SENATE BILL 623

Unofficial Copy 2002 Regular Session
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CF 2lr2720

By: **Senators Hoffman and Bromwell**
Introduced and read first time: February 1, 2002
Assigned to: Budget and Taxation and Finance

A BILL ENTITLED

AN ACT concerning

Prescription Drug Manufacturer Rebates - Supplementary Appropriation - Medical Care Programs Administration

FOR the purpose of requiring the Department of Health and Mental Hygiene to establish a State prescription drug spending control program that may include certain preferred drug formularies and is required to include a certain process for managing drug therapies; authorizing the Department to establish a preferred drug formulary, negotiate certain supplemental rebates, and to enter into certain agreements with manufacturers of generic drugs; providing that certain rebates may be less than a certain amount under certain circumstances; establishing a State Pharmaceutical and Therapeutics Committee within the Department for the purpose of developing a preferred drug formulary; providing that an agreement to pay a certain supplemental rebate will guarantee certain consideration by the Committee; specifying the membership, terms, officers, quorum, required meetings, and duties of the Committee; authorizing the Secretary of Health and Mental Hygiene to remove a member of the Committee for good cause; providing that to the extent feasible, the Committee is required to perform a certain review and may make certain recommendations; requiring the Department to provide staff for the Committee, to provide a certain notice, and to ensure that certain drugs are reviewed at a certain meeting of the Committee; requiring the Department to ensure a certain product review by the Committee under certain circumstances; authorizing the Department to establish prior authorization requirements for certain drugs and drug classes under certain circumstances; requiring the Department to inform the Committee of certain decisions, to publish a certain preferred drug formulary, to provide certain notice of changes in a certain preferred drug formulary, and to establish a certain appeals process; requiring the Department to develop and implement a certain drug benefit management program; authorizing the Department to seek federal waivers, amendments to the State Medical Assistance Program plan, or adopt regulations; requiring the Department to make a certain annual report by a certain date; requiring the Department of Budget and Management to establish a certain preferred drug formulary and a certain drug benefits management program; requiring the Department of Budget and Management to attempt to negotiate certain agreements with manufacturers of prescription drugs, to establish certain prior authorization

requirements for prescription drugs, to inform a certain committee of certain decisions, to publish a certain preferred drug formulary, to establish a certain appeals process, to contract with a private entity for certain duties, and to make a certain report by a certain date; defining certain terms; providing for the legislative appropriation for a certain fiscal year of certain revenues derived as a result of this Act; and generally relating to prescription drug manufacturer rebates and a supplementary appropriation for a certain fiscal year for the Medical Care Programs Administration.

BY repealing and reenacting, with amendments,
Article - Health - General
Section 15-118
Annotated Code of Maryland
(2000 Replacement Volume and 2001 Supplement)

BY adding to
Article - Health - General
Section 15-118.1
Annotated Code of Maryland
(2000 Replacement Volume and 2001 Supplement)

BY adding to
Article - State Personnel and Pensions
Section 2-503(e)
Annotated Code of Maryland
(1997 Replacement Volume and 2001 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Health - General

15-118.

(a) (1) Unless the prescriber directs otherwise on the form or on an attached signed certification of need, the generic form of the drug authorized under § 12-504 of the Health Occupations Article shall be used to fill the prescription.

(2) If the appropriate generic drug is not generally available, the Department may waive the requirement for generic substitution under paragraph (1) of this subsection.

(b) (1) Except as provided under paragraph (2) of this subsection, the Program shall establish maximum reimbursement levels for the drug products for which there is a generic equivalent authorized under § 12-504 of the Health Occupations Article, based on the cost of the generic product.

(2) If a prescriber directs a specific brand name drug, the reimbursement level shall be based on the cost of the brand name product.

(c) (1) Except as provided under paragraph (4) of this subsection and unless the change is made by an emergency regulation, the Program shall notify all pharmacies under contract with the Program in writing of changes in the Pharmaceutical Benefit Program rules or requirements at least 30 days before the change is effective.

