



1 patient use in a noninstitutional setting from a participating pharmacy.

2 (3) "Rx program participant" means an individual determined eligible for the Rhode  
3 Island Rx program who has attested to meeting the eligibility requirements in accordance with  
4 section 23-77-9, and has been issued an Rx program enrollment card.

5 (4) "Participating pharmacy" means a currently state-licensed or registered pharmacy  
6 dispensing prescription drugs from within the U.S. that is registered to participate in the Rhode  
7 Island Rx program.

8 (5) "State employee health plan" means a health benefits program paid for in whole or in  
9 part by the state for employees of the state of Rhode Island, active and/or retired, that is  
10 authorized to negotiate separately and independently for prescription drug discounts.

11 (6) "Director" means the director of the Rhode Island department of health, or other  
12 person designated by the governor.

13 **23-77-4. Rx card.** – The director shall develop a prescription drug discount program for  
14 the uninsured to be implemented on or before March 15, 2005. The director shall issue a request  
15 for proposals to entities for the management of the discounted program and issuance of Rhode  
16 Island Rx program enrollment cards to eligible persons. A participant in the Rhode Island Rx  
17 program established pursuant to section 4 shall receive a Rhode Island Rx program enrollment  
18 card to be presented to participating pharmacies to receive discounts provided by the Rhode  
19 Island Rx program for outpatient drugs.

20 **23-77-5. Rx card fund.** – There is hereby created in the state treasury the Rhode Island  
21 Rx program fund. The fund shall consist of voluntary rebates paid by manufacturers pursuant to  
22 contracts entered into under section 23-77-6. The director shall use money in the fund to  
23 reimburse a participating pharmacy the amount of the manufacturer's discount the participating  
24 pharmacy passes through to a Rhode Island Rx program participant on a prescription drug  
25 pursuant to section 23-77-6. Investment earnings of the fund shall be credited to the fund.

26 (a) Administrative cost. An annual fee of up to thirty dollars (\$30.00) shall be paid by  
27 each Rhode Island Rx participant to cover the administrative costs of the program. The fee shall  
28 be collected at the retail level as a deductible on the program benefits by increasing Rhode Island  
29 Rx price available to the participant by the applicable manufacturer rebate amount until the  
30 enrollee's annual fee has been collected. In establishing the annual fee, the director shall use any  
31 surplus in the fund to reduce the amount of the annual fee.

32 (b) Notwithstanding any other provision of this section, in any of the first three (3) years  
33 of the program in which the deductibles paid by enrollees or other funds available to the director  
34 for this purpose do not cover the administrative costs of the program, the director may use such

1 sums as may be necessary from the fund to cover such costs.

2 **23-77-6. Discount drug program.** – (a) There is hereby established a discount drug  
3 program in the department of health known as the Rhode Island Rx program to provide low-  
4 income eligible uninsured with access to prescription drugs from participating pharmaceutical  
5 Companies and pharmacists through either a state-sponsored discount card program based on  
6 existing negotiated discounts in either the state employees health plan; the state retirees health  
7 plans; or a program that extends current pharmaceutical manufacturer prescription drug assistance  
8 programs to the identified low-income uninsured.

9 (b) Pharmaceutical manufacturers may choose to offer for a particular drug:

10 (1) The same discount/rebate or the average discount/rebate offered for the same drug(s)  
11 in the state employees health plans or state employee retiree plans; or

12 (2) A discount/rebate different from either the state employees health plans or the state  
13 retirees health plans, if greater; or

14 (3) Extend its current prescription assistance program to the eligible uninsured.

15 (c) The director shall adopt rules to implement the Rhode Island Rx program. The rules  
16 shall provide for all of the following:

17 (1) Simplified eligibility determination procedures for the Rhode Island Rx program,  
18 including methodology for documenting income;

19 (2) Claim forms to be used by a participating pharmacy for reimbursement;

20 (3) The amount of the professional dispensing fee to be paid to participating pharmacies.  
21 The director shall review the professional dispensing fee amount periodically to determine  
22 whether it should be changed, but the fee shall not be less than the average fee paid by the state  
23 employee health plans or more than the dispensing fee paid by Medicaid;

