the disabled differently in terms of eligibility and coverage of benefits under MA; (b) provisions that limit states' ability to restrict access MA benefits to only cover certain services; and (c) provisions that prohibit states from subjecting MA recipients to cost-sharing requirements that exceed nominal amounts. In addition, to receive a waiver, DHFS would have to demonstrate that federally-funded costs would not be greater than they otherwise would be in the absence of the waiver (cost neutrality).

4. The Governor's proposal to expand MA to provide prescription drug assistance to certain Wisconsin residents 65 years of age or older is an attempt to address an issue that has been debated by the Legislature since last session. The advantage of the Governor's proposal compared with other proposals under consideration by the Legislature is that the Governor's proposal would use the existing infrastructure of the MA program to expand coverage to certain low-income seniors without access to drug coverage. In doing so, federal MA funds could be available to partially fund the cost of extending coverage to these individuals.

5. However, implementation of the Governor's proposal is contingent on the availability of waivers of federal MA law and DHFS' ability to identify existing savings within the MA program to fund the costs of the expansion, since no funding is provided for the program in the bill. While DHFS Secretary Dubé indicated to the Committee during her testimony on the Governor's budget that such savings are available, it is not clear how such savings would be achieved.

6. In considering the Governor's proposal to address the issue of providing prescription drug assistance to Wisconsin seniors, the Committee could consider the advantages and disadvantages of the Governor's approach compared with alternative approaches recommended by legislators. A discussion of the issues relating to the creation of a prescription drug assistance program, including the Governor's proposal, is provided in LFB Paper #482.

7. In addition to the prescription drug assistance plan, the Governor's proposal would require DHFS to engage in certain activities to change the way prescription drugs are provided under MA and to increase residents' access to prescription drugs available at rates that are less than retail prices. The Governor's bill does not provide any funding to implement these requirements, nor is legislation necessary to authorize any of these proposals. The Committee could adopt any or all of these recommendations to ensure that DHFS conducts these activities.

8. Because legislation is not necessary to authorize DHFS to engage in the activities identified in the bill, deleting these requirements from the bill would not prevent DHFS from engaging in such activities. Therefore, if the Committee wants to ensure that DHFS does not engage in any of these activities, it could include a statutory provision that would explicitly prohibit DHFS from doing so.

MA Bulk Purchase and Mail Order Delivery of Prescription Drugs and Supplies

9. The Governor's proposal would require DHFS to work with DOA to contract with a private entity for the bulk purchase and mail order delivery of prescription drug and medical supplies for MA recipients who have chronic conditions, such as diabetes, asthma and hypertension.

10. It is possible that MA benefits costs could be reduced by providing such services. The administration estimates potential savings of up to \$8.7 million annually (all funds) from drug sales, based on a proposal submitted by Health Alliance, a disease management company headquartered in Chicago. The savings would likely be available from reduced prices for prescription drugs purchased in bulk, rather than purchased through retail pharmacies. Additional savings could be available to the extent that the health of individuals participating in the program improves due to the regular delivery of maintenance drugs. The proposal would require that regular telephone contact be made to individuals participating in the program to assess the individual's progress in maintaining their health. Under the proposal, DHFS would be required to evaluate the proposal to determine the extent to which savings are achieved through the program.

11. However, opponents of mail order delivery of prescription drugs contend that mail order pharmacies can impair individuals' quality of care and encourage waste. Representatives of pharmacists across the state suggest that telephone contacts by a disease management organization cannot replace the interaction between a pharmacist and a patient in a retail setting where a pharmacist may be better able to ascertain an individual's progress in maintaining their health than over the telephone.

12. A study completed by the Medical Sciences College of Pharmacy at the University of Arkansas suggests that while mail order pharmacy services could provide lower prices for prescription drugs on a per unit cost, overall costs could increase because of increased use and waste by MA recipients.

Prescription Drug Discount Program

13. The Governor's proposal would require DOA to contract with a private entity to administer a discount program for the purchase of prescription drugs by individuals, regardless of age or income, who pay nominal fees to the private entity. No funding is provided for this purpose. The administration expects that DOA would contract with vendors that already have prescription drug discount plans available to individuals that pay certain fees.

