

ESSB 5904 - H COMM AMD
By Committee on Appropriations

ADOPTED AS AMENDED 4/24/03

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that prescription
4 drugs are an effective and important part of efforts to maintain and
5 improve the health of Washington state residents. However, their
6 increased cost and utilization is straining the resources of many
7 people, particularly low-income elderly people who lack insurance
8 coverage for such drugs. Furthermore, inappropriate use of
9 prescription drugs can result in unnecessary expenditures and lead to
10 serious health consequences. It is therefore the intent of the
11 legislature to establish an evidence-based preferred drug list, develop
12 programs to provide prescription drugs at an affordable price to those
13 in need, and increase public awareness regarding their safe and cost-
14 effective use.

15 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09 RCW
16 to read as follows:

17 (1) To the extent funds are appropriated specifically for this
18 purpose, and subject to any conditions placed on appropriations made
19 for this purpose, the department shall design the medicaid prescription
20 drug assistance program. Neither the benefits of, nor eligibility for,
21 the program is considered to be an entitlement.

22 (2) The department is directed to obtain necessary federal waivers
23 to implement this program. Consistent with federal waiver conditions,
24 the department is authorized to charge enrollment fees, premiums, or
25 point-of-service cost-sharing to enrollees of the program.

26 (3) Eligibility for this program is limited to persons:
27 (a) Who are eligible for medicare or age sixty-five and older;
28 (b) Whose family income does not exceed two hundred percent of the

1 federal poverty level as adjusted for family size and determined
2 annually by the federal department of health and human services;

3 (c) Who do not otherwise have insurance that provides prescription
4 drug coverage; and

5 (d) Who are not otherwise eligible under Title XIX of the federal
6 social security act.

7 (4) The department is authorized to use a cost-effective
8 prescription drug benefit design. Consistent with federal waiver
9 conditions, this benefit design can be different than the benefit
10 design offered under the medical assistance program. The benefit
11 design may include a deductible benefit that provides coverage when
12 enrollees incur higher prescription drug costs as defined by the
13 department. The department also may offer more than one benefit
14 design.

15 (5) The department is authorized to limit enrollment of persons who
16 qualify for the program so as to prevent an overexpenditure of
17 appropriations for this program or to assure necessary compliance with
18 federal waiver budget neutrality requirements. The department shall
19 not reduce existing medical assistance program eligibility or benefits
20 to assure compliance with federal waiver budget neutrality
21 requirements.

22 (6) No funds from an approved federal waiver that allows for the
23 collection of premiums from medicaid clients will be used to finance
24 the medicaid prescription drug assistance program.

25 (7) This program will be terminated within twelve months after
26 implementation of a prescription drug benefit under Title XVIII of the
27 federal social security act.

28 (8) The department shall provide recommendations to the appropriate
29 committees of the senate and house of representatives by November 15,
30 2003, on financing options available to support the medicaid
31 prescription drug assistance program. In recommending financing
32 options, the department shall explore every opportunity to maximize
33 federal funding to support the program.

34 NEW SECTION. **Sec. 3.** A new section is added to chapter 41.05 RCW
35 to read as follows:

36 (1) The health care authority shall establish a prescription drug

1 purchasing consortium and shall coordinate the participation of state
2 agencies, private entities, and private individuals in the consortium.
3 State purchased health care programs shall purchase prescription drugs
4 through the consortium for those prescription drugs that are purchased
5 directly by the state and those that are purchased through
6 reimbursement of retail pharmacies. The administrator shall not
7 require that any supplemental rebate offered by a pharmaceutical
8 manufacturer for prescription drugs purchased for medical assistance
9 program clients under chapter 74.09 RCW be extended to state purchased
10 health care programs other than medical assistance, or to private
11 individuals participating in the consortium. The authority shall
12 establish a preferred drug list for use as provided in this chapter
13 through an evidence-based process that evaluates the efficacy of
14 prescription drugs, considering safety, efficacy, likelihood of
15 compliance, outcomes, and any unique impacts on specific populations
16 based upon factors such as sex, age, ethnicity, race, or disability.
17 The preferred drug list shall be the basis for consortium purchasing by
18 and on behalf of state purchased health care programs and private
19 individuals participating in the consortium. In administering
20 prescription drug benefits under state purchased health care programs,
21 agencies shall honor an endorsing prescriber's direction to dispense a
22 prescription drug as written on the prescription order, including
23 refills of prescriptions for an antipsychotic or antidepressant drug,
24 in which case the pharmacist shall dispense the nonpreferred drug as
25 written.

26 (2) The administrator shall explore joint purchasing opportunities
27 with other states to achieve quality cost-effective prescription drug
28 coverage for those participating in the consortium.

