SECOND REGULAR SESSION

HOUSE BILL NO. 1079

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PORTWOOD, SELBY, NAEGER (Co-sponsors), GASKILL, REINHART, MYERS AND BERKSTRESSER.

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TED WEDEL, Chief Clerk

2699L.01I

AN ACT

To repeal section 208.556, RSMo, and to enact in lieu thereof one new section relating to the Missouri senior Rx program.

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

Section A. Section 208.556, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.556, to read as follows:

208.556. 1. There is hereby established the "Missouri Senior Rx Program" within the division of aging in the department of health and senior services to help defray the costs of prescription drugs for elderly Missouri residents. The division shall provide technical assistance to the commission for the administration and implementation of the program. The commission shall solicit requests for proposals from private contractors for the third-party administration of the program; except that, the commission shall either administer the rebate program established in section 208.565 or contract with the division of medical services for such rebate program. The program shall be governed by the commission for the Missouri Senior Rx program established in section 208.553.

2. Administration of the program shall include, but not be limited to, devising program applications, enrolling participants, administration of prescription drug benefits, and implementation of cost-control measures, including such strategies as disease management programs, early refill edits, drug utilization review which includes retroactive approval systems, fraud and abuse detection system, and auditing programs. The commission shall select a responsive, cost-effective bid from the requests for proposal; however, if no responsive, cost-effective bids are received, the program shall be administered collaboratively by the department of health and senior services and the department of social services.

3. Prescription drug benefits shall not include coverage of the following drugs or classes

of drugs, or their medical uses:

(1) Agents when used for anorexia or weight gain;

(2) Agents when used to promote fertility;

(3) Agents when used for cosmetic purposes or hair growth;

(4) Agents when used for the symptomatic relief of cough and colds;

(5) Agents when used to promote smoking cessation;

(6) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations;

(7) Nonprescription drugs;

(8) Covered outpatient drugs which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee;

(9) Barbiturates;

(10) Benzodiazepines.

4. Subject to appropriations, available funds and other cost-control measures authorized herein, any Missouri resident sixty-five years of age or older, who has not had access to employer-subsidized health care insurance that offers a pharmacy benefit for six months prior to application, who is not currently ineligible pursuant to subsection 8 of this section:

(1) Who has a household income at or below twelve thousand dollars for an individual or at or below seventeen thousand dollars for a married couple is eligible to participate in the program; or

(2) Who has a household income at or below seventeen thousand dollars for an individual or at or below twenty-three thousand dollars for a married couple is eligible to participate in the program.

(3) However, the commission may restrict income eligibility limits as a last resort to obtain program cost control.

Any senior in the state of Missouri may enroll in the program. After exceeding expenditures of twenty-five percent of his or her annual household income on prescription drugs as a deductible, a senior may qualify for participation in the program during a program year in which his or her household income minus the amount expended on prescription drugs is equal to or less than the limit required to qualify for participation in the program pursuant to this section.

5. The commission shall have the authority to set and adjust coinsurance, deductibles and enrollment fees at different amounts pursuant to subdivisions (1) and (2) of subsection 4 of this section as a cost-containment measure.

6. Any person who has retired and received employer-sponsored health insurance while employed, but whose employer does not offer health insurance coverage to retirees shall not be subject to the six-month uninsured requirement.

7. The program established in this section is not an entitlement. Benefits shall be limited to the level supported by the moneys explicitly appropriated pursuant to this section. If in any fiscal year the commission projects that the total cost of the program will exceed the amount currently appropriated for the program, the commission may direct the third-party administrator to implement cost-control measures to reduce the projected cost. Such cost-control measures may include, but are not limited to, increasing the enrollment fees in subsection 12 of this section, the deductibles in subsection 11 of this section, and the coinsurance outlined in subsection 12 of this section. The Missouri Senior Rx program is a payer of last resort. If the federal government establishes a pharmaceutical assistance program that covers program-eligible seniors under Medicare or another program, the Missouri Senior Rx program shall cover only eligible costs not covered by the federal program.