(2) Changes that require 30 days' advance written notice under paragraph (1) of this subsection are:

(i) Exclusion of coverage for classes of drugs as specified by contract;

(ii) Changes in prior or preauthorization procedures; [and]

(iii) CHANGES IN THE PREFERRED DRUG FORMULARY ESTABLISHED UNDER § 15-118.1 OF THIS SUBTITLE; AND

(IV) Selection of new prescription claims processors.

(3) If the Program fails to provide advance notice as required under paragraph (1) of this subsection, it shall honor and pay in full any claim under the Program rules or requirements that existed before the change for 30 days after the postmarked date of the notice.

(4) Notwithstanding any other provision of law, the notice requirements of this subsection do not apply to the addition of new generic drugs authorized under § 12-504 of the Health Occupations Article.

(d) The Secretary shall adopt regulations to carry out the provisions of this section.

15-118.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COMMITTEE" MEANS THE STATE PHARMACEUTICAL AND THERAPEUTICS COMMITTEE ESTABLISHED UNDER SUBSECTION (F) OF THIS SECTION.

(3) (I) "MANUFACTURER" MEANS A MANUFACTURER OF PRESCRIPTION DRUGS AS DEFINED IN 42 U.S.C. § 1396R-8 (K)(5).

(II) "MANUFACTURER" INCLUDES A SUBSIDIARY OR AFFILIATE OF A MANUFACTURER.

(4) "MARYLAND PHARMACY ASSISTANCE PROGRAM" OR "MPAP" MEANS THE MARYLAND PHARMACY ASSISTANCE PROGRAM ESTABLISHED UNDER § 15-124 OF THIS SUBTITLE.

(5) "PARTICIPATING RETAIL PHARMACY" MEANS A RETAIL PHARMACY OR OTHER PERSON LICENSED OR OTHERWISE PERMITTED BY LAW TO DISPENSE PRESCRIPTION DRUGS IN THE STATE THAT PARTICIPATES IN THE PROGRAM.

(6) "STATE PRESCRIPTION DRUG PROGRAM" MEANS THE PRESCRIPTION DRUG BENEFITS PROGRAM FOR STATE EMPLOYEES IN THE STATE EMPLOYEE AND RETIREE HEALTH AND WELFARE BENEFITS PROGRAM DEVELOPED AND ADMINISTERED BY THE SECRETARY OF BUDGET AND MANAGEMENT UNDER TITLE 2, SUBTITLE 5 OF THE STATE PERSONNEL AND PENSIONS ARTICLE.

(B) THE DEPARTMENT, IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, SHALL ESTABLISH A PRESCRIPTION DRUG SPENDING CONTROL PROGRAM WITHIN THE PROGRAM, MPAP, AND THE STATE PRESCRIPTION DRUG PROGRAM THAT:

(1) MAY INCLUDE A PREFERRED DRUG FORMULARY IN ACCORDANCE WITH THIS SECTION; AND

(2) ESTABLISHES A PROCESS FOR MANAGING THE DRUG THERAPIES OF PROGRAM RECIPIENTS AND MPAP PARTICIPANTS WHO ARE USING A SIGNIFICANT NUMBER OF PRESCRIPTION DRUGS EACH MONTH.

(C) (1) THE DEPARTMENT MAY ESTABLISH A PREFERRED DRUG FORMULARY FOR THE PROGRAM AND MPAP IN ACCORDANCE WITH THE PROVISIONS OF 42 U.S.C. § 1396R-8, AND THIS SECTION AND MAY NEGOTIATE SUPPLEMENTAL REBATES FROM MANUFACTURERS FOR THE PROGRAM AND MPAP THAT ARE NO LESS THAN 10% OF THE AVERAGE MANUFACTURER PRICE AS DEFINED IN 42 U.S.C. § 1936 ON THE LAST DAY OF A QUARTER.

(2) (I) THE DEPARTMENT MAY ENTER INTO AGREEMENTS THAT REQUIRE MANUFACTURERS OF GENERIC DRUGS PRESCRIBED TO PROGRAM RECIPIENTS AND MPAP PARTICIPANTS TO PROVIDE REBATES OF AT LEAST 15.1% OF THE AVERAGE MANUFACTURER PRICE FOR THE MANUFACTURER'S GENERIC PRODUCTS.