24 (4) An annual process or obtaining from state employee health plans the amount of the  
25 rebate negotiated by the state employee plans or their contractors, for each prescription drug for  
26 which the director has entered into a rebate agreement pursuant to section 23-77-6 and the  
27 amount payable to a participating pharmacy for each drug furnished to a beneficiary of the state  
28 employee health plan. The rebate amount reported for each drug shall be the full amount  
29 negotiated by the manufacturer with the state or state agent that administers the state employee  
30 health plan(s) for the most recent period as specified by the director, beginning with 2005;

31 (5) An annual process to compute the average rebate on each drug as provided in  
32 subsection 23-77-6(b)(1) and compute the amount payable to a participating pharmacy for each  
33 drug as provided in subparagraph (c)(3) of this section, for purposes of the Rhode Island Rx  
34 program; and the manner in which the state shall inform a participating pharmacy of the charge to

1 a Rhode Island Rx program participant for a drug.

2 (a) The rules shall not require a manufacturer or participating pharmacy to reveal any  
3 proprietary information.

4 (b) In computing the averages for purposes of subsection 23-77-6(b)(1), (i) of the drug is  
5 covered by one or more state health plans for active employees, the director shall compute the  
6 average of the per unit prices under those plans; (ii) if the drug is covered by one or more state  
7 health plans for retirees, the director shall compute the average of the per unit prices under those  
8 plans;

9 (6) A schedule for manufacturers to pay rebates to the director pursuant to a contract  
10 entered into under section 23-77-6;

11 (7) Notwithstanding this chapter, adjustments to the requirements and terms of the Rhode  
12 Island Rx program are authorized to accommodate any federally funded prescription drug  
13 programs created after the effective date of this section.

14 **23-77-7. Annual review.** – The legislature shall review the Rhode Island Rx program on  
15 an annual basis to ensure it is meeting the goals of the program.

16 **23-77-8. Outreach.** – The director, using available state general funds, shall undertake  
17 outreach efforts to publicize the Rhode Island Rx program.

18 **23-77-9. Eligibility.** – An individual who is a resident of this state is eligible to  
19 participate in the Rhode Island Rx program only if the following is true for the year in which  
20 eligibility is being determined.

21 (a) (1) the individual is over sixty-five (65) years of age; or

22 (2) the individual or household has an annual income of two hundred percent (200%) of  
23 the federal poverty level or less, which shall include all sources of income including, but not  
24 limited to, wages, salaries, interest, and dividends; and

25 (b) the individual is not eligible and for the four (4) months prior to the application has  
26 not been eligible for outpatient prescription drug coverage under a health benefits program paid  
27 for in whole or in part by an employer, Medicaid, Medicare, or another state or federal health plan  
28 or pharmaceutical assistance program that uses state or federal funds to pay part or all of the  
29 individual's prescription drug costs. The four (4) month period shall not apply with respect to an  
30 individual if the health plan for which he or she has been eligible is terminated because of  
31 bankruptcy of the sponsor or if pension benefits are required to be cut in a plan being managed  
32 under ERISA protection.

33 **23-77-10. Application.** – (a) An individual seeking to participate in the Rhode Island Rx  
34 program shall apply to the Rhode Island department on an annual basis.

1           (b) Before enrolling the individual in the Rx program, the department shall determine  
2 whether the individual is eligible to be enrolled in the Rhode Island Medicaid program.

3           (c) The department shall ensure that the Rhode Island Rx program is the payer of last  
4 resort.

5           **23-77-11. Pharmacy discounts.** – Each participating pharmacy shall discount the  
6 amount it charges a Rhode Island Rx program participant for a prescription drug covered by the  
7 program. As determined in section 23-77-66, the amount of the charge shall be the average  
8 amount the participating pharmacy is paid for the drug by the state employee health plans minus  
9 the average rebate a pharmaceutical manufacturer pays the director for the prescription drug  
10 pursuant to the contract, plus the applicable professional dispensing fee for participating  
11 pharmacies pursuant to subsection 23-77-6(c). In each year, the manufacturer rebates that would  
12 have been used to provide discounts under this section shall not be available as a discount to the  
13 enrollee until the enrollee's prescription expenses are sufficient to pay the enrollee's annual  
14 deductible fee pursuant to section 23-77-5.

