

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 22 & 106

91ST GENERAL ASSEMBLY

Reported from the Committee on Public Health and Welfare, February 22, 2001, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0202S.07C

AN ACT

To repeal section 135.095, RSMo 2000, relating to prescription drugs for the elderly and to enact in lieu thereof eleven new sections relating to the same subject.

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

Section A. Section 135.095, RSMo 2000, is repealed and eleven new sections enacted in lieu thereof, to be known as sections 660.700, 660.703, 660.706, 660.709, 660.712, 660.715, 660.718, 660.721, 660.724, 660.727 and 1, to read as follows:

660.700. 1. For the purposes of sections 660.700 to 660.727, the following terms mean:

- (1) "Department", the department of social services;**
- (2) "Fund", the Missouri pharmaceutical assistance fund created pursuant to section 1 of this act;**
- (3) "Prescription drugs", legend drugs prescribed to an individual with preference given to generic drugs unless specifically overwritten by a physician;**
- (4) "Task force", the Missouri pharmaceutical assistance program task force.**

2. The "Missouri Pharmaceutical Assistance Program Task Force" is hereby created within the department of social services, which shall provide funding, administrative support and staff for the effective operation of the task force. The membership of the task force shall consist of:

- (1) Two members appointed by the president pro tem of the senate, one member from each party;**
- (2) Two members appointed by the speaker of the house of representatives, one**

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

member from each party;

(3) Three members appointed by the governor, with the advice and consent of the senate one of whom must have experience with and knowledge of matters relating to health care;

(4) Two private citizens appointed by the governor with advice and consent of the senate;

(5) One representative of the department of social services;

(6) One representative of the department of health; and

(7) Three health care providers, two of which shall be physicians, licensed in this state pursuant to chapter 334, RSMo.

Each member appointed pursuant this subsection must be a resident of this state and must not be employed in the executive or judicial branch of state government.

3. Each person who appoints members pursuant to subsection 2 of this section shall ensure that, insofar as practicable, the members whom he appoints reflect the ethnic and geographical diversity of this state.

4. All members shall serve without compensation but shall be reimbursed for all actual and necessary expenses incurred in the performance of their official duties for the task force.

660.703. 1. The task force shall:

(1) Conduct public hearings to accept public testimony from a wide variety of sources and perspectives regarding existing or proposed programs that:

(a) Promote public health;

(b) Improve health services for senior citizens;

(c) Reduce or prevent the use of tobacco; and

(d) Offer other information on health care in this state;

(2) Establish a process to evaluate the health needs of the senior citizens of this state and a system to rank the health problems of the senior citizens of this state, including, but not limited to, the specific health problems that are endemic to urban and rural communities;

(3) Reserve up to fifty percent of all revenues deposited in the Missouri pharmaceutical assistance fund, established pursuant to section 1 of this act, each year for direct expenditure by the department to pay for prescription drugs and pharmaceutical services for senior citizens pursuant to sections 660.700 to 660.724. The department shall submit a quarterly report to the governor regarding the general manner in which expenditures have been made pursuant to this section and the status of the program;

(4) Reserve up to fifty percent of all revenues deposited in the fund each year for

programs that prevent, reduce or treat the use of tobacco and the consequences of the use of tobacco;

(5) Up to thirty percent of all revenues deposited in the fund each year may be redirected to the credit of general revenue;

(6) Up to ten percent of all revenues deposited in the fund each year may be redirected to the credit of the department of elementary and secondary education for use as school foundation formula funds;

(7) Maximize expenditures through local, state, federal and private matching contributions;

(8) Ensure that any money expended from the fund will not be used to supplant existing methods of funding that are available to public agencies;

(9) Develop policies and procedures for the administration and distribution of grants and other expenditures to nonprofit organizations, universities and community colleges. A condition of any such grant must be that not more than eight percent of the grant may be used for administrative expenses or other indirect costs. The procedures must require at least one competitive round of requests for proposals;

(10) Transmit a report of all findings, recommendations and expenditures to the governor and the general assembly.

2. The task force may take such other actions as are necessary to carry out its duties.

3. The department shall take all actions necessary to ensure that all allocations for expenditures are carried out as directed by the task force.