(II) THE ARRANGEMENTS ESTABLISHED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL REQUIRE THAT IF A GENERIC DRUG MANUFACTURER PAYS FEDERAL REBATES FOR MEDICAID-REIMBURSED DRUGS AT A LEVEL BELOW 15.1%, THE MANUFACTURER SHALL PROVIDE A SUPPLEMENTAL REBATE TO THE STATE IN AN AMOUNT NECESSARY TO ACHIEVE A 15.1% REBATE LEVEL.

(3) THE SUPPLEMENTAL REBATES AUTHORIZED IN PARAGRAPH (1) OF THIS SUBSECTION MAY BE IN AN AMOUNT LESS THAN 10% OF THE AVERAGE MANUFACTURER PRICE AS DEFINED IN 42 U.S.C. § 1936 ON THE LAST DAY OF A QUARTER IF:

(I) THE REBATE REQUIRED BY TITLE XIX OF THE SOCIAL SECURITY ACT EXCEEDS 25%;

(II) THE SUPPLEMENTAL REBATE UNDER PARAGRAPH (1) OF THIS SUBSECTION EXCEEDS 25%; OR

(III) THE ADDITION OF THE REBATES IN ITEMS (I) AND (II) OF THIS PARAGRAPH EXCEEDS 25%.

(4) THERE IS NO UPPER LIMIT ON THE SUPPLEMENTAL REBATES THE DEPARTMENT MAY NEGOTIATE UNDER THIS SECTION.

(5) THE DEPARTMENT MAY DETERMINE THAT SPECIFIC DRUG PRODUCTS, BRAND-NAME DRUGS, OR GENERIC DRUGS, ARE COMPETITIVE AT LOWER REBATE PERCENTAGES THAN THE PERCENTAGE REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION.

(6) (I) AN AGREEMENT TO PAY THE SUPPLEMENTAL REBATE PERCENTAGE NEGOTIATED BY THE DEPARTMENT UNDER THIS SUBSECTION WILL GUARANTEE A MANUFACTURER THAT THE COMMITTEE WILL CONSIDER A PRODUCT FOR INCLUSION ON THE PREFERRED DRUG FORMULARY.

(II) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, A MANUFACTURER IS NOT GUARANTEED PLACEMENT ON THE FORMULARY BECAUSE THE MANUFACTURER HAS PAID THE MINIMUM SUPPLEMENTAL REBATE.

(7) THE DEPARTMENT SHALL MAKE FORMULARY DECISIONS BASED ON THE CLINICAL EFFICACY OF A DRUG, THE RECOMMENDATIONS OF THE COMMITTEE, AND THE PRICE OF COMPETING PRODUCTS MINUS FEDERAL AND STATE REBATES.

(D) THE DEPARTMENT MAY CONTRACT WITH A PERSON TO CONDUCT NEGOTIATIONS FOR SUPPLEMENTAL REBATES AUTHORIZED UNDER SUBSECTION (C) OF THIS SECTION.

(E) THE DEPARTMENT, AT ITS OWN DISCRETION, MAY ELECT TO RECEIVE OTHER PROGRAM BENEFITS THAT OFFSET A MEDICAID OR MPAP EXPENDITURE IN LIEU OF A SUPPLEMENTAL REBATE UNDER SUBSECTION (C) OF THIS SECTION INCLUDING:

(1) DISEASE MANAGEMENT PROGRAMS;

(2) DRUG PRODUCT DONATION PROGRAMS;

(3) DRUG UTILIZATION CONTROL PROGRAMS;

(4) PRESCRIBER, PROGRAM RECIPIENT, AND MPAP PARTICIPANT COUNSELING AND EDUCATION, FRAUD AND ABUSE INITIATIVES; OR

(5) OTHER SERVICES OR ADMINISTRATIVE PROGRAMS WITH GUARANTEED SAVINGS TO THE PROGRAM OR MPAP IN THE FISCAL YEAR IN WHICH THE SUPPLEMENTAL REBATE WOULD HAVE BEEN APPLICABLE.

(F) (1) THERE IS A STATE PHARMACEUTICAL AND THERAPEUTICS COMMITTEE WITHIN THE DEPARTMENT FOR THE PURPOSE OF DEVELOPING A PREFERRED DRUG FORMULARY UNDER 42 U.S.C. § 1396R-8 AND THIS SECTION.