15           **23-77-12. Claims.** – A participating pharmacy that provides a Rhode Island Rx program  
16 participant a program discount on a prescription drug shall submit a claim to the director  
17 verifying the quantity of each prescription drug dispensed to Rhode Island Rx program  
18 participants by the participating pharmacy. The participating pharmacy shall use a claim form  
19 prescribed in rules adopted under section 23-77-6.

20           **23-77-13. Reimbursement.** – Using claims submitted by a participating pharmacy under  
21 section 23-77-6, the director shall reimburse a participating pharmacy the amount of the rebate a  
22 manufacturer pays for the prescription drug pursuant to a rebate agreement entered into under  
23 section 23-77-6 for each prescription drug the participating pharmacy has provided to a Rhode  
24 Island Rx program participant pursuant to section 23-77-6. The director shall make the  
25 reimbursements and payments on a monthly basis and shall ensure that any reimbursement to the  
26 pharmacy is net of the recoupment of the annual deductible fee for each enrollee.

27           **23-77-14. Transaction charges prohibited.** – The director shall not impose a  
28 transactional charge on a participating pharmacy that submits a claim under section 23-77-6.

29           **23-77-15. Confidentiality.** – Notwithstanding any other provision of law, information  
30 disclosed by manufacturers under this act is confidential and shall not be disclosed by the director  
31 or a state agency (or contractor therewith) in a form which discloses the identity of a specific  
32 manufacturer, prices charged for drugs by such manufacturer or wholesaler, except when the  
33 director determines it to be necessary to carry out this act, to permit the attorney general to review  
34 the information provided. All information provided by pharmaceutical manufacturers or

1 pharmacists under this act, including information on claim submitted to the director under section  
2 23-77-6, shall be deemed a trade secret under the Rhode Island Uniform Trade Secrets Act,  
3 R.I.G.L. section 6-41, and shall not be disclosed by the director or any other person pursuant to  
4 federal or state trade secrets law.

5 **23-77-16. Rebates.** – (a) Each manufacturer that sells prescription drugs through a state  
6 health employee health plan may voluntarily enter into a rebate agreement with the director under  
7 which the manufacturer is to make rebate payments to the director on a quarterly basis or in  
8 accordance with a schedule established by rules adopted under section 23-77-6 on any of its  
9 prescription drugs.

10 (b) The department shall report to each manufacturer not later than sixty (60) days after  
11 the end of each quarter and in a form consistent with a standard reporting format established by  
12 the director, information on the total number of units of each dosage form and strength and  
13 package size of each covered outpatient drug dispense after the implementation date of the Rhode  
14 Island Rx program.

15 (c) A manufacturer may audit the information provided (or required to be provided)  
16 under subparagraph (b). Adjustments to rebates shall be made pursuant to the manufacturer's  
17 contract with the state.

18 (d) The department may audit participating pharmacies to ensure the participating  
19 manufacturer's discounts are appropriately passed on to the Rx program participants. Audit  
20 reports shall be released to the legislature and to the public once a year.

21 **23-77-17. Period covered.** – The Rhode Island Rx program shall cover a prescription  
22 drug for at least one year if the prescription drug is included in a contract entered into under  
23 section 23-77-6, unless another coverage period is specified by the said contract.

24 **23-77-18. Prohibitions.** – (a) Participation in the program by a manufacturer is voluntary  
25 failure of a manufacturer to participate in the Rx program will not result in prior authorization on  
26 drugs in the Medicaid program which would not otherwise be subject to prior authorization but  
27 for the failure of the manufacturer to participate in the Rx program.

28 (b) Participation in the program by a manufacturer is voluntary. A state employee health  
29 plan, may not place a manufacturer's product on the prior authorization list or otherwise penalize  
30 or restrict access to any of the manufacturer's product(s) in response to a manufacturer's failing to  
31 enter into a rebate agreement under section 23-77-6.

32 (c) The program may not include the purchase of prescription drugs imported into the  
33 United States in violation of federal law.

34 SECTION 2. This act shall take effect upon passage.

=====  
LC00887/SUB A/3  
=====

EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY -- THE RHODE ISLAND PRESCRIPTION DRUG  
PROGRAM FOR THE UNINSURED

\*\*\*

- 1 This act would provide prescription drug coverage for the uninsured.
- 2 This act would take effect upon passage.

=====  
LC00887/SUB A/3  
=====

