

FIRST REGULAR SESSION

# HOUSE BILL NO. 824

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ABEL, BARRY, SANDERS BROOKS, SCHEVE, REID, HOSMER, O'TOOLE, KREIDER, KELLY (27), FOLEY, WARD, SMITH, CURLS (Co-sponsors), SELBY, DAVIS, HOLLINGSWORTH, McKENNA, BOWMAN, LONG, O'CONNER, BOUCHER, HARTZLER, BERKOWITZ, HAGAN-HARRELL, WALTON, JOHNSON (90), RIZZO, MONACO, CRUMP, HAYWOOD, LADD BAKER, GREEN (15), FARNEN, GRAHAM, KENNEDY, JOLLY, WILLOUGHBY, JOHNSON (61), CLAYTON, FRASER, RANSALL, LAWSON, HICKEY, WAGNER, HOLT, RELFORD, ROBIRDS, BARNITZ, GEORGE, HILGEMANN, REYNOLDS, SEIGFREID AND VILLA.

Read 1<sup>st</sup> time February 19, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1684L.021

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### AN ACT

To repeal section 135.095, RSMo 2000, and to enact in lieu thereof one new section relating to a pharmaceutical insurance program for seniors.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 135.095, RSMo 2000, is repealed and one new section enacted in lieu thereof, to be known as section 208.550, to read as follows:

**208.550. 1. As used in this section, the following terms mean:**

(1) "Department", the department of social services;

(2) "Household income", the amount of income designated as taxable income, excluding social security income, where applicable, or for a person who does not file a federal income tax return, household income shall be defined by rule of the department. For purposes of this section, household income shall be the household income of the applicant for the previous calendar year;

(3) "Medicaid", the program for medical assistance established pursuant to Title XIX of the federal Social Security Act and administered by the department;

(4) "Missouri resident", an individual who establishes residence for a period of six months in a settled or permanent home or domicile within the state of Missouri with the intention of remaining in this state. An individual is a resident of this state until the

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

13 individual establishes a permanent residence outside this state;

14 (5) "Program", the pharmaceutical investment program for seniors (PIPS)  
15 established pursuant to this section.

16 2. The department of social services shall establish a "Pharmaceutical Investment  
17 Program for Seniors" to help defray the costs of prescription drugs for elderly Missouri  
18 residents. The following Missouri residents shall be eligible to participate in the program:

19 (1) Any person sixty-five years of age or older, with an annual household income  
20 at or below twenty-five thousand dollars and a total annual family household income of  
21 fifty thousand dollars or less who is not currently covered by a pharmacy plan or receiving  
22 Medicaid benefits. Such person shall demonstrate that his or her estimated annual  
23 prescription drug costs will exceed one thousand five hundred dollars;

24 (2) A married couple in which both persons are sixty-five years of age or older, with  
25 an annual family household income at or below fifty thousand dollars, and neither person  
26 is currently covered by a pharmacy plan or receiving Medicaid benefits. Such couple shall  
27 demonstrate that their estimated annual prescription drug costs will exceed three thousand  
28 dollars;

29 (3) Any person sixty-five years of age or older, with an annual household income  
30 in excess of twenty-five thousand dollars and a total annual family household income in  
31 excess of fifty thousand dollars who is not currently covered by a pharmacy plan or  
32 receiving Medicaid benefits, if such person's estimated annual pharmaceutical costs will  
33 exceed ten percent of such person's annual household income. Such person shall be eligible  
34 to participate in the program after such person has expended ten percent of his or her  
35 annual household income; or

36 (4) A married couple in which both persons are sixty-five years of age or older, with  
37 an annual family household income in excess of fifty thousand dollars who are not  
38 currently covered by a pharmacy plan or receiving Medicaid benefits, if such couple's  
39 estimated annual pharmaceutical costs will exceed ten percent of such couple's annual  
40 household income. Such couple shall be eligible to participate in the program after such  
41 couple has expended ten percent of their annual household income.

42 3. Any person who is eligible for employer-sponsored or retirement pharmaceutical  
43 health insurance coverage or who has an income level, as determined by the department,  
44 sufficient to purchase adequate pharmaceutical insurance coverage shall not be eligible to  
45 participate in the pharmaceutical investment program for seniors.

46 4. Applicants for the program shall submit an annual application to the  
47 department, or the department's designee, that attests to the age, residence, annual  
48 household income and estimated annual prescription drug costs for an individual or

49 couple, if married. The department shall prescribe by rule the form of the application for  
50 enrollment in the program. For the initial year of operation, a nonrefundable application  
51 fee of twenty-five dollars shall be included with the application. For subsequent years, the  
52 amount of the application fee may be established by the general assembly.

