

1 prescription according to federal law and which are contained in the American hospital
2 formulary service pharmacologic-therapeutic classifications categories that have not been
3 determined by the federal "drug efficacy and safety implementation (DESI) commission" to lack
4 substantial evidence of effectiveness, which are not included in the definition of drugs as defined
5 in section 42-66.2-3(5). However, this shall not include prescription drugs used for cosmetic
6 purposes.

7 (6) "Income" for the purposes of this chapter means the sum of federal adjusted gross
8 income as defined in the Internal Revenue Code of the United States [26 U.S.C. section 1 et seq.]
9 and all nontaxable income including but not limited to, the amount of capital gains excluded from
10 adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance
11 and relief (not including relief granted under this chapter), the gross amount of any pension or
12 annuity (including Railroad Retirement Act benefits [45 U.S.C. section 231 et seq.] all payments
13 received under the federal Social Security Act [42 U.S.C. section 301 et seq.] state unemployment
14 insurance laws, and veterans' disability pensions), nontaxable interest received from the federal
15 government or any of its instrumentalities, workers' compensation, and the gross amount of "loss
16 of time" insurance. It does not include gifts from nongovernmental sources, or surplus foods or
17 other relief in kind supplied by a public or private agency.

18 (7) "Pharmaceutical manufacturer" means any entity holding legal title to or possession
19 of a national drug code number issued by the federal food and drug administration.

20 (8) "Pharmacy" means a pharmacy licensed by the state of Rhode Island and whose place
21 of business is physically located within the state.

22 (9) "Pilot program contractor" means Blue Cross and Blue Shield of Rhode Island.

23 **42-66.2-4. Amount of payment.** -- The state shall pay the percentage rate of the
24 maximum allowable amount per prescription as formulated in the contract, as of the date of
25 purchase of the drug, between the contractor and participating pharmacies in accordance with the
26 income eligibility and co-payment shares set forth in section 42-66.2-5. The pharmacy shall
27 collect from the consumer the percentage rate of the maximum allowable amount per prescription
28 as formulated in the contract, as of the date of the purchase of the eligible drug or additional
29 drug, between the contractor and participating pharmacies in accordance with the income
30 eligibility and co-payment shares set forth in section 42-66.2-5. ~~Payment for eligible drugs~~
31 ~~pursuant to this chapter shall only apply to purchases made on or after October 1, 1985.~~

32 **42-66.2-5. Persons eligible.** -- (a) Persons eligible for assistance under the provisions of
33 this chapter include any resident of the state who is at least sixty-five (65) years of age. State and
34 consumer co-payment shares for these persons, shall be determined as follows:

1 (1) For unmarried persons or married persons living separate and apart whose income for
2 the calendar year immediately preceding the year in which assistance is sought is:

3 (i) Less than fifteen thousand nine hundred and thirty-two dollars (\$15,932) the state
4 shall pay sixty percent (60%) of the cost of the prescriptions and the consumer shall pay forty
5 percent (40%) of the cost of the prescriptions;

6 (ii) More than fifteen thousand nine hundred and thirty-two dollars (\$15,932) and less
7 than twenty thousand dollars (\$20,000), the state shall pay thirty percent (30%) of the cost of the
8 prescriptions and the consumer shall pay seventy percent (70%) of the cost of the prescriptions;
9 and

10 (iii) More than twenty thousand dollars (\$20,000) and less than thirty-five thousand
11 dollars (\$35,000), the state shall pay fifteen percent (15%) of the cost of prescriptions and the
12 consumer shall pay eighty-five percent (85%) of the cost of prescriptions.

