

SENATE BILL REPORT

ESSB 5904

As Passed Senate, March 17, 2003

Title: An act relating to prescription drug assistance programs for seniors.

Brief Description: Concerning prescription drug assistance programs for seniors.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Deccio, Thibaudeau, Winsley, Franklin, Parlette, Keiser, Brandland, Benton, Carlson, Hale, Johnson, Kline, McAuliffe, McCaslin, Mulliken, Oke, Rasmussen, West, Finkbeiner, Kohl-Welles, Shin, Stevens, Esser, B. Sheldon and Hewitt).

Brief History:

Committee Activity: Health & Long-Term Care: 2/20/03 [DP-WM].

Ways & Means: 2/27/03, 3/10/03 [DPS].

Passed Senate: 3/17/03, 35-14.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Deccio, Chair; Winsley, Vice Chair; Brandland, Franklin, Keiser, Parlette and Thibaudeau.

Staff: Jonathan Seib (786-7427)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5904 be substituted therefor, and the substitute bill do pass.

Signed by Senators Rossi, Chair; Hewitt, Vice Chair; Zarelli, Vice Chair; Brown, Doumit, Fairley, Fraser, Hale, Honeyford, Johnson, Parlette, Poulsen, Roach, Sheahan and Winsley.

Staff: Tim Yowell (786-7435)

Background: Influenced by price increases, greater utilization, and changes in the types of prescriptions used, national expenditures for prescription drugs have been one of the fastest growing components of health care spending in recent years, increasing around 18 percent a year for each of the last several years. This trend is expected to continue.

There is concern that the burden of increased prescription drug expenditures is particularly difficult for older persons and others who may be on fixed incomes and are more reliant on medications to stay healthy. According to one report, while seniors make up only 12 percent of the U.S. population, they consume almost 35 percent of all prescriptions drugs, with the

average senior filling 18 prescriptions per year. Those over 65 spend over twice the national average on prescription drugs each year.

Particular concern exists regarding Washington seniors who lack prescription drug insurance coverage. Standard Medicare does not cover outpatient prescription drugs. Supplemental policies covering drugs are limited, and are unaffordable to some. Limited drug coverage may also be provided through Medicare managed care plans, but these are increasingly unavailable. At the state level, the Basic Health Plan includes prescription drug coverage, but is not open to anyone who is Medicare eligible. It is estimated that between fifty and sixty thousand seniors in this state whose family income is below 200 percent of the federal poverty level lack any sort of prescription drug coverage.

The federal Centers for Medicare and Medicaid Services (CMS) is now offering states an opportunity to extend Medicaid prescription drug coverage to certain low-income elderly individuals who are not otherwise eligible for Medicaid. This coverage is made available through Section 1115 demonstration authority. The waiver is called "Pharmacy Plus." Five states have received waiver approval for their subsidy plans, while nine other states have filed applications.

Some suggest that state agencies could better maximize their purchasing power, and thereby reduce the amount they pay for prescription drugs, by aggregating their drug purchases. Based on existing statutory authority, the state Health Care Authority, Medical Assistance Administration, and Department of Labor and Industries have already initiated this process. Interest exists in extending this aggregate purchasing strategy to seniors who purchase drugs outside of current government programs or otherwise lack insurance coverage, and may have difficulty affording necessary medications.

Some who need prescription drugs may turn to the assistance programs sponsored by pharmaceutical manufacturers that offer drugs on a reduced or no-cost basis. There is concern that these programs are inconsistent and not easy to access.

At the local level, some programs exist intended to better educate seniors on safe and appropriate use of medications, and there is a desire to replicate those programs in other parts of the state.

Summary of Bill: The Washington State Institute for Public Policy, with the assistance of the Department of Social and Health Services (DSHS), must report to the Legislature by November 15, 2003 on options for providing a state-subsidized drug benefit for low-income persons aged 65 and older under a waiver of federal Medicaid rules. The report is to assess the potential enrollment, costs, and offsetting savings of six alternative approaches to such a program. The approaches are to consist of three alternative benefit designs which would assist persons with incomes up to either 150 percent or 200 percent of the federal poverty level.

