

AN ACT

RELATING TO MEDICAL ASSISTANCE; CREATING A PRESCRIPTION DRUG DISCOUNT PROGRAM FOR CERTAIN LOW-INCOME PERSONS; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE. -- This act may be cited as the "New Mexico Prescription Drug Discount Act".

Section 2. DEFINITIONS. -- As used in the New Mexico Prescription Drug Discount Act:

A. "average rebate percentage" means the aggregate average manufacturers' rebate, less one percent of the total received by the department from prescription drug manufacturers, based on rebates most recently available to the department, expressed as a percentage;

B. "department" means the human services department;

C. "manufacturers' rebate" means that amount of money required to be reimbursed to the state for prescription drug purchases under the state medicaid program by pharmaceutical drug manufacturers under the federal Omnibus Budget Reconciliation Act of 1990;

D. "medicaid price" means the price set by the department for a prescription drug provided under the medicaid program;

E. "member" means a person enrolled in the New

Mexico prescription drug discount program;

F. "pharmacy" means a place of business licensed as a pharmacy pursuant to the Pharmacy Act; and

G. "program" means the New Mexico prescription drug discount program.

Section 3. PRESCRIPTION DRUG DISCOUNT PROGRAM
CREATED. --

A. The medical assistance division of the department shall design and implement a prescription drug discount program under the state's medicaid program to provide only prescription drug discounts to members and no other medicaid benefits. Implementation of the program shall be pursuant to rules adopted by the department. The program shall be consistent with the provisions of Title 19 of the federal Social Security Act.

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

(1) be a resident of the state of New Mexico; and

(2) have income of no more than two hundred percent of the federal poverty level, according to the levels of income defining poverty by family size published annually in the federal register by the United States department of health and human services.

C. The department shall establish by rule a definition of "income" for purposes of determining

eligibility pursuant to Paragraph (3) of Subsection B of this section. The department shall utilize the same methodology for income eligibility methodology for the New Mexico prescription drug discount program as is utilized for medical assistance eligibility in the medicaid program.

D. If, in order to implement the program authorized in Subsections A and B of this section it is necessary to obtain a waiver pursuant to Section 1115 of the federal Social Security Act, the department shall apply for the waiver no later than October 1, 2001.

Section 4. PRESCRIPTION DRUG DISCOUNT PROGRAM - DEPARTMENT DUTIES. -- In establishing the program, the department shall:

A. enroll and provide program identification cards to eligible applicants and require presentation of the card by a member when prescription drugs are purchased under the program;

B. obtain manufacturers' rebates, as established in the federal Omnibus Budget Reconciliation Act of 1990, from drug manufacturers for prescription drugs provided through the medicaid program; and

C. pay to pharmacists amounts equal to the rebates provided to the department's medicaid program by the prescription drug manufacturer based on prescription drugs provided under the program.

Section 5. PROGRAM TRANSACTIONS. --

A. Upon presentation of a program identification card and a prescription from a licensed practitioner, a pharmacy may fill the prescription and shall charge the member a price no more than the medicaid price less an amount equal to the average rebate percentage.

B. A pharmacy that has sold a prescription drug to a member under the program shall notify the department of the transaction, including the price charged the member for filling the prescription and all other information required by the department.

Section 6. FEDERAL ACT REQUIREMENTS. -- Information required by the department in the program eligibility process, including that for the program identification card and that required of pharmacies participating in the program, shall be in accordance with the federal Health Insurance Portability and Accountability Act of 1996.

Section 7. PRESCRIPTION DRUG DISCOUNT FUND CREATED. -- The "prescription drug discount fund" is created in the state treasury. All appropriations and money received by the department for the program, including manufacturers' rebates, shall be deposited in the fund and shall be used by the department to carry out the purposes of the New Mexico Prescription Drug Discount Act. Money from investment of the fund shall be credited to the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The fund shall be administered by the department, and

money in the fund is appropriated to the department to reimburse pharmacies the average rebate percentage for prescription drugs provided under the program. No more than one percent of the amount received annually shall be used by the department to administer the program.

Section 8. REPORT. --The department shall publish in its monthly statistical report the number of program members, the number of participating pharmacies, the total amount paid for prescription drugs under the program, the amount of manufacturers' rebate funds received and the volume of the top fifty prescriptions filled by type of prescription drug and the average amount paid for each type. _____