13 (2) For married persons whose income for the calendar year immediately preceding the
14 year in which assistance is sought hereunder when combined with any income of the person's
15 spouse in the same year is:

16 (i) Nineteen thousand nine hundred and sixteen dollars (\$19,916) or less, the state shall
17 pay sixty percent (60%) of the cost of the prescriptions and the consumer shall pay forty percent
18 (40%) of the cost of the prescriptions;

19 (ii) More than nineteen thousand nine hundred and sixteen dollars (\$19,916) and less
20 than twenty-five thousand dollars (\$25,000), the state shall pay thirty percent (30%) of the cost of
21 the prescriptions and the consumer shall pay seventy percent (70%) of the cost of prescriptions;
22 and

23 (iii) More than twenty-five thousand dollars (\$25,000) and less than forty thousand
24 dollars (\$40,000), the state shall pay fifteen percent (15%) of the cost of prescriptions and the
25 consumer shall pay eighty-five percent (85%) of the cost of prescriptions.

26 (3) Eligibility may also be determined by using income data for the ninety (90) days
27 prior to application for benefits and projecting that income on an annual basis. The income levels
28 shall not include those sums of money expended for medical and pharmaceutical that exceed
29 three percent (3%) of the applicant's annual income or three percent (3%) of the applicant's
30 preceding ninety (90) day income computed on an annual basis.

31 (b) On July 1 of each year, the maximum amount of allowable income for both unmarried
32 and married residents set forth in subsection (a) shall be increased by a percentage equal to the
33 percentage of the cost of living adjustment provided for social security recipients.

34 (c) Notwithstanding the foregoing provisions of this section, no person whose

1 prescription drug expenses are paid or reimbursable, either in whole or in part, by any other plan
2 of assistance or insurance is eligible for assistance under this section, until the person's
3 prescription drug coverage is exhausted during a benefit year, and as provided in subsection (d).

4 (d) The fact that some of a person's prescription drug expenses are paid or reimbursable
5 under the provisions of medicare, part B, shall not disqualify that person, if he or she is otherwise
6 eligible, to receive assistance under this chapter. In those cases, the state shall pay sixty percent
7 (60%) of the cost of those prescriptions for qualified drugs for which no payment or
8 reimbursement is made by the federal government.

9 (e) Eligibility for receipt of any other benefit under any other provisions of the Rhode
10 Island general laws as a result of eligibility for the pharmaceutical assistance program authorized
11 under this section shall be limited to those persons whose income qualify them for a sixty percent
12 (60%) state co-payment share of the cost of prescriptions.

13 (f) Between fifty-five (55) and sixty-five (65) years of age and receiving social security
14 disability benefits. These persons shall pay one hundred percent (100%) of the cost of
15 prescriptions set forth in section 42-66.2-4.

16 (g) For all additional drugs, the consumer shall pay one hundred percent (100%) of the
17 cost of prescriptions as set forth in section 42-66.2-4.

18 **42-66.2-6. Responsibilities of department of elderly affairs.** -- (a) Determination of
19 eligibility. - The department shall adopt regulations relating to the determination of eligibility of
20 prospective consumers and the determination and elimination of program abuse. The department
21 has the power to declare ineligible any consumer who abuses or misuses the established
22 prescription plan. The department has the power to investigate cases of suspected provider or
23 consumer fraud.

24 (b) Rebates for expenses prohibited. - (1) A system of rebates or reimbursements to the
25 consumer for pharmaceutical expenses shall be prohibited.

26 (2) Subdivision (1) shall not be interpreted to exclude other consumers not participating
27 in the pharmaceutical assistance to the elderly program from receiving financial offers or
28 redeemable coupons that are available to only those who have paid for the service or product
29 through direct cash payment, insurance premiums, or cost sharing with an employer.

30 (c) Program criteria. - The program includes the following criteria:

31 (1) Collection of the co-payment by pharmacies is mandatory;

32 (2) Senior citizens participating in the program are not required to maintain records of
33 each transaction but shall sign a receipt for eligible and additional drugs;

34 (3) (i) A system of rebates or reimbursements to the consumer for pharmaceutical

1 expenses is prohibited;

2 (ii) This subdivision shall not be interpreted to exclude other consumers from receiving
3 financial offers or redeemable coupons that are available to only those who have paid for the
4 service or product through direct cash payment, insurance premiums, or cost sharing with an
5 employer.

