



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3732

Introduced 2/25/2009, by Rep. Sidney H. Mathias

SYNOPSIS AS INTRODUCED:

320 ILCS 25/3.15
320 ILCS 25/4

from Ch. 67 1/2, par. 403.15
from Ch. 67 1/2, par. 404

Amends the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act. Provides that beginning January 1, 2010, "covered prescription drug" includes any prescription drug used in the treatment of multiple sclerosis that is covered by the Medicare Part D Prescription Drug Plan in which the beneficiary is enrolled. Effective immediately.

LRB096 09368 KTG 19525 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning aging.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Senior Citizens and Disabled Persons
5 Property Tax Relief and Pharmaceutical Assistance Act is
6 amended by changing Sections 3.15 and 4 as follows:

7 (320 ILCS 25/3.15) (from Ch. 67 1/2, par. 403.15)

8 Sec. 3.15. "Covered prescription drug" means (1) any
9 cardiovascular agent or drug; (2) any insulin or other
10 prescription drug used in the treatment of diabetes, including
11 syringe and needles used to administer the insulin; (3) any
12 prescription drug used in the treatment of arthritis, (4)
13 beginning on January 1, 2001, any prescription drug used in the
14 treatment of cancer, (5) beginning on January 1, 2001, any
15 prescription drug used in the treatment of Alzheimer's disease,
16 (6) beginning on January 1, 2001, any prescription drug used in
17 the treatment of Parkinson's disease, (7) beginning on January
18 1, 2001, any prescription drug used in the treatment of
19 glaucoma, (8) beginning on January 1, 2001, any prescription
20 drug used in the treatment of lung disease and smoking related
21 illnesses, (9) beginning on July 1, 2001, any prescription drug
22 used in the treatment of osteoporosis, and (10) beginning on
23 January 1, 2010 ~~2004~~, any prescription drug used in the

1 treatment of multiple sclerosis that is covered by the Medicare
2 Part D Prescription Drug Plan in which the beneficiary is
3 enrolled. The specific agents or products to be included under
4 such categories shall be listed in a handbook to be prepared
5 and distributed by the Department. The general types of covered
6 prescription drugs shall be indicated by rule.

7 (Source: P.A. 92-10, eff. 6-11-01; 92-790, eff. 8-6-02; 93-528,
8 eff. 1-1-04.)

9 (320 ILCS 25/4) (from Ch. 67 1/2, par. 404)

10 Sec. 4. Amount of Grant.

11 (a) In general. Any individual 65 years or older or any
12 individual who will become 65 years old during the calendar
13 year in which a claim is filed, and any surviving spouse of
14 such a claimant, who at the time of death received or was
15 entitled to receive a grant pursuant to this Section, which
16 surviving spouse will become 65 years of age within the 24
17 months immediately following the death of such claimant and
18 which surviving spouse but for his or her age is otherwise
19 qualified to receive a grant pursuant to this Section, and any
20 disabled person whose annual household income is less than the
21 income eligibility limitation, as defined in subsection (a-5)
22 and whose household is liable for payment of property taxes
23 accrued or has paid rent constituting property taxes accrued
24 and is domiciled in this State at the time he or she files his
25 or her claim is entitled to claim a grant under this Act. With

1 respect to claims filed by individuals who will become 65 years
2 old during the calendar year in which a claim is filed, the
3 amount of any grant to which that household is entitled shall
4 be an amount equal to 1/12 of the amount to which the claimant
5 would otherwise be entitled as provided in this Section,
6 multiplied by the number of months in which the claimant was 65
7 in the calendar year in which the claim is filed.

8 (a-5) Income eligibility limitation. For purposes of this
9 Section, "income eligibility limitation" means an amount:

10 (i) for grant years before the 1998 grant year, less
11 than \$14,000;

12 (ii) for the 1998 and 1999 grant year, less than
13 \$16,000;

14 (iii) for grant years 2000 through 2007:

15 (A) less than \$21,218 for a household containing
16 one person;

17 (B) less than \$28,480 for a household containing 2
18 persons; or

19 (C) less than \$35,740 for a household containing 3
20 or more persons; or

21 (iv) for grant years 2008 and thereafter:

22 (A) less than \$22,218 for a household containing
23 one person;

24 (B) less than \$29,480 for a household containing 2
25 persons; or

26 (C) less than \$36,740 for a household containing 3

1 or more persons.