8. Any person who is receiving Medicaid benefits shall not be eligible to participate in the program. The Missouri Senior Rx program is a payer of last resort. If a senior has coverage for pharmaceutical benefits through a health benefit plan, as defined in section 376.1350, RSMo, including a Medicare supplement or Medicare+Choice plan, or through a self-funded employee benefit plan, the Missouri Senior Rx program shall pay only for eligible costs not provided by such coverage. Individuals who have benefits with an actuarial value greater than or equal to the benefits in the program are not eligible for the program.

9. Applicants for the program shall submit an annual application to the division, or the division's designee, that attests to the age, residence, any third-party health insurance coverage, previous year prescription drug costs, annual household income for an individual or couple, if married, and any other information the commission deems necessary. The third-party administrator shall prescribe the form of the application for enrollment in the program, which shall be approved by the division. The commission shall develop and implement a means test by which applicants must demonstrate that they meet the income requirement of the program. Information provided by applicants and enrollees pursuant to sections 208.550 to 208.571 is confidential and shall not be disclosed by the commission, the division or any other state agency or contractor therein in any form.

10. Nothing in this section shall be construed as requiring an applicant to accept Medicaid benefits in lieu of participation in this program.

11. The following deductibles shall apply to enrollees in the program:

(1) For an individual with a household income at or below twelve thousand dollars, the deductible shall, in the initial year, not be less than two hundred fifty dollars;

(2) For a married couple with a household income at or below seventeen thousand dollars, the deductible shall, in the initial year, not be less than two hundred fifty dollars for each person;

(3) For an individual with a household income between twelve thousand one dollars and seventeen thousand dollars, the deductible shall, in the initial year, not be less than five hundred dollars; and

(4) For a married couple with a household income between seventeen thousand one dollars and twenty-three thousand dollars, the deductible shall, in the initial year, not be less than five hundred dollars for each person.

12. For prescription drugs, enrollees shall pay a forty percent coinsurance. The division may implement a higher coinsurance at the recommendation of the commission. Such coinsurance may be adjusted annually by the commission and shall be used to reduce the state's cost for the program. In addition, each enrollee with an annual household income at or below twelve thousand dollars for an individual or at or below seventeen thousand dollars for a married couple shall pay, in the initial year, not less than an annual twenty-five dollar enrollment fee and each enrollee with a household income between twelve thousand one dollars and seventeen thousand dollars for an individual or at or below between seventeen thousand one dollars and twenty-three thousand dollars for a married couple shall pay, in the initial year, not less than an annual thirty-five dollar enrollment fee to offset the administrative costs of the program.

13. The total annual expenditures for each enrollee under this program may be up to but shall not exceed five thousand dollars for each participant.

14. In providing program benefits, the department may enter into a contract with a private individual, corporation or agency to implement the program.

15. The division shall utilize area agencies on aging, senior citizens centers, and other senior-focused entities to provide outreach, enrollment referral assistance, and education services to potentially eligible seniors for the Missouri Senior Rx program. The division and third-party administrators shall be responsible for informing eligible seniors on the availability of and providing information about pharmaceutical company benefits which may be applicable.

16. The commission shall submit quarterly reports to the governor, the senate appropriations committee, the house of representatives budget committee, the speaker of the house of representatives, the president pro tem of the senate, and the division that include:

(1) Quantified data as to the number of program applicants;

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

(3) Information regarding the commission's recommendations for changes to income eligibility, enrollment fees, coinsurance, deductibles, and benefit caps for enrollees in the

program.

17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 208.550 to 208.571 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. Sections 208.550 to 208.571 and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2002, shall be invalid and void.

18. Any person who knowingly makes any false statements, falsifies or permits to be falsified any records, or engages in conduct in an attempt to defraud the program is guilty of a misdemeanor and shall forfeit all rights to which he or she may be entitled hereunder.