The Health Care Authority must implement a program whereby it negotiates with prescription drug manufacturers for price discounts on drugs to be available to any Washington resident who is at least 50, or between 19-49 and disabled, whose family income does not exceed 250 percent of the federal poverty level and who otherwise lacks prescription drug coverage.

Participants shall be charged an enrollment fee. The program is terminated within 12 months after the implementation of a Medicare prescription drug benefit, or by June 30, 2009.

The Health Care Authority is also to establish a Pharmacy Connection program through which health care providers and members of the public can obtain information about and help in accessing manufacturer-sponsored prescription drug assistance programs. Notice regarding the program is to initially target seniors, but the program is available to anyone, and includes a toll-free number that may be used to obtain information.

Each of the state's area agencies on aging must implement a program to inform and train persons 65 and older in the safe and appropriate use of prescription and nonprescription medications. To further this purpose, DSHS must award a development grant of no more than \$25,000 to each of the agencies.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For (Health & Long-Term Care): The efforts of the committee to find a solution to the problems caused by a lack of affordable medications are appreciated. This problem is especially acute for low-income seniors, and the bill includes components that will effectively address the issue for them. There is concern, however, that the programs created in the bill are not made available to a broad enough group of people, and that it should be expanded to include more elderly and others who are struggling with the high cost of prescription drugs. The bill does nothing to address the general dysfunction in the pharmaceutical marketplace.

Testimony Against (Health & Long-Term Care): None.

Testified (Health & Long-Term Care): Ree Sailors, Governor's Policy Office; PRO: Cliff Webster, PhRMA; Bill Daley, Office of the Insurance Commissioner; PRO W/CONCERNS: Richard Dorsett, Washington Association of Area Agencies on Aging; Art Zoloth, Washington State Pharmacy Association; Don Shoemaker, Senior Lobby; Carl Nelson, Washington State Medical Association; Bill Monto, Kay Unmeth, Washington Citizen Action.

Testimony For (Ways & Means): The pharmacy connection program would be of great assistance, at relatively little cost, in linking people to the various manufacturer discount programs which are available to them. There is a real and immediate problem with access to affordable prescription drugs, so the state should not wait for the federal government to act on a Medicare drug benefit.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): Senator Alex Deccio, prime sponsor; Dr. Zoloth, WA State Pharmacy Association (pro).

House Amendment(s): The House adopted a striking amendment which does the following:

- Adds language explicitly stating the Legislature's intent to establish a preferred drug list.
- Eliminates the report by the Institute for Public Policy regarding a Medicaid senior prescription drug program. Instead, the amendment directs DSHS, to the extent funds are appropriated specifically for this purpose, to design such a program and seek any federal waivers necessary to implement it. DSHS must report to the Legislature by November 2003 on financing options available to support the program.
- Removes provisions regarding a prescription drug discount program. Directs instead the Health Care Authority (HCA) to establish a prescription drug purchasing consortium in which state agencies must, and private entities and individuals may, participate. Participants may be charged a fee. The price discounts available through the consortium may not be at the expense of retail pharmacies.
- Directs the Health Care Authority to establish a preferred drug list for use by the purchasing consortium.
- Requires state agencies, in administering prescription drug benefits under state purchased health care programs, to honor an endorsing prescriber's direction to dispense a prescription drug, including a nonpreferred drug, as written on the prescription order.
- Retains provisions regarding the establishment by the HCA of a Pharmacy Connection program, and implementation by the state's area agencies on aging of a program to train seniors on the safe and appropriate use of prescription drugs.
- Retains language allowing the HCA to adopt implementing rules, and directing the HCA and DSHS to submit a progress report to the Governor and the Legislature by January, 2005.