2 (b) Limitation. Except as otherwise provided in
3 subsections (a) and (f) of this Section, the maximum amount of
4 grant which a claimant is entitled to claim is the amount by
5 which the property taxes accrued which were paid or payable
6 during the last preceding tax year or rent constituting
7 property taxes accrued upon the claimant's residence for the
8 last preceding taxable year exceeds 3 1/2% of the claimant's
9 household income for that year but in no event is the grant to
10 exceed (i) \$700 less 4.5% of household income for that year for
11 those with a household income of \$14,000 or less or (ii) \$70 if
12 household income for that year is more than \$14,000.

13 (c) Public aid recipients. If household income in one or
14 more months during a year includes cash assistance in excess of
15 \$55 per month from the Department of Healthcare and Family
16 Services or the Department of Human Services (acting as
17 successor to the Department of Public Aid under the Department
18 of Human Services Act) which was determined under regulations
19 of that Department on a measure of need that included an
20 allowance for actual rent or property taxes paid by the
21 recipient of that assistance, the amount of grant to which that
22 household is entitled, except as otherwise provided in
23 subsection (a), shall be the product of (1) the maximum amount
24 computed as specified in subsection (b) of this Section and (2)
25 the ratio of the number of months in which household income did
26 not include such cash assistance over \$55 to the number twelve.

1 If household income did not include such cash assistance over
2 \$55 for any months during the year, the amount of the grant to
3 which the household is entitled shall be the maximum amount
4 computed as specified in subsection (b) of this Section. For
5 purposes of this paragraph (c), "cash assistance" does not
6 include any amount received under the federal Supplemental
7 Security Income (SSI) program.

8 (d) Joint ownership. If title to the residence is held
9 jointly by the claimant with a person who is not a member of
10 his or her household, the amount of property taxes accrued used
11 in computing the amount of grant to which he or she is entitled
12 shall be the same percentage of property taxes accrued as is
13 the percentage of ownership held by the claimant in the
14 residence.

15 (e) More than one residence. If a claimant has occupied
16 more than one residence in the taxable year, he or she may
17 claim only one residence for any part of a month. In the case
18 of property taxes accrued, he or she shall prorate 1/12 of the
19 total property taxes accrued on his or her residence to each
20 month that he or she owned and occupied that residence; and, in
21 the case of rent constituting property taxes accrued, shall
22 prorate each month's rent payments to the residence actually
23 occupied during that month.

24 (f) There is hereby established a program of pharmaceutical
25 assistance to the aged and disabled which shall be administered
26 by the Department in accordance with this Act, to consist of

1 payments to authorized pharmacies, on behalf of beneficiaries
2 of the program, for the reasonable costs of covered
3 prescription drugs. Each beneficiary who pays \$5 for an
4 identification card shall pay no additional prescription
5 costs. Each beneficiary who pays \$25 for an identification card
6 shall pay \$3 per prescription. In addition, after a beneficiary
7 receives \$2,000 in benefits during a State fiscal year, that
8 beneficiary shall also be charged 20% of the cost of each
9 prescription for which payments are made by the program during
10 the remainder of the fiscal year. To become a beneficiary under
11 this program a person must: (1) be (i) 65 years of age or
12 older, or (ii) the surviving spouse of such a claimant, who at
13 the time of death received or was entitled to receive benefits
14 pursuant to this subsection, which surviving spouse will become
15 65 years of age within the 24 months immediately following the
16 death of such claimant and which surviving spouse but for his
17 or her age is otherwise qualified to receive benefits pursuant
18 to this subsection, or (iii) disabled, and (2) be domiciled in
19 this State at the time he or she files his or her claim, and (3)
20 have a maximum household income of less than the income
21 eligibility limitation, as defined in subsection (a-5). In
22 addition, each eligible person must (1) obtain an
23 identification card from the Department, (2) at the time the
24 card is obtained, sign a statement assigning to the State of
25 Illinois benefits which may be otherwise claimed under any
26 private insurance plans, and (3) present the identification

1 card to the dispensing pharmacist.

2 The Department may adopt rules specifying participation
3 requirements for the pharmaceutical assistance program,
4 including copayment amounts, identification card fees,
5 expenditure limits, and the benefit threshold after which a 20%
6 charge is imposed on the cost of each prescription, to be in
7 effect on and after July 1, 2004. Notwithstanding any other
8 provision of this paragraph, however, the Department may not
9 increase the identification card fee above the amount in effect
10 on May 1, 2003 without the express consent of the General
11 Assembly. To the extent practicable, those requirements shall
12 be commensurate with the requirements provided in rules adopted
13 by the Department of Healthcare and Family Services to
14 implement the pharmacy assistance program under Section
15 5-5.12a of the Illinois Public Aid Code.

