

B-Engrossed
Senate Bill 875

Ordered by the Senate August 22
Including Senate Amendments dated June 23 and August 22

Sponsored by Senator MORRISETTE, Representative GREENLICK; Senators MINNIS, SCHRADER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes Oregon Prescription Drug Program in Oregon Department of Administrative Services. Designates purposes and participants of program. Prohibits state agency that implements medical assistance program from participating. Requires participants to apply annually to participate in program.

Directs Office for Oregon Health Policy and Research to recommend preferred drug list to department.

Creates Prescription Drug Purchasing Fund. **Directs Oregon Department of Administrative Services to report to appropriate interim legislative committee and to Emergency Board not later than September 30, 2004.**

Declares emergency, effective July 1, 2003.

A BILL FOR AN ACT

1
2 Relating to prescription drugs; appropriating money; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in sections 1 to 4 of this 2003 Act:**

5 (a) **"Pharmacy benefit manager" means an entity that, in addition to being a prescription**
6 **drug claims processor, negotiates and executes contracts with pharmacies, manages pre-**
7 **ferred drug lists, negotiates rebates with prescription drug manufacturers and serves as an**
8 **intermediary between the Oregon Prescription Drug Program, prescription drug manufac-**
9 **turers and pharmacies.**

10 (b) **"Prescription drug claims processor" means an entity that processes and pays pre-**
11 **scription drug claims, adjudicates pharmacy claims, transmits prescription drug prices and**
12 **claims data between pharmacies and the Oregon Prescription Drug Program and processes**
13 **related payments to pharmacies.**

14 (c) **"Program price" means the reimbursement rates and prescription drug prices estab-**
15 **lished by the administrator of the Oregon Prescription Drug Program.**

16 (2) **The Oregon Prescription Drug Program is established in the Oregon Department of**
17 **Administrative Services. The purpose of the program is to:**

18 (a) **Purchase prescription drugs or reimburse pharmacies for prescription drugs in order**
19 **to receive discounted prices and rebates;**

20 (b) **Make prescription drugs available at the lowest possible cost to participants in the**
21 **program; and**

22 (c) **Maintain a list of prescription drugs recommended as the most effective prescription**
23 **drugs available at the best possible prices.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **(3) The Director of the Oregon Department of Administrative Services shall appoint an**
2 **administrator of the Oregon Prescription Drug Program. The administrator shall:**

3 **(a) Negotiate price discounts and rebates on prescription drugs with prescription drug**
4 **manufacturers;**

5 **(b) Purchase prescription drugs on behalf of individuals and entities that participate in**
6 **the program;**

7 **(c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and**
8 **transmit program prices to pharmacies;**

9 **(d) Determine program prices and reimburse pharmacies for prescription drugs;**

10 **(e) Adopt and implement a preferred drug list for the program;**

11 **(f) Develop a system for allocating and distributing the operational costs of the program**
12 **and any rebates obtained to participants of the program; and**

13 **(g) Cooperate with other states or regional consortia in the bulk purchase of prescription**
14 **drugs.**

15 **(4) The following individuals or entities may participate in the program:**

16 **(a) Public Employees' Benefit Board;**

17 **(b) Local governments as defined in ORS 174.116 and special government bodies as defined**
18 **in ORS 174.117 that directly or indirectly purchase prescription drugs;**

19 **(c) Enrollees in the Senior Prescription Drug Assistance Program created under ORS**
20 **414.342;**

21 **(d) Oregon Health and Science University established under ORS 353.020;**

22 **(e) State agencies that directly or indirectly purchase prescription drugs, including**
23 **agencies that dispense prescription drugs directly to persons in state-operated facilities; and**

24 **(f) Residents of this state who:**

25 **(A) Are more than 54 years of age;**

26 **(B) Have a gross annual income that does not exceed 185 percent of the federal poverty**
27 **guidelines; and**

28 **(C) Have not been covered under any private prescription drug benefit program for the**
29 **previous six months.**

30 **(5) The state agency that receives federal Medicaid funds and is responsible for imple-**
31 **menting the state's medical assistance program may not participate in the program.**

32 **(6) The administrator may establish different reimbursement rates or prescription drug**
33 **prices for pharmacies in rural areas to maintain statewide access to the program.**

34 **(7) The administrator shall establish the terms and conditions for a pharmacy to enroll**
35 **in the program. A licensed pharmacy that is willing to accept the terms and conditions es-**
36 **tablished by the administrator may apply to enroll in the program.**

37 **(8) Except as provided in subsection (9) of this section, the administrator may not:**

38 **(a) Contract with a pharmacy benefit manager;**

39 **(b) Establish a state-managed wholesale or retail drug distribution or dispensing system;**
40 **or**

41 **(c) Require pharmacies to maintain or allocate separate inventories for prescription**
42 **drugs dispensed through the program.**

43 **(9) The administrator shall contract with one or more entities to provide the functions**
44 **of a prescription drug claims processor. The administrator may also contract with a phar-**
45 **macy benefit manager to negotiate with prescription drug manufacturers on behalf of the**

1 administrator.

