

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 1371

92ND GENERAL ASSEMBLY

Reported from the Committee on Aging, Families, Mental and Public Health, March 11, 2004, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

4574S.11C

AN ACT

To repeal section 208.574, RSMo, and to enact in lieu thereof five new sections relating to the coordination of benefits for the Medicare Prescription Drug, Improvement and Modernization Act of 2003, with a termination date for a certain section.

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

Section A. Section 208.574, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 208.574, 208.580, 208.582, 208.584, and 208.586, to read as follows:

208.574. The provisions of sections 208.550 to 208.571 shall [be reauthorized every four years] **terminate thirty days following notice to the revisor of statutes by the director of the department of health and senior services that the Medicare Prescription Drug, Improvement and Modernization Act of 2003 has been fully implemented.**

208.580. 1. For the purposes of this section, the following terms shall mean:

(1) "Gap", the gap in prescription drug coverage between the initial coverage limit and qualified senior citizens' annual out-of-pocket threshold created due to the enactment of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173;

(2) "Prescription drug plan (PDP) sponsors", providers who meet the requirements as prescribed in section 1860D-12 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173.

2. In order to fill the gap created due to the enactment of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, P.L. 108-173, the "Missouri Senior Prescription Drug Plan" is established within the department of

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

health and senior services. This plan is not an entitlement to replace the Medicare Prescription Drug, Improvement and Modernization Act of 2003. 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 plan will exceed the amount currently appropriated for the plan, the commission may direct the prescription drug plan sponsor to implement cost-control measures to reduce the projected cost. Such cost-control measures may include, but are not limited to, increasing the coinsurance outlined in subsection 4 of section 208.582. The Missouri senior prescription drug plan is a payer of last resort.

3. Subject to appropriations, available funds and other cost-control measures authorized in sections 208.580 to 208.584, any Missouri resident sixty-five years of age or older and who is a participant in the Medicare Part D benefit shall be eligible for the Missouri senior prescription drug plan if such individual's income is:

(1) Within one hundred fifty to two hundred percent of the federal poverty level; or

(2) Below one hundred fifty percent of the federal poverty level and such individual fails to meet the asset test as prescribed in P.L. 108-173.

4. Beginning January 1, 2006, and subject to appropriations, the state shall pay seventy-five percent of the 2006 standard drug benefit coverage gap of two thousand eight hundred fifty dollars for eligible individuals whose income is within one hundred fifty to two hundred percent of the federal poverty level and for eligible individuals whose income is below one hundred fifty percent of the federal poverty level and who fail to meet the asset test as prescribed in P.L. 108-173.

5. Beginning November 15, 2005, applications for the Missouri senior prescription drug plan will be conducted jointly with applications for the Medicare Part D benefit. The enrollment period for the state plan shall correspond with the enrollment period for the federal program as prescribed in P.L. 108-173.

6. The Missouri senior prescription drug plan shall include and provide coverage for only the prescription drugs that are covered in the prescription drug plan sponsors' formulary pursuant to the Medicare Prescription Drug, Improvement and Modernization Act, P.L. 108-173.

7. The Missouri senior prescription drug plan 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) Prescription vitamins and mineral products, except prenatal vitamins and fluoride preparations;
- (6) Nonprescription drugs;
- (7) 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;
- (8) Barbiturates;
- (9) Benzodiazepines.

The Missouri senior prescription drug plan shall also exclude prescription drugs which are not "reasonable and necessary" as defined pursuant to Section 1862(a) of P.L. 108-173.

8. For the covered prescription drugs, the state shall not be charged an amount in excess of the price charged pursuant to the federal benefit in P.L. 108-173.

208.582. 1. There is hereby established the "Missouri Senior Prescription Drug Plan Commission" within the department of health and senior services to govern the implementation and administration of section 208.580. The commission shall consist of the following twelve members:

- (1) The lieutenant governor, in his or her capacity as advocate for the elderly;
- (2) Two members of the senate, with one member from the majority party appointed by the president pro tem of the senate and one member of the minority party appointed by the president pro tem of the senate with the concurrence of the minority floor leader of the senate;
- (3) Two members of the house of representatives, with one member from the majority party appointed by the speaker of the house of representatives and one member of the minority party appointed by the speaker of the house of representatives with the concurrence of the minority floor leader of the house of representatives;
- (4) The director of the division of medical services in the department of social services;
- (5) The director of the department of health and senior services;
- (6) A pharmacist appointed by the governor with the advice and consent of the senate;
- (7) A physician appointed by the governor with the advice and consent of the senate;
- (8) A representative from a senior advocacy group appointed by the

governor with the advice and consent of the senate;

(9) A representative from an area agency on aging appointed by the governor with the advice and consent of the senate; and

(10) A representative from the pharmaceutical manufacturers industry as a nonvoting member appointed by the president pro tem of the senate and the speaker of the house of representatives.

Members appointed by the governor shall serve for three-year terms. Other members, except legislative members, shall serve for as long as they hold the position which made them eligible for appointment. Legislative members shall serve during their current term of office but may be reappointed.

2. The commission shall elect a chair and may employ administrative staff as necessary to assist in the performance of the commission's duties.

3. The members of the commission shall receive no compensation for their service on the commission, but shall be reimbursed for ordinary and necessary expenses incurred in the performance of their duties as a member of the commission.

4. The commission shall have the authority to:

(1) Contract with prescription drug plan sponsors for the implementation and administration of the Missouri senior prescription drug plan;

(2) Contract with prescription drug plan sponsors for the annual verification of eligibility of applicants for the Missouri senior prescription drug plan;

(3) Adjust the fee payments for prescription drug plan sponsors;

(4) Set and adjust coinsurance at different amounts; and

(5) Perform any other function necessary for the implementation and administration of the Missouri senior prescription drug plan.

5. The commission also shall apply to the United States Department of Health and Human Services for any applicable federal waivers or public or private grants.

6. The commission shall have rulemaking authority for the implementation and administration of section 208.580. 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, 2004, shall be invalid and void.

208.584. 1. Subject to appropriations, there is hereby established the "Missouri Senior Prescription Drug Plan Clearinghouse" within the Missouri senior prescription drug plan commission. The commission may submit requests for proposal for the third-party administration of the clearinghouse. The purpose of the clearinghouse shall include, but not be limited to:

- (1) Assist all Missouri residents in accessing prescription drug programs;
- (2) Educate the public on quality drug programs and cost-containment strategies;
- (3) Serve as a resource for pharmaceutical benefit issues.

2. The administration of the clearinghouse shall include, but not be limited to:

(1) Providing a one-stop-shopping clearinghouse for all information for seniors regarding prescription drug coverage programs and health insurance issues;

(2) Targeting outreach and education including print and media, social service and health care providers to promote the program;

(3) Maintaining a toll-free 800-phone number staffed by trained customer service representatives;

(4) Providing the state with measurable data to identify the progress and success of the plan, including but not limited to, the number of individuals served, length and type of assistance, follow-up and plan evaluation; and

(5) Providing information on eligibility, enrollment, and benefits for the Missouri senior prescription drug plan on the department of health and senior services Internet website.

208.586. The provisions of sections 208.580 to 208.584 shall be reauthorized every four years.

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