16 Whenever a generic equivalent for a covered prescription
17 drug is available, the Department shall reimburse only for the
18 reasonable costs of the generic equivalent, less the co-pay
19 established in this Section, unless (i) the covered
20 prescription drug contains one or more ingredients defined as a
21 narrow therapeutic index drug at 21 CFR 320.33, (ii) the
22 prescriber indicates on the face of the prescription "brand
23 medically necessary", and (iii) the prescriber specifies that a
24 substitution is not permitted. When issuing an oral
25 prescription for covered prescription medication described in
26 item (i) of this paragraph, the prescriber shall stipulate

1 "brand medically necessary" and that a substitution is not
2 permitted. If the covered prescription drug and its authorizing
3 prescription do not meet the criteria listed above, the
4 beneficiary may purchase the non-generic equivalent of the
5 covered prescription drug by paying the difference between the
6 generic cost and the non-generic cost plus the beneficiary
7 co-pay.

8 Any person otherwise eligible for pharmaceutical
9 assistance under this Act whose covered drugs are covered by
10 any public program for assistance in purchasing any covered
11 prescription drugs shall be ineligible for assistance under
12 this Act to the extent such costs are covered by such other
13 plan.

14 The fee to be charged by the Department for the
15 identification card shall be equal to \$5 per coverage year for
16 persons below the official poverty line as defined by the
17 United States Department of Health and Human Services and \$25
18 per coverage year for all other persons.

19 In the event that 2 or more persons are eligible for any
20 benefit under this Act, and are members of the same household,
21 (1) each such person shall be entitled to participate in the
22 pharmaceutical assistance program, provided that he or she
23 meets all other requirements imposed by this subsection and (2)
24 each participating household member contributes the fee
25 required for that person by the preceding paragraph for the
26 purpose of obtaining an identification card.

1 The provisions of this subsection (f), other than this
2 paragraph, are inoperative after December 31, 2005.
3 Beneficiaries who received benefits under the program
4 established by this subsection (f) are not entitled, at the
5 termination of the program, to any refund of the identification
6 card fee paid under this subsection.

7 (g) Effective January 1, 2006, there is hereby established
8 a program of pharmaceutical assistance to the aged and
9 disabled, entitled the Illinois Seniors and Disabled Drug
10 Coverage Program, which shall be administered by the Department
11 of Healthcare and Family Services and the Department on Aging
12 in accordance with this subsection, to consist of coverage of
13 specified prescription drugs on behalf of beneficiaries of the
14 program as set forth in this subsection. The program under this
15 subsection replaces and supersedes the program established
16 under subsection (f), which shall end at midnight on December
17 31, 2005.

18 To become a beneficiary under the program established under
19 this subsection, a person must:

20 (1) be (i) 65 years of age or older or (ii) disabled;

21 and

22 (2) be domiciled in this State; and

23 (3) enroll with a qualified Medicare Part D
24 Prescription Drug Plan if eligible and apply for all
25 available subsidies under Medicare Part D; and

26 (4) have a maximum household income of (i) less than

1 \$21,218 for a household containing one person, (ii) less
2 than \$28,480 for a household containing 2 persons, or (iii)
3 less than \$35,740 for a household containing 3 or more
4 persons. If any income eligibility limit set forth in items
5 (i) through (iii) is less than 200% of the Federal Poverty
6 Level for any year, the income eligibility limit for that
7 year for households of that size shall be income equal to
8 or less than 200% of the Federal Poverty Level.

9 All individuals enrolled as of December 31, 2005, in the
10 pharmaceutical assistance program operated pursuant to
11 subsection (f) of this Section and all individuals enrolled as
12 of December 31, 2005, in the SeniorCare Medicaid waiver program
13 operated pursuant to Section 5-5.12a of the Illinois Public Aid
14 Code shall be automatically enrolled in the program established
15 by this subsection for the first year of operation without the
16 need for further application, except that they must apply for
17 Medicare Part D and the Low Income Subsidy under Medicare Part
18 D. A person enrolled in the pharmaceutical assistance program
19 operated pursuant to subsection (f) of this Section as of
20 December 31, 2005, shall not lose eligibility in future years
21 due only to the fact that they have not reached the age of 65.