(2) THE COMMITTEE CONSISTS OF THE FOLLOWING 11 MEMBERS APPOINTED BY THE GOVERNOR AND CONSISTENT WITH THE REQUIREMENTS OF 42 U.S.C. § 1396R-8:

(I) FIVE MEMBERS SHALL BE LICENSED PHYSICIANS IN THE STATE;

(II) FIVE MEMBERS SHALL BE LICENSED PHARMACISTS IN THE STATE; AND

(III) ONE MEMBER SHALL BE A CONSUMER REPRESENTATIVE.

(3) IN APPOINTING THE MEMBERS TO THE COMMITTEE, THE GOVERNOR SHALL MAKE BEST EFFORTS TO ENSURE REPRESENTATION OF:

(I) LICENSED PHYSICIANS THAT PARTICIPATE IN THE PROGRAM;

(II) LICENSED PHARMACISTS EMPLOYED BY PARTICIPATING RETAIL PHARMACIES; AND

(III) LICENSED PHYSICIANS OR LICENSED PHARMACISTS WITH EXPERIENCE IN DEVELOPING OR PRACTICING UNDER A PREFERRED DRUG FORMULARY.

(4) (I) THE TERM OF A MEMBER IS 3 YEARS.

(II) A MEMBER MAY NOT BE APPOINTED FOR MORE THAN TWO CONSECUTIVE FULL TERMS.

(III) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED.

(IV) THE SECRETARY MAY REMOVE ANY MEMBER OF THE COMMITTEE FOR GOOD CAUSE.

(5) A MEMBER OF THE COMMITTEE MAY NOT RECEIVE COMPENSATION FOR SERVING ON THE COMMITTEE, BUT IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE.

(6) THE MEMBERS OF THE COMMITTEE SHALL ANNUALLY ELECT A CHAIRMAN FROM THE MEMBERSHIP OF THE COMMITTEE.

(7) A QUORUM OF THE COMMITTEE SHALL BE A MAJORITY OF THE APPOINTED MEMBERSHIP OF THE COMMITTEE.

(8) THE COMMITTEE SHALL MEET NOT LESS THAN EVERY 3 MONTHS AND MAY MEET AT OTHER TIMES AT THE DISCRETION OF THE CHAIRMAN AND MEMBERS.

(9) THE COMMITTEE:

(I) SHALL DEVELOP RECOMMENDATIONS FOR A PREFERRED DRUG FORMULARY FOR THE PROGRAM AND MPAP BY CONSIDERING THE CLINICAL EFFICACY, SAFETY, AND COST-EFFECTIVENESS OF A PRODUCT;

(II) MAY MAKE RECOMMENDATIONS TO THE DEPARTMENT REGARDING THE PRIOR AUTHORIZATION OF ANY PRESCRIBED DRUG COVERED BY THE PROGRAM AND MPAP;

(III) SHALL ENSURE THAT MANUFACTURERS THAT HAVE AGREED TO PROVIDE A SUPPLEMENTAL REBATE TO THE PROGRAM AND MPAP UNDER SUBSECTION (C) OF THIS SECTION ARE PROVIDED WITH THE OPPORTUNITY TO PRESENT EVIDENCE SUPPORTING INCLUSION OF A PRODUCT ON THE PREFERRED DRUG FORMULARY; AND

(IV) IN CONSULTATION WITH THE DEPARTMENT OF BUDGET AND MANAGEMENT, SHALL:

1. REVIEW WHETHER THE STATE IS RECEIVING AN APPROPRIATE LEVEL OF REBATES IN THE STATE PRESCRIPTION DRUG PROGRAM;

2. MAKE RECOMMENDATIONS ON MECHANISMS TO MAXIMIZE PRESCRIPTION DRUG COST SAVINGS IN THE STATE PRESCRIPTION DRUG PROGRAM INCLUDING A DRUG BENEFIT MANAGEMENT PROGRAM TO MANAGE THE DRUG THERAPIES OF STATE PRESCRIPTION DRUG PROGRAM ENROLLEES WHO ARE USING A SIGNIFICANT NUMBER OF PRESCRIPTION DRUGS EACH MONTH;

3. DEVELOP A PREFERRED DRUG FORMULARY FOR THE STATE PRESCRIPTION DRUG PROGRAM BY CONSIDERING THE CLINICAL EFFICACY, SAFETY, AND COST-EFFECTIVENESS OF A PRODUCT; AND

4. MAKE RECOMMENDATIONS TO THE DEPARTMENT REGARDING THE PRIOR AUTHORIZATION OF ANY PRESCRIBED DRUG COVERED BY THE STATE PRESCRIPTION DRUG PROGRAM.