53       **5. Upon notification of eligibility, an enrollee may access the program by meeting**  
54 **the cost-sharing obligation through a monthly deductible calculated and based on one of**  
55 **the following:**

56       **(1) If the enrollee's household income is at or below twelve thousand dollars for an**  
57 **individual or twenty-four thousand dollars for a couple, the monthly deductible is one-**  
58 **twelfth of eight hundred dollars for an individual or one-twelfth of sixteen hundred dollars**  
59 **for a couple;**

60       **(2) If the enrollee's household income is between twelve thousand one dollars and**  
61 **sixteen thousand dollars for an individual or twenty-four thousand one dollars and thirty-**  
62 **two thousand dollars for a couple, the monthly deductible is one-twelfth of one thousand**  
63 **two hundred fifty dollars for an individual or one-twelfth of twenty-five hundred dollars**  
64 **for a couple; or**

65       **(3) If the enrollee's household income is between sixteen thousand one dollars and**  
66 **twenty-five thousand dollars for an individual or thirty-two thousand one dollars and fifty**  
67 **thousand dollars for a couple, or the enrollee meets the requirements of subdivision (3) or**  
68 **(4) of subsection 2 of this section, the monthly deductible is one-twelfth of one thousand**  
69 **five hundred dollars for an individual or one-twelfth of three thousand dollars for a couple.**

70       **6. Every applicant shall be assessed for Medicaid eligibility. Nothing in this section**  
71 **shall be construed as requiring an applicant to accept Medicaid benefits in lieu of**  
72 **participation in this program.**

73       **7. For the initial year of operation, enrollees shall pay a two dollar co-payment for**  
74 **generic prescription drugs and a fifteen dollar co-payment for a brand name prescription**  
75 **drug when a recognized generic prescription drug is available. Such copayment shall be**  
76 **used to reduce the state's cost for the program. For subsequent years, the general assembly**  
77 **may establish the co-payments for generic and brand name prescription drugs. Nothing**  
78 **in this subsection shall be construed as permitting therapeutic substitutions. This**  
79 **subsection shall not apply to a prescription marked a "dispense as written".**

80       **8. In providing program benefits, the department may enter into a contract with**  
81 **a private individual, corporation or agency to manage the program and take measures**  
82 **necessary to obtain the best available quarterly voluntary manufacturer rebate. The**  
83 **dispensing rate and ingredient reimbursement rate shall be equal to the Medicaid**  
84 **reimbursement rate.**

85           **9. The department shall collaborate with the division of aging in the department**  
86 **of health and utilize area agencies on aging, senior citizens centers and other senior focused**  
87 **entities to provide outreach, enrollment assistance and education services to potentially**  
88 **eligible seniors for the pharmaceutical insurance program for seniors.**

89           **10. The department shall submit quarterly reports to the senate appropriations**  
90 **committee, and the house of representatives budget committee, the speaker of the house of**  
91 **representatives and the president pro tem of the senate, that include:**

92           **(1) Quantified data as to the number of program applicants and enrollees**  
93 **subsequently found eligible for Medicaid;**

94           **(2) An estimate of whether the current rate of expenditures will exceed the existing**  
95 **appropriation for the program in the current fiscal year; and**

96           **(3) Recommendations for changes to the deductibles and co-payments for enrollees**  
97 **in the program.**

98           **11. The program established in this section is not an entitlement. Benefits shall be**  
99 **limited to the level supported by the moneys explicitly appropriated pursuant to this**  
100 **section. The pharmaceutical insurance program for seniors is a payer of last resort. If the**  
101 **federal government establishes a pharmaceutical assistance program that covers program**  
102 **eligible seniors under Medicare or another program, the pharmaceutical insurance**  
103 **program for seniors shall cover only eligible costs not covered by the federal program.**

104           **12. The department may promulgate rules to implement the provisions of this**  
105 **section. No rule or portion of a rule promulgated pursuant to the authority of this section**  
106 **shall become effective unless it has been promulgated pursuant to chapter 536, RSMo.**

          [135.095. For all tax years beginning on or after January 1, 1999, but before  
2       January 1, 2005, a resident individual who has attained sixty-five years of age on or  
3       before the last day of the tax year shall be allowed, for the purpose of offsetting the  
4       cost of legend drugs, a maximum credit against the tax otherwise due pursuant to  
5       chapter 143, RSMo, not including sections 143.191 to 143.265, RSMo, of two  
6       hundred dollars. An individual shall be entitled to the maximum credit allowed by  
7       this section if the individual has a Missouri adjusted gross income of fifteen thousand  
8       dollars or less; provided that, no individual who receives full reimbursement for the  
9       cost of legend drugs from Medicare or Medicaid, or who is a resident of a local, state  
10      or federally funded facility shall qualify for the credit allowed pursuant to this  
11      section. If an individual's Missouri adjusted gross income is greater than fifteen  
12      thousand dollars, such individual shall be entitled to a credit equal to the greater of  
13      zero or the maximum credit allowed by this section reduced by two dollars for every  
14      hundred dollars such individual's income exceeds fifteen thousand dollars. The  
15      credit shall be claimed as prescribed by the director of the department of revenue.  
16      Such credit shall be considered an overpayment of tax and shall be refundable even  
17      if the amount of the credit exceeds an individual's tax liability.]