

1 AMENDMENT TO HOUSE BILL 209

2 AMENDMENT NO. _____. Amend House Bill 209 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Senior Citizens and Disabled Persons Prescription Drug
6 Discount Program Act.

7 Section 5. Findings. The General Assembly finds that:

8 (a) Although senior citizens represent 12% of the
9 population, they use on average 37% of prescription drugs
10 that are dispensed.

11 (b) Senior citizens in the United States without
12 prescription drug insurance coverage pay the highest prices
13 in the world for needed medications.

14 (c) High prescription drug prices force many Illinois
15 seniors to go without proper medication or other necessities,
16 thereby affecting their health and safety.

17 (d) Prescription drug prices in the United States are
18 the world's highest, averaging 32% higher than in Canada, 40%
19 higher than in Mexico, and 60% higher than in Great Britain.

20 (e) Regardless of household income, seniors without
21 prescription drug coverage are often just one serious illness
22 away from poverty.

1 (f) Reducing the price of prescription drugs would
2 benefit the health and well-being of all Illinois senior
3 citizens by providing more affordable access to needed drugs.

4 Section 10. Purpose. The purpose of this program is to
5 require the Department of Central Management Services to
6 establish and administer a program that will enable eligible
7 senior citizens and disabled persons to purchase prescription
8 drugs at discounted prices.

9 Section 15. Definitions. As used in this Act:

10 "Authorized pharmacy" means any pharmacy registered in
11 this State under the Pharmacy Practice Act of 1987 and
12 approved by the Department or its program administrator.

13 "AWP" or "average wholesale price" means the amount
14 determined from the latest publication of the Red Book, a
15 universally subscribed pharmacist reference guide annually
16 published by the Hearst Corporation. "AWP" or "average
17 wholesale price" may also be derived electronically from the
18 drug pricing database synonymous with the latest publication
19 of the Red Book and furnished in the National Drug Data File
20 (NDDF) by First Data Bank (FDB), a service of the Hearst
21 Corporation.

22 "Department" means the Department of Central Management
23 Services.

24 "Director" means the Director of Central Management
25 Services.

26 "Disabled person" means a person unable to engage in any
27 substantial gainful activity by reason of a medically
28 determinable physical or mental impairment which can be
29 expected to result in death or has lasted or can be expected
30 to last for a continuous period of not less than 12 months.

31 "Drug manufacturer" means any entity (1) that is located
32 within or outside Illinois that is engaged in (i) the

1 production, preparation, propagation, compounding,
2 conversion, or processing of prescription drug products
3 covered under the program, either directly or indirectly by
4 extraction from substances of natural origin, independently
5 by means of chemical synthesis, or by a combination of
6 extraction and chemical synthesis or (ii) the packaging,
7 repackaging, leveling, labeling, or distribution of
8 prescription drug products covered under the program and (2)
9 that elects to provide prescription drugs either directly or
10 under contract with any entity providing prescription drug
11 services on behalf of the State of Illinois. "Drug
12 manufacturer", however, does not include a wholesale
13 distributor of drugs or a retail pharmacy licensed under
14 Illinois law.

15 "Eligible senior" means a person who is (i) a resident of
16 Illinois and (ii) 65 years of age or older.

17 "Prescription drug" means any prescribed drug that may be
18 legally dispensed by an authorized pharmacy.

19 "Program" means the Senior Citizens and Disabled Persons
20 Prescription Drug Discount Program created under this Act.

21 "Program administrator" means the entity that is chosen
22 by the Department to administer the program. The program
23 administrator may, in this case, be the Director or a
24 Pharmacy Benefits Manager (PBM) chosen to subcontract with
25 the Director.

26 "Rules" includes rules adopted and forms prescribed by
27 the Department.

28 Section 17. Determination of disability. Disabled
29 persons filing applications for participation in the program
30 shall submit proof of disability in such form and manner as
31 the Department shall by rule prescribe. Proof that a claimant
32 is eligible to receive disability benefits under the Federal
33 Social Security Act shall constitute proof of disability for

1 purposes of this Act. Issuance of an Illinois Disabled Person
2 Identification Card stating that the claimant is under a
3 Class 2 disability, as defined in Section 4A of the Illinois
4 Identification Card Act, shall constitute proof that the
5 person named thereon is a disabled person for purposes of
6 this Act. A disabled person not covered under the Federal
7 Social Security Act and not presenting a Disabled Person
8 Identification Card stating that the he or she is under a
9 Class 2 disability shall be examined by a physician
10 designated by the Department, and his or her status as a
11 disabled person determined using the same standards as used
12 by the Social Security Administration. The costs of any
13 required examination shall be borne by the person claiming a
14 disability.