14. The administration has identified a number of private plans that could be considered under such a proposal. One such plan, Rx Samaritan Prescription Drug Plan, provides a discount to members that pay a \$3 fee per prescription unless the savings available on a purchase are less than \$3. Membership is open to anyone and no fee is required to enroll. Another plan, ComCare, Inc., is available to anyone that pays an annual fee of \$20 per person plus \$0.85 per prescription. The discount available varies by plan.

15. While these plans would not provide the type of assistance available under other

proposals currently under consideration by the Legislature, these plans could provide some measure of relief to those individuals that would not qualify for any proposal adopted by the Legislature, including individuals that are under 65 years of age or have income above whatever income eligibility limit would be established under a state-funded plan.

Promotion of Prescription Drug Assistance Plans and Federal Discounts

16. The Governor's proposal would require DHFS to provide technical assistance to organizations, including FQHCs and tribes, about their potential eligibility for federal drug discounts. DOA estimates that the discounts available under the federal discount could be anywhere from 20% to 50% less than the rates available under MA for certain drugs. Therefore, if an FQHC were to purchase drugs on behalf of its clients through this federal discount program, uninsured clients could receive prescription drugs through the FQHC at significant discounts from retail prices.

17. Additionally, the Governor's proposal would require DHFS to provide technical assistance to entities that could become an FQHC in order to improve access to federal drug discounts available to FQHCs. This proposal would have the additional benefit of possibly increasing low-income and uninsured individual's access to comprehensive health care services in areas of the state not currently served by an FQHC. Because FQHCs are eligible for federal grant funding, such an increase in the number of FQHCs could increase federal funds available for health care services provided to low-income and uninsured individuals in the state.

18. The Governor's proposal would require DHFS, together with DOA, to promote private prescription drug assistance plans in health information and on the state's Internet site. There are a number of private assistance plans available, including discount programs available through pharmaceutical manufacturers and plans available through membership organizations, such as the American Association of Retired Persons.

19. While there are a number of Internet sites that provide such information, providing such information through health information materials and through the state's Internet site could make it easier for individuals to access such information by providing a single source for this information.

Multistate Purchasing of Prescription Drugs.

20. The Governor's proposal would require DOA and DHFS to work together and in conjunction with other states and association to develop a multistate purchasing group for direct negotiation with prescription drug manufacturers to obtain rebate agreements, modeled in part on the federal rebate agreements negotiated on behalf of states, for drugs purchased under MA. Such an effort could result in more rebate revenue available to the state for drugs purchased under a drug assistance program enacted by the Legislature. Additionally, such an organization could attempt to encourage congressional support to modify the manufacturer rebate formula in federal law to benefit state MA programs.

ALTERNATIVES TO BASE

1. Adopt all of the Governor's recommendations.
2. Adopt one or more of the following Governor's recommendations:
 - a. Require DHFS to request a federal demonstration project waiver to expand MA to provide prescription drug assistance to certain Wisconsin residents 65 years of age or older.
 - b. Require DHFS to contract with a vendor for the bulk purchase and mail-order delivery of drugs and supplies for MA recipients with chronic conditions.
 - c. Require DOA to contract with a private entity to administer a discount program for the purchase of prescription drugs by individuals, regardless of age or income.
 - d. Require DHFS to provide information to entities eligible for federal drug discounts about the availability of the federal discounts and to provide technical assistance to organizations that could become an FQHC.
 - e. Require DHFS, together with DOA, to conduct activities to promote private prescription drug assistance plans in health information and on the state's Internet site.
 - f. Require DOA and DHFS to work together and in conjunction with other states and associations to develop a multistate purchasing group for direct negotiation with manufacturers regarding drug rebates.
3. Delete provision.
4. In addition to adopting any of the alternatives under Alternative 2 or Alternative 3, prohibit DHFS from engaging in any of the activities identified under 2 a through f.

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