(10) TO THE EXTENT FEASIBLE, THE COMMITTEE:

(I) SHALL REVIEW ALL DRUG CLASSES INCLUDED IN THE PROGRAM, MPAP, AND STATE PRESCRIPTION DRUG PROGRAM PREFERRED DRUG FORMULARIES AT LEAST EVERY 12 MONTHS; AND

(II) MAY RECOMMEND ADDITIONS TO AND DELETIONS FROM THE PROGRAM, MPAP, AND STATE PRESCRIPTION DRUG PROGRAM PREFERRED DRUG FORMULARIES TO ENSURE THAT EACH FORMULARY PROVIDES MEDICALLY APPROPRIATE DRUG THERAPIES WHILE PROVIDING COST SAVINGS.

(11) THE DEPARTMENT SHALL PROVIDE STAFF SUPPORT FOR THE COMMITTEE.

(G) (1) THE DEPARTMENT SHALL PROVIDE TIMELY NOTICE AND ENSURE THAT ANY DRUG THAT HAS BEEN APPROVED OR HAD ANY OF ITS PARTICULAR USES APPROVED BY THE UNITED STATES FOOD AND DRUG ADMINISTRATION UNDER A PRIORITY REVIEW CLASSIFICATION WILL BE REVIEWED BY THE COMMITTEE AT THE NEXT REGULARLY SCHEDULED MEETING.

(2) TO THE EXTENT POSSIBLE, UPON NOTICE BY A MANUFACTURER, THE DEPARTMENT SHALL ENSURE THAT A PRODUCT REVIEW BY THE COMMITTEE FOR ANY NEW PRODUCT WILL OCCUR AT THE NEXT REGULARLY SCHEDULED COMMITTEE MEETING.

(H) (1) SUBJECT TO THE PROVISIONS OF PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE DEPARTMENT MAY ESTABLISH PRIOR AUTHORIZATION REQUIREMENTS FOR:

(I) PRESCRIPTION DRUGS LISTED ON THE PREFERRED DRUG FORMULARY ESTABLISHED UNDER THIS SECTION;

(II) PRESCRIPTION DRUGS FOR SPECIFIC POPULATIONS OF PROGRAM RECIPIENTS AND MPAP PARTICIPANTS REGARDLESS OF WHETHER THE DRUGS ARE LISTED ON THE PREFERRED DRUG FORMULARY; AND

(III) SPECIFIC DRUG CLASSES OR SPECIFIC DRUGS REGARDLESS OF WHETHER THE DRUG CLASSES OR DRUGS ARE LISTED ON THE PREFERRED DRUG FORMULARY TO PREVENT FRAUD, ABUSE, OVERUSE, AND POSSIBLE DANGEROUS DRUG INTERACTIONS.

(2) FOR ANY PRESCRIPTION DRUG SUBJECT TO PRIOR AUTHORIZATION, THE DEPARTMENT SHALL IMPLEMENT PROCEDURES TO ENSURE THAT:

(I) THE DEPARTMENT RESPONDS TO A REQUEST FOR PRIOR CONSULTATION BY TELEPHONE OR OTHER TELECOMMUNICATION DEVICE WITHIN 24 HOURS AFTER RECEIPT OF A REQUEST FOR PRIOR CONSULTATION; AND

(II) A 72-HOUR SUPPLY OF THE PRESCRIBED DRUG WILL BE PROVIDED IN AN EMERGENCY OR WHEN THE DEPARTMENT DOES NOT PROVIDE A RESPONSE WITHIN 24 HOURS.