2 **SECTION 2.** (1) An individual or entity described in section 1 (4) of this 2003 Act may
3 apply to participate in the Oregon Prescription Drug Program. Participants shall apply an-
4 nually on an application provided by the Oregon Department of Administrative Services. The
5 department may charge participants a nominal fee to participate in the program. The de-
6 partment shall issue a prescription drug identification card annually to participants of the
7 program.

8 (2) The department shall provide a mechanism to calculate and transmit the program
9 prices for prescription drugs to a pharmacy. The pharmacy shall charge the participant the
10 program price for a prescription drug.

11 (3) A pharmacy may charge the participant the professional dispensing fee set by the
12 department.

13 (4) Prescription drug identification cards issued under this section must contain the in-
14 formation necessary for proper claims adjudication or transmission of price data.

15 **SECTION 3.** The Office for Oregon Health Policy and Research shall develop and recom-
16 mend to the Oregon Department of Administrative Services a preferred drug list that iden-
17 tifies preferred choices of prescription drugs within therapeutic classes for particular
18 diseases and conditions, including generic alternatives, for use in the Oregon Prescription
19 Drug Program. The office shall conduct public hearings and use evidence-based evaluations
20 on the effectiveness of similar prescription drugs to develop the preferred drug list.

21 **SECTION 4.** The Prescription Drug Purchasing Fund is established separate and distinct
22 from the General Fund. The Prescription Drug Purchasing Fund shall consist of moneys ap-
23 propriated to the fund by the Legislative Assembly and moneys received by the Oregon De-
24 partment of Administrative Services for the purposes established in this section in the form
25 of gifts, grants, bequests, endowments or donations. The moneys in the Prescription Drug
26 Purchasing Fund are continuously appropriated to the Oregon Department of Administrative
27 Services and shall be used to purchase prescription drugs, reimburse pharmacies for pre-
28 scription drugs and reimburse the department for the costs of administering the Oregon
29 Prescription Drug Program, including contracted services costs, computer costs, professional
30 dispensing fees paid to retail pharmacies and other reasonable program costs. Interest
31 earned on the fund shall be credited to the fund.

32 **SECTION 5.** The Oregon Department of Administrative Services shall adopt rules to im-
33 plement and administer sections 1 to 4 of this 2003 Act. The rules shall include but are not
34 limited to establishing procedures for:

35 (1) Issuing prescription drug identification cards to individuals and entities that partic-
36 ipate in the Oregon Prescription Drug Program; and

37 (2) Enrolling pharmacies in the program.

38 **SECTION 6.** There is appropriated to the Oregon Department of Administrative Services,
39 for the biennium beginning July 1, 2003, out of the General Fund, the amount of \$198,398 for
40 the purpose of carrying out sections 1 to 4 of this 2003 Act.

41 **SECTION 7.** (1) Not later than September 30, 2004, the Oregon Department of Adminis-
42 trative Services shall report to the appropriate interim legislative committee and to the
43 Emergency Board on the department's preparations to implement the Oregon Prescription
44 Drug Program, including but not limited to:

45 (a) The number of individuals and entities that the department expects to enroll in the

1 program and the number of persons for whom the department expects to purchase pre-
2 scription drugs;

3 (b) How the department expects the program to affect prescription drug prices for par-
4 ticipants;

5 (c) The rules proposed or adopted by the department to implement the program;

6 (d) The feasibility and advisability of expanding the program; and

7 (e) A plan to expand the program if the department determines that expansion is feasible
8 and advisable.

9 (2) Subject to available funding for the program, not later than October 1, 2004, the de-
10 partment shall begin implementation of the program.

11 SECTION 8. If a rule adopted by the Oregon Department of Administrative Services un-
12 der section 5 of this 2003 Act is not approved by the Seventy-third Legislative Assembly, the
13 rule is repealed on January 1, 2006.

14 SECTION 9. This 2003 Act being necessary for the immediate preservation of the public
15 peace, health and safety, an emergency is declared to exist, and this 2003 Act takes effect
16 July 1, 2003.

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