



### Significant Issues

This Bill is similar to laws successfully implemented in Florida and Michigan. The AG reports that the pharmaceutical industry trade association, Pharma, has an apparent policy of mounting judicial challenges to all state programs designed to reduce the cost of prescription drugs. Pharma's challenges in Florida and Michigan have been unsuccessful. Significant issues include whether the Department of Human Services has the necessary administrative capacity and expertise to implement the program.

The AG is uneasy as to whether the terms of the current Medicaid Managed Care contracts would transfer any resultant savings to the benefit of the managed care companies and not to a reduction in Medicaid costs.

### **FISCAL IMPLICATIONS**

The bill does not contain an appropriation. (See administrative implications below)

### **ADMINISTRATIVE IMPLICATIONS**

Medical Assistance Division (MAD) currently has one Pharmacist managing the Medicaid Drug Program, and another managing the Medicaid Drug Rebate Program. The division also employs a medical director.

HSD indicates that currently, the Medicaid program requires prior authorization for very few drugs, and the Medicaid pharmacist using relatively broad criteria does all authorizations. HSD believes that SB 253 would vastly increase the number of drugs requiring prior authorization.

Supplemental rebates and other drug discounts have not been negotiated in the past. If SB 253 is enacted into law, additional staff may be required.

Employing a drug formulary would require the creation of a Pharmacy and Therapeutics (P&T) Committee as outlined in the Social Security Act, Section 1927.

### **RELATIONSHIP**

- HB264 & SB226– Prescription Drug Fair Pricing Act.
- HB200 & SB091– Provides prescription drug benefit to New Mexico seniors.
- HJM41 – Requests a study of tax credits to offset prescription drug spending.
- SB238 – Provides for negotiated drug discounts in the Medicaid program and establishes a discount card program.
- SJM23 – Requests State Agency on Aging to develop a “brown bag assessment” of individuals’ prescription drug bundles.
- HB149 – An appropriation to study a means to use of Native American prescription prerogatives to develop a bulk-purchasing program.
- SB263 – Requires reporting of certain manufacturer drug prices to the Human Services Department.

- HJM21 – Requests the U. S. Congress to enact legislation establishing a single uniform federal “best price” for prescription drugs.
- SJM35 – Requests the Medical Assistance Division to identify all avenues to maximize prescription drug discounts using the federal 340B program.
- SJM22 – Requests the State Agency on Aging to work with drug manufacturers to simplify the application for manufacturer drug assistance programs and to conduct a pilot study.
- SB118 - An appropriation to expand prescription drug outreach programs by the State Agency on Aging

### **OTHER SUBSTANTIVE ISSUES**

HPC reports that prescription drug spending in the United States has grown more than 10% per year since 1995, placing financial pressure on private and public programs. Such spending is likely to rise 15% - 18% through the year 2004<sup>5</sup>. Medicaid expenditures from 1997 to 2000 grew at an average annual rate of 18.1%<sup>6</sup>.

HSD anticipates confusion in the Medicaid drug program if the formulary restrictions, which would be established pursuant to SB 253 are not aggressively communicated, and if medical providers do not proactively seek them out.

The bill could require renegotiation of the state’s current contract with Express Scripts to accommodate all state –managed drug programs.

BD/ar