15 Section 20. The Senior Citizens and Disabled Persons
16 Prescription Drug Discount Program. The Senior Citizens and
17 Disabled Persons Prescription Drug Discount Program is
18 established to protect the health and safety of senior
19 citizens and disabled persons. The program shall be
20 administered by the Department. The Department or its program
21 administrator shall (i) enroll eligible seniors and disabled
22 persons into the program, as provided in Section 35 of this
23 Act, to qualify them for a discount on the purchase of
24 prescription drugs at an authorized pharmacy, (ii) enter into
25 rebate agreements with drug manufacturers, as provided under
26 Section 30 of this Act, and (iii) subject to the provisions
27 of Section 47 of this Act, compensate pharmacies
28 participating in the program as provided under Section 25 of
29 this Act.

30 Section 25. Program administration.

31 (a) The Department is authorized under this Act to be
32 the program administrator. If the Department is not the

1 program administrator, 90 days after the effective date of
2 this Act, the Department must issue a request for proposals
3 for bidders interested in administering the program. Bidders
4 must compete on the basis of the following minimum criteria:

5 (1) The Director shall solicit and accept proposals
6 from entities to provide for administration of a program
7 or programs in accordance with rules adopted under
8 Section 45. Proposals must be submitted not later than a
9 date established by the Director. The Director shall
10 accept only those proposals that specify the following:

11 (A) The estimated amount of the discount based
12 on the entity's previous experience and how the
13 discount is to be achieved.

14 (B) The extent that discounts on prescription
15 drugs are to be achieved through rebates,
16 administrative fees, or other fees or discounts in
17 prices that the entity negotiates with drug
18 manufacturers. The proposals shall assure that
19 rebates or discounts will be used to do the
20 following:

21 (i) reduce costs to cardholders;

22 (ii) achieve discounts for cardholders;

23 and

24 (iii) cover costs for administering the
25 program.

26 (C) Any other benefits offered to cardholders.

27 (D) The estimated number and geographic
28 distribution of participating pharmacies in the
29 administrator's pharmacy network.

30 (E) The plan for pharmacy compensation,
31 pursuant to subsection (e) of this Section.

32 (F) The method used for determining the
33 prescription drugs to be covered by the program,
34 including the criteria and process for establishing

1 a preferred drug list, if applicable.

2 (G) How the entity proposes to improve
3 medication management for cardholders, including any
4 program of disease management.

5 (H) How cardholders and participating
6 pharmacies will be informed of the discounted price
7 negotiated by the entity.

8 (I) How the entity will handle complaints
9 about the program's operation.

10 (J) The entity's previous experience in
11 managing similar programs.

12 (K) Any additional information requested by
13 the Director.

14 (2) The Director shall contract with one or more
15 entities to administer a program or programs on the basis
16 of the proposals submitted, but may require an
17 administrator to modify its conduct of a program in
18 accordance with rules adopted under Section 45.

19 The Director shall adopt rules specifying the period
20 for which a contract will be in effect and may terminate
21 a contract if an administrator fails to conduct a program
22 in accordance with its proposal or with any modifications
23 required by rule. When a contract period ends or a
24 contract is terminated, the Director shall enter into a
25 new contract in the manner specified in this Section for
26 an original contract. Prior to making a new contract, the
27 Director may modify the rules for administration of the
28 program or programs.

29 (b) As used in this Section, "administrator" includes
30 the administrator's parent company and any subsidiary of the
31 parent company.

32 (1) No administrator shall sell any information
33 concerning a person who holds a prescription drug
34 discount card, other than aggregate information that does

1 not identify the cardholder, without the cardholder's
2 written consent.

3 (2) Unless an administrator has the cardholder's
4 written consent, no administrator shall use any
5 personally identifiable information that it obtains
6 concerning a cardholder through the program to promote or
7 sell a program or product offered by the administrator
8 that is not related to the administration of the program.
9 This subsection (b) does not prohibit an administrator
10 from contacting cardholders concerning participation in
11 or administration of the program, including, but not
12 limited to, mailing a list of pharmacies participating in
13 the program's network or participating in disease
14 management programs.

15 (3) To the extent that a discount is achieved
16 through rebates, administrative fees, or any other fees
17 or discounts in prices that an administrator negotiates
18 with drug manufacturers, an administrator shall use the
19 rebates or discounts to do the following:

- 20 (A) reduce costs to cardholders;
- 21 (B) achieve discounts for cardholders; and
- 22 (C) cover any administrative costs of the
23 program.

24 (4) The administrator shall not use any funds
25 generated from rebates, discounts, administrative fees,
26 or other fees to promote its mail order pharmacy
27 operation or the mail order pharmacy operation of an
28 affiliate.