22 To the extent permitted by federal law, the Department may
23 act as an authorized representative of a beneficiary in order
24 to enroll the beneficiary in a Medicare Part D Prescription
25 Drug Plan if the beneficiary has failed to choose a plan and,
26 where possible, to enroll beneficiaries in the low-income

1 subsidy program under Medicare Part D or assist them in
2 enrolling in that program.

3 Beneficiaries under the program established under this
4 subsection shall be divided into the following 5 eligibility
5 groups:

6 (A) Eligibility Group 1 shall consist of beneficiaries
7 who are not eligible for Medicare Part D coverage and who
8 are:

9 (i) disabled and under age 65; or

10 (ii) age 65 or older, with incomes over 200% of the
11 Federal Poverty Level; or

12 (iii) age 65 or older, with incomes at or below
13 200% of the Federal Poverty Level and not eligible for
14 federally funded means-tested benefits due to
15 immigration status.

16 (B) Eligibility Group 2 shall consist of beneficiaries
17 otherwise described in Eligibility Group 1 but who are
18 eligible for Medicare Part D coverage.

19 (C) Eligibility Group 3 shall consist of beneficiaries
20 age 65 or older, with incomes at or below 200% of the
21 Federal Poverty Level, who are not barred from receiving
22 federally funded means-tested benefits due to immigration
23 status and are eligible for Medicare Part D coverage.

24 (D) Eligibility Group 4 shall consist of beneficiaries
25 age 65 or older, with incomes at or below 200% of the
26 Federal Poverty Level, who are not barred from receiving

1 federally funded means-tested benefits due to immigration
2 status and are not eligible for Medicare Part D coverage.

3 If the State applies and receives federal approval for
4 a waiver under Title XIX of the Social Security Act,
5 persons in Eligibility Group 4 shall continue to receive
6 benefits through the approved waiver, and Eligibility
7 Group 4 may be expanded to include disabled persons under
8 age 65 with incomes under 200% of the Federal Poverty Level
9 who are not eligible for Medicare and who are not barred
10 from receiving federally funded means-tested benefits due
11 to immigration status.

12 (E) On and after January 1, 2007, Eligibility Group 5
13 shall consist of beneficiaries who are otherwise described
14 in Eligibility Groups 2 and 3 who have a diagnosis of HIV
15 or AIDS.

16 The program established under this subsection shall cover
17 the cost of covered prescription drugs in excess of the
18 beneficiary cost-sharing amounts set forth in this paragraph
19 that are not covered by Medicare. In 2006, beneficiaries shall
20 pay a co-payment of \$2 for each prescription of a generic drug
21 and \$5 for each prescription of a brand-name drug. In future
22 years, beneficiaries shall pay co-payments equal to the
23 co-payments required under Medicare Part D for "other
24 low-income subsidy eligible individuals" pursuant to 42 CFR
25 423.782(b). For individuals in Eligibility Groups 1, 2, 3, and
26 4, once the program established under this subsection and

1 Medicare combined have paid \$1,750 in a year for covered
2 prescription drugs, the beneficiary shall pay 20% of the cost
3 of each prescription in addition to the co-payments set forth
4 in this paragraph. For individuals in Eligibility Group 5, once
5 the program established under this subsection and Medicare
6 combined have paid \$1,750 in a year for covered prescription
7 drugs, the beneficiary shall pay 20% of the cost of each
8 prescription in addition to the co-payments set forth in this
9 paragraph unless the drug is included in the formulary of the
10 Illinois AIDS Drug Assistance Program operated by the Illinois
11 Department of Public Health. If the drug is included in the
12 formulary of the Illinois AIDS Drug Assistance Program,
13 individuals in Eligibility Group 5 shall continue to pay the
14 co-payments set forth in this paragraph after the program
15 established under this subsection and Medicare combined have
16 paid \$1,750 in a year for covered prescription drugs.

17 For beneficiaries eligible for Medicare Part D coverage,
18 the program established under this subsection shall pay 100% of
19 the premiums charged by a qualified Medicare Part D
20 Prescription Drug Plan for Medicare Part D basic prescription
21 drug coverage, not including any late enrollment penalties.
22 Qualified Medicare Part D Prescription Drug Plans may be
23 limited by the Department of Healthcare and Family Services to
24 those plans that sign a coordination agreement with the
25 Department.

