

CHAPTER 96

AN ACT establishing the Senior Gold Prescription Discount Program, supplementing Title 30 of the Revised Statutes and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.30:4D-43 Short title.

1. This act shall be known and may be cited as the "Senior Gold Prescription Discount Act."

C.30:4D-44 Definitions regarding the "Senior Gold Prescription Discount Act."

2. As used in this act:

"Commissioner" means the Commissioner of Health and Senior Services.

"Department" means the Department of Health and Senior Services.

"PAAD" means the program of pharmaceutical assistance to the aged and disabled established pursuant to P.L.1975, c.194 (C.30:4D-20 et seq.).

"Prescription drug" means any legend drug which is covered by PAAD.

"Program" means the "Senior Gold Prescription Discount Program" established pursuant to this act.

"Reasonable cost" means the cost of a prescription drug as established for PAAD.

"Resident" means a resident as defined in section 3 of P.L.1975, c.194 (C.30:4D-22) for purposes of eligibility for PAAD.

C.30:4D-45 "Senior Gold Prescription Discount Program."

3. a. There is established the "Senior Gold Prescription Discount Program" in the Department of Health and Senior Services.

- b. A resident of this State shall be eligible for the program if the person is:

- (1) either 65 years of age or older or a recipient of disability insurance benefits under Title II of the federal Social Security Act (42 U.S.C. s.401 et seq.);

- (2) receiving an annual income, the amount of which is not more than \$10,000 above the applicable PAAD income eligibility limits for single and married persons, which amount is to be determined on the same basis as income is determined for the purpose of eligibility for PAAD; and

- (3) not eligible for any other program of State-funded prescription drug benefits.

- c. The program shall provide a payment to a pharmacy that is participating in the program for the reasonable cost of one or more prescription drugs purchased by an eligible person who presents an identification card issued by the program in an amount that exceeds the copayment paid by the eligible person. The payments to pharmacies shall commence no later than 120 days after the effective date of this act or after enactment, whichever is later.

At the time of each purchase of a prescription drug, the eligible person shall pay a copayment that shall not be waived, discounted or rebated in whole or in part, and shall be equal to:

- (1) \$15 plus 50% of the remaining amount of the reasonable cost for the prescription drug, or the reasonable cost for the prescription drug, whichever is less; or

- (2) \$15, or the reasonable cost for the prescription drug, whichever is less, in the case of an eligible person who has incurred out-of-pocket expenditures, including copayments and deductibles, for the purchase of prescription drugs, which are not reimbursable by any other plan of assistance or insurance and are credited to that person's account for each 12-month period of eligibility in accordance with procedures established by the commissioner, in the following amounts: \$2,000 for a single person and \$3,000 for a married couple. These out-of-pocket expense amounts shall include only expenses incurred on or after the date that the person received proof of eligibility for the program from the department.

- d. If an interchangeable drug product contained in the latest list approved and published by the Drug Utilization Review Council pursuant to section 7 of P.L.1977, c.240 (C.24:6E-6) is available for the prescribed prescription drug, an eligible person shall either:

- (1) purchase an interchangeable drug product, the cost of which is equal to or less than the maximum allowable cost as determined by the commissioner; or

- (2) if the prescriber specifically indicates that substitution is not permissible, purchase the prescribed drug product that is higher in cost than the maximum allowable cost as determined by the commissioner and pay the amount of the price above that maximum allowable cost, in

addition to the amount of the copayment paid by the eligible person pursuant to subsection c. of this section.

e. An eligible person whose prescription drug costs are covered in part by any other program or plan of assistance or insurance may be required to receive reduced assistance under the Senior Gold Prescription Discount Program. If an eligible person's prescription drug costs are covered in whole or in part by any other program or plan of assistance or insurance, the other program or plan shall be the primary payer and the Senior Gold Prescription Discount Program shall be the payer of last resort.

f. The commissioner may establish limits on the day supply or maximum quantity of prescription drugs which may be purchased by an eligible person under the program in a manner equivalent to those established for prescription drug purchases under PAAD.

g. An eligible person under the program shall, upon the submission of an application and proof of expenditure as the department may prescribe, be reimbursed for 50% of the cost of each prescription drug purchased by that person in an amount that exceeds the required copayment, during the period commencing 30 days after the person's properly completed application was received by the department and ending on the date on which the person received proof of eligibility from the department; except that no reimbursement under this act shall be made for a prescription drug purchased prior to the effective date of this act.

h. The commissioner shall by regulation provide for:

(1) arrangements for providing notice of the availability of the program and the distribution of application forms therefor;

(2) a system of payments to pharmacies that includes the same dispensing fee structure that is used for PAAD and a system for determining eligibility for the program, including evidence of complete or partial coverage of prescription drug costs by any other program or plan of assistance or insurance; and

(3) the issuance of program identification cards to persons who are determined eligible for the program.

C.30:4D-46 Report to Governor, Legislature.

4. The commissioner shall annually report to the Governor and the Legislature on the operations of the program and shall include with that report any recommendations for legislative action that the commissioner deems appropriate.

C.30:4D-47 Violations of act; program identification cards.

5. a. A person violating any provision of this act shall be subject to the applicable civil and criminal penalties provided in P.L.1968, c.413 (C.30:4D-1 et seq.). An eligible person who violates any provision of this act shall be subject to a suspension of the person's eligibility for the program for one year for a first offense and a permanent revocation of the person's eligibility for a second offense.

b. The commissioner shall include on the program identification cards issued pursuant to subsection h. of section 3 of this act a conspicuous notice of the penalties for violating the provisions of this act.

C.30:4D-48 New Jersey EASE program provide information on prescription program.

6. The New Jersey EASE program established by the department shall provide information and assistance to members of the public and potential or actual applicants to the program, including, but not limited to, making general information about the program available to the public Statewide, answering specific inquiries about the program, assisting interested persons to ascertain their eligibility for the program or other State-funded prescription drug benefits, and further assisting program applicants to complete their application as necessary.

C.30:4D-49 Funding of Senior Gold Prescription Discount Program.

7. The program shall be funded from the monies made available to the State from tobacco companies under the nationwide settlement of the respective actions by state governments

against those companies, entered into by the State in the Master Settlement Agreement in State of New Jersey v. R.J. Reynolds Tobacco Company, et al., Superior Court, Chancery Division, Middlesex County, No. C-254-96.

C.30:4D-50 Rules, regulations.

8. The Commissioner of Health and Senior Services, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

C.30:4D-51 Conditions of expending funds.

9. Notwithstanding the provisions of any law to the contrary, no funds appropriated for the Senior Gold Prescription Discount Program established pursuant to this act shall be expended unless participating pharmaceutical manufacturing companies execute contracts with the Department of Health and Senior Services through the Department of Human Services providing for the payment of rebates to the State under terms substantially similar to those of rebate payment contracts under PAAD, provided that the manufacturer's rebates for the Senior Gold Prescription Discount Program shall apply only to the amount paid by the State under the program.

C.30:4D-52 Rebates appropriated to Department of Health and Senior Services for program.

10. Amounts received as rebates under rebate payment contracts executed pursuant to section 9 of this act are appropriated to the Department of Health and Senior Services for the support of the Senior Gold Prescription Discount Program.

11. This act shall take effect immediately.

Approved May 15, 2001.