

CHAPTER 80

CHAPTER 80, LAWS 2002

AN ACT

RELATING TO PRESCRIPTION DRUGS; PROVIDING A PRESCRIPTION DRUG BENEFIT TO NEW MEXICO SENIORS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 10-7C-5 NMSA 1978 (being Laws 1990, Chapter 6, Section 5) is amended to read:

"10-7C-5. AUTHORITY CREATED.--

A. There is created the "retiree health care authority", which is established to provide for comprehensive group health insurance programs under the Retiree Health Care Act. The authority shall be administratively attached to the public school insurance authority until December 31, 1993. The director of the public school insurance authority shall be the executive director of the retiree health care authority until December 31, 1993. The board created by Section 10-7C-6 NMSA 1978 shall remain fully independent of the board of the public school insurance authority.

B. The authority shall also administer the senior prescription drug program in conjunction with or through the consolidated purchasing process pursuant to the Health Care Purchasing Act."

Section 2. A new section of the Retiree Health Care Act is enacted to read:

"CREATION OF SENIOR PRESCRIPTION DRUG PROGRAM.--

A. The "senior prescription drug program" is created in the authority.

B. To be eligible for the senior prescription drug program, a person shall:

- (1) be a resident of the state;
- (2) be sixty-five years of age or older; and
- (3) not have any other prescription drug benefit.

C. Upon a determination that the person qualifies for the senior prescription drug program, the authority shall collect an enrollment fee not to exceed sixty dollars (\$60.00) per year. The authority shall collect the enrollment fees, and the enrollment fees shall be used by the authority to cover the cost of administering the

program.

D. The amount a qualified person pays for a prescription drug shall not exceed the total cost of the dispensing fee plus the contracted discounted price made available to the authority for this group of seniors.

E. The authority shall enroll and provide participants with membership cards and require the cards to be presented to pharmacies for each transaction.

F. The authority shall actively promote membership and benefit information on the senior prescription drug program to seniors and the general public throughout the state."

Section 3. A new section of the Retiree Health Care Act is enacted to read:

"FUND CREATED.--The "senior prescription drug program fund" is created in the state treasury. All fees collected pursuant to Subsection C of Section 2 of this act and all rebates received from drug manufacturers shall be deposited in the fund and shall be used for the purposes of the senior prescription drug program. Money appropriated to the fund or accruing to it through rebates, gifts, grants, fees or bequests shall be deposited in the fund. Earnings from investment of the fund shall be credited to the fund. Money in the fund is appropriated to the authority for the purpose of administering the senior prescription drug program. Money in the fund shall not revert at the end of any fiscal year. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the authority or his authorized representative. The authority shall annually adjust the enrollment fee to permit necessary administration of the program but shall not exceed the amount established in Subsection C of Section 2 of this act."

Section 4. A new section of the Retiree Health Care Act is enacted to read:

"AUDIT--FEE RECOMMENDATION.--Annually the legislative finance committee shall conduct a fiscal audit of the senior prescription drug program fund and the administration of the program, including rebates negotiated for the prescription drugs purchased by participants, and shall recommend if and how much of an annual fee is necessary for participants in the program."

Section 5. PHARMACY FREEDOM OF CHOICE.--A contract, agreement or arrangement between a pharmacy and a wholesaler, distributor or pharmacy benefit manager for the provision of prescription drugs for resale shall not include a provision requiring the pharmacy to enter into any other contract, agreement or arrangement with the contracting wholesaler, distributor or pharmacy benefit manager to purchase prescription drugs on different terms.

SENATE BILL 91, AS AMENDED