29 (c) Beginning on January 1, 2004, the amount paid by
30 eligible seniors and disabled persons enrolled in the program
31 to authorized pharmacies for prescription drugs may not
32 exceed prices established as a result of the rebate
33 agreements under Section 30. The eligible seniors and
34 disabled persons shall pay the price determined under Section

1 30 plus a dispensing fee of \$3.50 per prescription for brand
2 name drug products, single-source drug products, and, for a
3 period of 6 months, newly-released generic drug products and
4 \$4.25 per prescription for all other generic drug products,
5 except that the total amount paid by the eligible senior or
6 disabled person for each prescription drug under this program
7 shall not exceed the usual and customary charge for such
8 prescription.

9 (d) The contract between the Department and a pharmacy
10 benefits manager must, at a minimum, meet the criteria of
11 subsection (a). The contract must also require notification
12 by the pharmacy benefits manager of any proposed or ongoing
13 activity that involves, directly or indirectly, any conflict
14 of interest on the part of the pharmacy benefits manager. The
15 Department shall ensure that the pharmacy benefits manager
16 complies with the contract and shall adopt all procedures
17 necessary to enforce the contract.

18 (e) The Department or program administrator shall,
19 subject to the funds available under Section 30 of this Act,
20 compensate authorized pharmacies for prescription drugs
21 dispensed under the program for the difference between the
22 amount paid by the eligible senior or disabled person for
23 prescription drugs dispensed under the program and (i) the
24 AWP minus 12% for brand name drug products, single-source
25 generic drug products, and, for a period of 6 months,
26 newly-released generic drug products and (ii) the AWP minus
27 35% for all other generic drug products. The Department shall
28 compensate a pharmacy under this subsection (e) only if the
29 amount paid by the eligible senior or disabled person has
30 been discounted to a price, including the dispensing fees
31 stated in subsection (c) of this Section, that is less than
32 (i) the AWP minus 12% for brand name drug products,
33 single-source generic drug products, and, for a period of 6
34 months, newly-released generic drug products and (ii) the AWP

1 minus 35% for all other generic drug products.

2 (f) Beginning on January 1, 2004, the Department or
3 program administrator shall reimburse pharmacies under this
4 Section within 30 days after adjudication of the claim.

5 Section 30. Manufacturer rebate agreements.

6 (a) Taking into consideration the extent to which the
7 State pays for prescription drugs under various State
8 programs and the provision of assistance to disabled persons
9 or eligible seniors under patient assistance programs,
10 prescription drug discount programs, or other offers for free
11 or reduced price medicine, clinical research projects,
12 limited supply distribution programs, compassionate use
13 programs, or programs of research conducted by or for a drug
14 manufacturer, the Department, its agent, or the program
15 administrator shall negotiate and enter into rebate
16 agreements with drug manufacturers, as defined in this Act,
17 to effect prescription drug price discounts. The Department
18 or program administrator may establish a preferred drug list
19 as a basis for determining the discounts, administrative
20 fees, or other fees or rebates under this Section.

21 (b) Rebate payment procedures. All rebates negotiated
22 under agreements described in this Section shall be paid in
23 accordance with procedures prescribed by the Department or
24 the program administrator.

25 (c) Receipts from rebates shall be used to provide
26 discounts for prescription drugs purchased by eligible
27 seniors and disabled persons and to cover the cost of
28 administering the program, including compensation to be paid
29 to participating pharmacies by the Department or program
30 administrator under subsection (e) of Section 25. Any
31 receipts to be allocated to the Department shall be deposited
32 into the Senior Citizens and Disabled Persons Prescription
33 Drug Discount Program Fund, a special fund hereby created in

1 the State treasury.

2 Section 35. Program eligibility.

3 (a) Any person may apply to the Department or its
4 program administrator for participation in the program in the
5 form and manner required by the Department. The Department or
6 its program administrator shall determine the eligibility of
7 each applicant for the program within 30 days after the date
8 of application. To participate in the program an eligible
9 senior or disabled person whose application has been approved
10 must pay \$25 upon enrollment and annually thereafter and
11 shall receive a program identification card. The card may be
12 presented to an authorized pharmacy to assist the pharmacy in
13 verifying eligibility under the program. The Department shall
14 deposit the enrollment fees collected into the Senior
15 Citizens and Disabled Persons Prescription Drug Discount
16 Program Fund. The moneys collected by the Department for
17 enrollment fees and deposited into the Senior Citizens and
18 Disabled Persons Prescription Drug Discount Program Fund must
19 be separately accounted for by the Department. If 2 or more
20 persons are eligible for any benefit under this Act and are
21 members of the same household, each participating household
22 member shall apply to the Department and pay the fee required
23 for the purpose of obtaining an identification card.

24 (b) Proceeds from annual enrollment fees shall be used
25 by the Department to offset the administrative cost of this
26 Act. The Department may reduce the annual enrollment fee by
27 rule if the revenue from the enrollment fees is in excess of
28 the costs to carry out the program.