660.706. 1. The department shall enter into contracts with private health insurers to arrange for the availability, at a reasonable cost which shall include copayments and deductibles, of health insurance policies that provide coverage to senior citizens not covered by other programs for prescription drugs and pharmaceutical services.

2. Subject to appropriations, a senior citizen who is sixty-five years of age or older, who is not eligible for Medicaid, but who may be eligible for Medicare and who purchases a health insurance policy that is made available pursuant to subsection 1 of this section is entitled to an annual grant from the fund to subsidize a portion of the cost of that insurance if such senior citizen has been a resident of this state for at least one year immediately preceding the date of his or her application and his or her household income, as defined pursuant to section 135.010, RSMo, is at or below one hundred eighty-five percent of the federal poverty level.

3. The amount of any subsidy granted pursuant to this section must not exceed the annual cost of insurance that provides coverage for prescription drugs and

pharmaceutical services or four hundred eighty dollars per year, whichever is less.

660.709. 1. A senior citizen who wishes to receive a subsidy pursuant to section 660.706 must file a request therefor with the department.

2. The request must be filed in such form and content, and accompanied by such proof, as the department may prescribe by rule.

3. The department shall, within forty-five days after receiving a request for a subsidy, examine the request, grant or deny it, and if granted, shall determine the amount of the subsidy to which the senior citizen is entitled.

4. The department shall determine which senior citizens are eligible to receive a subsidy pursuant to section 660.706 and shall pay the subsidy directly to an insurer with whom the department has entered into a contract pursuant to section 660.706.

660.712. Any subsidy granted pursuant to section 660.706 to a senior citizen who is not qualified for such a subsidy may be revoked by the department. If a subsidy is so revoked, the senior citizen shall make restitution to the department for any subsidy he has improperly received, and the department shall take all proper actions to collect the amount of the subsidy as a debt.

660.715. 1. The department shall deny any request for a subsidy received pursuant to section 660.709 to which the senior citizen is not entitled or any amount in excess of that to which the senior citizen is entitled.

2. The department may deny in total any request which it finds to have been filed with fraudulent intent. If any such request has been paid and is afterward denied, the amount of the subsidy must be repaid by the senior citizen to the department.

3. Any amounts received by the department pursuant to this section must be deposited with the state treasurer for credit to the Missouri pharmaceutical assistance fund.

660.718. Any person who is aggrieved by a decision of the department denying a request for a subsidy submitted pursuant to section 660.709 may request administrative review pursuant to chapter 621, RSMo.

660.721. The department is responsible for the administration of the provisions of sections 660.700 to 660.727 and may promulgate rules regarding:

(1) The content and form of a request for a subsidy required to be submitted pursuant to section 660.709;

(2) Designation of the proof that must be submitted with such a request;

(3) The adoption of regulations to protect the confidentiality of information supplied by a senior citizen requesting a subsidy pursuant to section 660.709;

(4) The adoption of such other regulations as may be required to carry out the provisions of sections 660.700 to 660.727;

(5) 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 this section 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. This section 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, 2001, shall be invalid and void.

660.724. The department may contract with a pharmacy benefit management program to manage the Missouri pharmaceutical assistance program and may contract with a drug utilization review program to review the Missouri pharmaceutical assistance program. Both contracts may be defined by the department by rule.

660.727. No person may publish, disclose or use any personal or confidential information contained in a request for a subsidy submitted pursuant to section 660.709 except for purposes relating to the administration of sections 660.700 to 660.727.

Section 1. 1. There is hereby created in the state treasury the "Missouri Pharmaceutical Assistance Fund" for the purpose of funding the Missouri pharmaceutical assistance program established pursuant to sections 660.700 to 660.727, RSMo, and for use in tobacco cessation, education, and treatment as delineated by the department of social services in conjunction with the department of health by rule with consideration given to the Centers for Disease Control and Prevention's nine elements of the comprehensive tobacco control program. All monies appropriated for the purpose of funding the pharmaceutical tax credit program, created within the Department of Revenue by section 135.095, shall be removed from the Department of Revenue and reassigned to the Department of Social Services to the credit of the Missouri pharmaceutical assistance fund for the purpose of funding the Missouri pharmaceutical assistance program, as created by sections 660.700 through 660.724 and Section 1 of this act. Such monies shall be appropriated until such time as other funding becomes available.

2. 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 this section 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. This section 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, 2001, shall be invalid and void.

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

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