6 (4) Prescription benefits for any single prescription may be dispensed in the amounts
7 authorized by the physician, and agreed to by the consumer, up to a maximum of a one hundred
8 (100) day supply or two hundred (200) doses, whichever is less and/or a one hundred (100) day
9 supply or one quart of liquid, whichever is less; provided, however, that disposable insulin
10 syringes are dispensed in a quantity of one hundred (100);

11 (5) Experimental drugs are excluded from the program.

12 (6) A system of mail order delivery for prescriptions is prohibited under this program;
13 and

14 (7) Eligible and additional drugs must be dispensed within one year of the original
15 prescription order.

16 (d) The director shall issue an eligibility card containing a program ID number and the
17 time period for which the card is valid.

18 (e) The director shall institute and conduct an educational outreach program and shall
19 provide a mechanism, within the department, to handle all public inquiries concerning the
20 program.

21 (f) The director shall establish a process, in accordance with the Administrative
22 Procedures Act, chapter 35 of this title, to provide an appeals hearing on the determination of
23 eligibility.

24 (g) The director shall forward to the contractor a list of all eligible consumers.

25 **42-66.2-10. Pharmaceutical manufacturer drug rebates.** -- (a) The director shall enter
26 into prescription drug rebate agreements with individual pharmaceutical manufacturers under
27 which the department shall receive a rebate from the pharmaceutical manufacturer equal to the
28 basic rebate supplied by the manufacturer under 42 U.S.C. section 1396a for every eligible
29 prescription drug dispensed under the program. Each prescription drug rebate agreement shall
30 provide that the pharmaceutical manufacturer shall make quarterly rebate payments to the
31 department equal to the basic rebate supplied by the manufacturer under 42 U.S.C. section 1396a
32 for the total number of dosage units of each form and strength of a prescription drug which the
33 department reports as reimbursed to providers of prescription drugs, provided these payments
34 shall not be due until thirty (30) days following the manufacturer's receipt of utilization data from

1 the department including the number of dosage units reimbursed to providers of eligible
2 prescription drugs during the quarter for which payment is due.

3 (b) (1) Upon receipt of the utilization data from the department, the pharmaceutical
4 manufacturer shall calculate the quarterly payment. The department may, at its expense, hire a
5 mutually agreed upon independent auditor to verify the calculation and payment. In the event that
6 a discrepancy is discovered between the pharmaceutical manufacturer's calculation and the
7 independent auditor's calculation, the pharmaceutical manufacturer shall justify its calculations or
8 make payment to the department for any additional amount due.

9 (2) The pharmaceutical manufacturer may, at its expense, hire a mutually agreed upon
10 independent auditor to verify the accuracy of the utilization data provided by the department. In
11 the event that a discrepancy is discovered, the department shall justify its data or refund any
12 excess payment to the pharmaceutical manufacturer. The department may, at its expense,
13 establish a grievance adjudication procedure which provides for independent review of
14 manufacturer documentation substantiating the basic rebate amount per unit delivered under 42
15 U.S.C. section 1396a. In the event that a discrepancy is discovered, the department shall justify its
16 data or refund any excess payment to the pharmaceutical manufacturer.

17 (c) All eligible prescription drugs of a pharmaceutical manufacturer that enters into an
18 agreement pursuant to subsection (a) shall be immediately available and the cost of these eligible
19 drugs shall be reimbursed and not subject to any restrictions or prior authorization requirements.
20 Any prescription drug of a manufacturer that does not enter into an agreement pursuant to
21 subsection (a) shall not be reimbursable, unless the department determines the eligible
22 prescription drug is essential to program participants.

23 (d) All rebates collected by the department from the rebate payments made for drugs for
24 persons eligible under the provisions of section 42-66.2-5(a) shall be deposited as general
25 revenues of the state.

26 SECTION 2. This article shall take effect upon passage.

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