26 Notwithstanding Section 3.15, for purposes of the program

1 established under this subsection, the term "covered
2 prescription drug" has the following meanings:

3 For Eligibility Group 1, "covered prescription drug"
4 means: (1) any cardiovascular agent or drug; (2) any
5 insulin or other prescription drug used in the treatment of
6 diabetes, including syringe and needles used to administer
7 the insulin; (3) any prescription drug used in the
8 treatment of arthritis; (4) any prescription drug used in
9 the treatment of cancer; (5) any prescription drug used in
10 the treatment of Alzheimer's disease; (6) any prescription
11 drug used in the treatment of Parkinson's disease; (7) any
12 prescription drug used in the treatment of glaucoma; (8)
13 any prescription drug used in the treatment of lung disease
14 and smoking-related illnesses; (9) any prescription drug
15 used in the treatment of osteoporosis; and (10) beginning
16 January 1, 2010, any prescription drug used in the
17 treatment of multiple sclerosis that is covered by the
18 Medicare Part D Prescription Drug Plan in which the
19 beneficiary is enrolled. The Department may add additional
20 therapeutic classes by rule. The Department may adopt a
21 preferred drug list within any of the classes of drugs
22 described in items (1) through (10) of this paragraph. The
23 specific drugs or therapeutic classes of covered
24 prescription drugs shall be indicated by rule.

25 For Eligibility Group 2, "covered prescription drug"
26 means those drugs covered for Eligibility Group 1 that are

1 also covered by the Medicare Part D Prescription Drug Plan
2 in which the beneficiary is enrolled.

3 For Eligibility Group 3, "covered prescription drug"
4 means those drugs covered by the Medicare Part D
5 Prescription Drug Plan in which the beneficiary is
6 enrolled.

7 For Eligibility Group 4, "covered prescription drug"
8 means those drugs covered by the Medical Assistance Program
9 under Article V of the Illinois Public Aid Code.

10 For Eligibility Group 5, for individuals otherwise
11 described in Eligibility Group 2, "covered prescription
12 drug" means: (1) those drugs covered for Eligibility Group
13 2 that are also covered by the Medicare Part D Prescription
14 Drug Plan in which the beneficiary is enrolled; and (2)
15 those drugs included in the formulary of the Illinois AIDS
16 Drug Assistance Program operated by the Illinois
17 Department of Public Health that are also covered by the
18 Medicare Part D Prescription Drug Plan in which the
19 beneficiary is enrolled. For Eligibility Group 5, for
20 individuals otherwise described in Eligibility Group 3,
21 "covered prescription drug" means those drugs covered by
22 the Medicare Part D Prescription Drug Plan in which the
23 beneficiary is enrolled.

24 An individual in Eligibility Group 1, 2, 3, 4, or 5 may opt
25 to receive a \$25 monthly payment in lieu of the direct coverage
26 described in this subsection.

1 Any person otherwise eligible for pharmaceutical
2 assistance under this subsection whose covered drugs are
3 covered by any public program is ineligible for assistance
4 under this subsection to the extent that the cost of those
5 drugs is covered by the other program.

6 The Department of Healthcare and Family Services shall
7 establish by rule the methods by which it will provide for the
8 coverage called for in this subsection. Those methods may
9 include direct reimbursement to pharmacies or the payment of a
10 capitated amount to Medicare Part D Prescription Drug Plans.

11 For a pharmacy to be reimbursed under the program
12 established under this subsection, it must comply with rules
13 adopted by the Department of Healthcare and Family Services
14 regarding coordination of benefits with Medicare Part D
15 Prescription Drug Plans. A pharmacy may not charge a
16 Medicare-enrolled beneficiary of the program established under
17 this subsection more for a covered prescription drug than the
18 appropriate Medicare cost-sharing less any payment from or on
19 behalf of the Department of Healthcare and Family Services.

20 The Department of Healthcare and Family Services or the
21 Department on Aging, as appropriate, may adopt rules regarding
22 applications, counting of income, proof of Medicare status,
23 mandatory generic policies, and pharmacy reimbursement rates
24 and any other rules necessary for the cost-efficient operation
25 of the program established under this subsection.

26 (Source: P.A. 94-86, eff. 1-1-06; 94-909, eff. 6-23-06; 95-208,

1 eff. 8-16-07; 95-644, eff. 10-12-07; 95-876, eff. 8-21-08.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.