(I) THE DEPARTMENT SHALL:

(1) INFORM THE COMMITTEE OF ANY DECISIONS REGARDING PRESCRIPTION DRUGS SUBJECT TO PRIOR AUTHORIZATION;

(2) PUBLISH AND DISSEMINATE THE PREFERRED DRUG FORMULARY TO ALL MEDICAID PROVIDERS, MPAP PROVIDERS, AND PARTICIPATING RETAIL PHARMACIES IN THE STATE; AND

(3) ESTABLISH AN APPEALS PROCESS FOR A PROGRAM RECIPIENT OR MPAP PARTICIPANT TO APPEAL A PREFERRED DRUG FORMULARY DECISION BY THE DEPARTMENT.

(J) (1) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A DRUG BENEFIT MANAGEMENT PROGRAM TO MANAGE THE DRUG THERAPIES OF PROGRAM RECIPIENTS AND MPAP PARTICIPANTS WHO ARE USING A SIGNIFICANT NUMBER OF PRESCRIPTION DRUGS EACH MONTH.

(2) THE MANAGEMENT PROCESS MAY INCLUDE COMPREHENSIVE, PHYSICIAN-DIRECTED MEDICAL-RECORD REVIEWS, CLAIMS ANALYSES, AND CASE EVALUATIONS TO DETERMINE THE MEDICAL NECESSITY AND APPROPRIATENESS OF A PATIENT'S TREATMENT PLAN AND DRUG THERAPIES.

(3) THE DEPARTMENT MAY CONTRACT WITH A PRIVATE ORGANIZATION TO PROVIDE SERVICES FOR A DRUG BENEFIT MANAGEMENT PROGRAM.

(4) THE DRUG BENEFIT MANAGEMENT PROGRAM SHALL INCLUDE INITIATIVES TO MANAGE DRUG THERAPIES FOR HIV/AIDS PATIENTS, PATIENTS USING 20 OR MORE UNIQUE PRESCRIPTIONS IN A 180-DAY PERIOD, AND THE TOP 1,000 PATIENTS IN ANNUAL SPENDING.

(K) THE DEPARTMENT MAY:

(1) SEEK ANY FEDERAL WAIVERS OR PROGRAM PLAN AMENDMENTS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION; AND

(2) ADOPT REGULATIONS TO CARRY OUT THE PROVISIONS OF THIS SECTION.

(L) ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE DEPARTMENT SHALL REPORT TO THE GENERAL ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, ON THE AMOUNT OF SUPPLEMENTAL REBATES OR OTHER COST CONTAINMENT MEASURES UNDER THIS SECTION AND THEIR EFFECT ON PRESCRIPTION DRUG EXPENDITURES IN THE PROGRAM AND MPAP.

Article - State Personnel and Pensions

2-503.

(E) (1) THE SECRETARY SHALL ADOPT A PREFERRED DRUG FORMULARY AND A DRUG BENEFIT MANAGEMENT PROGRAM TO MANAGE THE DRUG THERAPIES OF ENROLLEES IN THE PROGRAM'S PRESCRIPTION DRUG BENEFITS PROGRAM AS RECOMMENDED BY THE STATE PHARMACEUTICAL AND THERAPEUTICS COMMITTEE UNDER § 15-118.1 OF THE HEALTH - GENERAL ARTICLE.

(2) THE DEPARTMENT SHALL ATTEMPT TO NEGOTIATE PRESCRIPTION DRUG REBATE AGREEMENTS WITH MANUFACTURERS OF PRESCRIPTION DRUGS.

(3) IF A MANUFACTURER OF PRESCRIPTION DRUGS HAS REFUSED TO ENTER INTO A PRESCRIPTION DRUG REBATE AGREEMENT, THE DEPARTMENT SHALL MAKE A PROMPT DETERMINATION OF WHETHER TO PLACE A MANUFACTURER'S PRESCRIPTION DRUG ON THE PREFERRED DRUG FORMULARY.

(4) SUBJECT TO THE PROVISIONS OF PARAGRAPH (5) OF THIS SUBSECTION, THE DEPARTMENT SHALL ESTABLISH PRIOR AUTHORIZATION REQUIREMENTS FOR PRESCRIPTION DRUGS LISTED ON THE PREFERRED DRUG FORMULARY ESTABLISHED UNDER THIS SUBSECTION.