29 (3) Participation in the purchasing consortium and other related
30 activities is purely voluntary for private entities and private
31 individuals who lack insurance or are underinsured for prescription
32 drug coverage. Unaffiliated individuals who participate in the
33 consortium shall receive reduced costs comparable to those negotiated
34 by the consortium for its preferred prescription drugs. The
35 administrator may set reasonable fees, including enrollment fees for
36 participating individuals, to cover administrative costs attributable

1 to participation in prescription drug consortium activities. A private
2 individual may limit their participation to one or more of the
3 consortium's program components.

4 (4) The price discounts available pursuant to this section shall
5 not be at the expense of retail pharmacies.

6 NEW SECTION. **Sec. 4.** A new section is added to chapter 41.05 RCW
7 to read as follows:

8 The consolidated prescription drug purchasing account is created in
9 the custody of the state treasurer. All receipts under section 3(3) of
10 this act from the fees from the price discount program created in
11 section 3 of this act must be deposited into the account. Expenditures
12 from the account may be used only for the purposes of section 3 of this
13 act. Only the administrator or the administrator's designee may
14 authorize expenditures from the account. The account is subject to
15 allotment procedures under chapter 43.88 RCW, but an appropriation is
16 not required for expenditures.

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.05 RCW
18 to read as follows:

19 (1) The administrator shall establish and advertise a pharmacy
20 connection program through which health care providers and members of
21 the public can obtain information about manufacturer-sponsored
22 prescription drug assistance programs. The administrator shall ensure
23 that the program has staff available who can assist persons in
24 procuring free or discounted medications from manufacturer-sponsored
25 prescription drug assistance programs by:

26 (a) Determining whether an assistance program is offered for the
27 needed drug or drugs;

28 (b) Evaluating the likelihood of a person obtaining drugs from an
29 assistance program under the guidelines formulated;

30 (c) Assisting persons with the application and enrollment in an
31 assistance program;

32 (d) Coordinating and assisting physicians and others authorized to
33 prescribe medications with communications, including applications, made
34 on behalf of a person to a participating manufacturer to obtain
35 approval of the person in an assistance program; and

1 (e) Working with participating manufacturers to simplify the system
2 whereby eligible persons access drug assistance programs, including
3 development of a single application form and uniform enrollment
4 process.

5 (2) Notice regarding the pharmacy connection program shall
6 initially target senior citizens, but the program shall be available to
7 anyone, and shall include a toll-free telephone number, available
8 during regular business hours, that may be used to obtain information.

9 (3) The administrator may apply for and accept grants or gifts and
10 may enter into interagency agreements or contracts with other state
11 agencies or private organizations to assist with the implementation of
12 this program including, but not limited to, contracts, gifts, or grants
13 from pharmaceutical manufacturers to assist with the direct costs of
14 the program.

15 (4) The administrator shall notify pharmaceutical companies doing
16 business in Washington of the pharmacy connection program. Any
17 pharmaceutical company that does business in this state and that offers
18 a pharmaceutical assistance program shall notify the administrator of
19 the existence of the program, the drugs covered by the program, and all
20 information necessary to apply for assistance under the program.

21 (5) For purposes of this section, "manufacturer-sponsored
22 prescription drug assistance program" means a program offered by a
23 pharmaceutical company through which the company provides a drug or
24 drugs to eligible persons at no charge or at a reduced cost. The term
25 does not include the provision of a drug as part of a clinical trial.

26 NEW SECTION. **Sec. 6.** A new section is added to chapter 74.09 RCW
27 to read as follows:

28 Each of the state's area agencies on aging shall implement a
29 program intended to inform and train persons sixty-five years of age
30 and older in the safe and appropriate use of prescription and
31 nonprescription medications. To further this purpose, the department
32 shall award a development grant of up to twenty-five thousand dollars
33 to each of the agencies upon a showing that:

34 (1) The agency has the ability to effectively administer such a
35 program, including an understanding of the relevant issues and
36 appropriate outreach and follow-up;

1 (2) The agency can bring resources to the program in addition to
2 those funded by the grant; and

3 (3) The program will be a collaborative effort between the agency
4 and other health care programs and providers in the location to be
5 served, including doctors, pharmacists, and long-term care providers.

6 NEW SECTION. **Sec. 7.** A new section is added to chapter 41.05 RCW
7 to read as follows:

8 The authority may adopt rules to implement this act.

9 NEW SECTION. **Sec. 8.** By January 1, 2005, the administrator of the
10 health care authority and the secretary of the department of social and
11 health services shall submit to the governor and the legislature a
12 progress report regarding the implementation of the programs created in
13 this act."

EFFECT: Directs the department of social and health services to
seek a federal pharmacy plus waiver and report to the Legislature on
financing options. Establishes a consortium to purchase prescription
drugs at negotiated rates and allows individuals and private
organizations to participate.

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