29 (c) Any person who is eligible for pharmaceutical
30 assistance under the Senior Citizens and Disabled Persons
31 Property Tax Relief and Pharmaceutical Assistance Act is
32 presumed to be eligible for this program. The enrollment fee
33 under this Act is not required for such persons. That person

1 may purchase prescription drugs under this program that are
2 not covered by the pharmaceutical assistance program under
3 the Senior Citizens and Disabled Persons Property Tax Relief
4 and Pharmaceutical Assistance Act by using the identification
5 card issued under the pharmaceutical assistance program.

6 Section 40. Eligible pharmacies.

7 (a) The Department or its program administrator shall
8 adopt rules to establish standards and procedures for
9 participation in the program and approve those pharmacies
10 that apply to participate and meet the requirements for
11 participation. Pharmacies in the program administrator's
12 network must also comply with the Department's standards and
13 procedures for participation.

14 (b) The Department shall establish procedures for
15 properly contracting for pharmacy services, validating
16 reimbursement claims, validating compliance of authorized
17 pharmacies with the conditions for participation required
18 under this Act, and otherwise providing for the effective
19 administration of this Act. The Director, in consultation
20 with pharmacists licensed under the Pharmacy Practice Act of
21 1987, may enter into a written contract with any other State
22 agency, instrumentality, or political subdivision or with a
23 fiscal intermediary for the purpose of making payments to
24 authorized pharmacies and coordinating the program with other
25 programs that provide payments for prescription drugs covered
26 under the program.

27 Section 45. Rules. The Department shall adopt rules to
28 implement and administer the program, which shall include the
29 following:

30 (1) Execution of contracts with pharmacies to
31 participate in the program. The contracts shall stipulate
32 terms and conditions for the participation of authorized

1 pharmacies and the rights of the State to terminate
2 participation for breach of the contract or for violation
3 of this Act or rules adopted by the Department under this
4 Act.

5 (2) Establishment of maximum limits on the size of
6 prescriptions that are eligible for a discount under the
7 program, up to a 90-day supply, except as may be
8 necessary for utilization control reasons.

9 (3) Inspection of appropriate records and audits of
10 participating authorized pharmacies to ensure contract
11 compliance and to determine any fraudulent transactions
12 or practices under this Act.

13 (4) Specify how a resident may apply to participate
14 in the program.

15 (5) Specify the circumstances under which the
16 Director may require an administrator to modify its
17 conduct of the program.

18 (6) Specify the duration of a contract.

19 (7) Require that an administrator permit any
20 Illinois-licensed pharmacy willing to comply with the
21 requirements of this Act and terms and conditions for
22 participation in the program's network to participate in
23 any network used by the administrator for its program.

24 (8) Permit an administrator to negotiate with one
25 or more drug manufacturers for discounts in drug prices
26 or rebates.

27 (9) Permit an administrator to receive any rebate
28 payments from drug manufacturers.

29 (10) Permit an administrator to develop,
30 administer, and promote a program of disease management
31 pursuant to written agreements between the administrator
32 and pharmacies participating under the program
33 established by this Act.

1 Section 47. Limit on State's obligation for cost of
2 administration. The State of Illinois is obligated for the
3 cost of administering this program only to the extent of the
4 amount of money collected as enrollment fees under Section 35
5 of this Act, rebates collected under Section 30 of this Act,
6 and funds appropriated by the General Assembly for the
7 purpose of this Act.

8 Section 50. Report on administration of program. The
9 Department shall report to the Governor and the General
10 Assembly by March 1st of each year on the administration of
11 the program under this Act. The report shall include but not
12 be limited to the following:

13 (1) the number of disabled persons and seniors eligible
14 and enrolled in the program, by county;

15 (2) the activities undertaken by the State to inform
16 disabled persons and seniors about the program;

17 (3) the number of prescriptions filled under the program
18 for enrollees, and the estimated savings for enrollees;

19 (4) a listing of the manufacturers and pharmacies
20 participating in the program;

21 (5) the amount of enrollment fees and rebates collected
22 under the program, and any additional funds or resources made
23 available to cover the cost of the program;

24 (6) the itemized annual cost of administering the
25 program; and

26 (7) findings and recommendations regarding problems and
27 solutions related to the program, together with proposals for
28 changes in the rules, regulations, or laws necessary to
29 improve the administration of the program.

30 Section 990. The State Finance Act is amended by adding
31 Section 5.595 as follows:

1 (30 ILCS 105/5.595 new)

2 Sec. 5.595. The Senior Citizens and Disabled Persons
3 Prescription Drug Discount Program Fund.

4 Section 99. Effective date. This Act takes effect on
5 July 1, 2003."