(5) FOR ANY PRESCRIPTION DRUG SUBJECT TO PRIOR AUTHORIZATION, THE DEPARTMENT SHALL IMPLEMENT PROCEDURES TO ENSURE THAT:

(I) THE DEPARTMENT RESPONDS TO A REQUEST FOR PRIOR CONSULTATION BY TELEPHONE OR OTHER TELECOMMUNICATION DEVICE WITHIN 24 HOURS AFTER RECEIPT OF A REQUEST FOR PRIOR CONSULTATION; AND

(II) A 72-HOUR SUPPLY OF THE PRESCRIBED DRUG WILL BE PROVIDED IN AN EMERGENCY OR WHEN THE DEPARTMENT DOES NOT PROVIDE A RESPONSE WITHIN 24 HOURS.

(6) THE DEPARTMENT SHALL:

(I) INFORM THE STATE PHARMACEUTICAL AND THERAPEUTICS COMMITTEE UNDER § 15-118.1 OF THE HEALTH - GENERAL ARTICLE OF ANY DECISIONS REGARDING PRESCRIPTION DRUGS SUBJECT TO PRIOR AUTHORIZATION;

(II) PUBLISH AND DISSEMINATE THE PREFERRED DRUG FORMULARY TO ALL ENROLLEES IN THE PROGRAM AND RETAIL PHARMACIES IN THE STATE THAT PARTICIPATE IN THE PROGRAM; AND

(III) ESTABLISH AN APPEALS PROCESS FOR AN ENROLLEE OF THE PROGRAM TO APPEAL A PREFERRED DRUG FORMULARY DECISION BY THE DEPARTMENT.

(7) (I) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A DRUG BENEFIT MANAGEMENT PROGRAM TO MANAGE THE DRUG THERAPIES OF PROGRAM ENROLLEES WHO ARE USING A SIGNIFICANT NUMBER OF PRESCRIPTION DRUGS EACH MONTH.

(II) THE MANAGEMENT PROCESS MAY INCLUDE COMPREHENSIVE, PHYSICIAN-DIRECTED MEDICAL-RECORD REVIEWS, CLAIMS ANALYSES, AND CASE EVALUATIONS TO DETERMINE THE MEDICAL NECESSITY AND APPROPRIATENESS OF A PATIENT'S TREATMENT PLAN AND DRUG THERAPIES.

(8) THE DEPARTMENT MAY CONTRACT WITH A PRIVATE ORGANIZATION TO:

(I) NEGOTIATE REBATES FROM MANUFACTURERS OF PRESCRIPTION DRUGS ON BEHALF OF THE DEPARTMENT;

(II) ADMINISTER THE PREFERRED DRUG FORMULARY AND PRIOR AUTHORIZATION PROCEDURES REQUIRED UNDER THIS SUBSECTION; AND

(III) PROVIDE SERVICES FOR A DRUG BENEFIT MANAGEMENT PROGRAM.

SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Budget and Management shall report to the General Assembly on or before January 1, 2003, in accordance with § 2-1246 of the State Government Article, on the total amount of rebates obtained by the pharmacy benefits manager that administers the State employees prescription drug benefits program, whether the State is receiving an appropriate level of the rebates obtained, and the cost savings to the State that would result from development of a preferred drug formulary and a drug benefit management program in the State employees prescription drug benefits program.

SECTION 3. AND BE IT FURTHER ENACTED, That for fiscal year 2003 only and from those additional revenues resulting from this Act that are credited to the General Fund for fiscal year 2003, and from no other funds, and subject to the provisions of law relating to budgetary procedure to the extent applicable, the amount specified below, or as much thereof as required to accomplish the designated purpose, is hereby appropriated and authorized to be disbursed from as much of those additional revenues as are received by the State:

MEDICAL CARE PROGRAMS ADMINISTRATION

MQ01.03 Medical Care Provider Reimbursement

In addition to the amount appropriated in the Budget Bill for fiscal year 2003, to supplement the appropriation for fiscal year 2003, the following amount to be used to pay for payment of Medical Assistance Provider Reimbursements authorized by the General Assembly:

General Fund Appropriation $23,500,000

Federal Fund Appropriation $10,000,000

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2002.