SENATE BILL NO. 2484

AN ACT ENTITLED THE "MISSISSIPPI RX SENIOR PATIENT ASSISTANCE PROGRAM"; TO AUTHORIZE THE DIVISION OF MEDICAID TO PROVIDE PAYMENT ASSISTANCE FOR PRESCRIPTION DRUGS TO LOW-INCOME SENIOR AND DISABLED CITIZENS WHO ARE INELIGIBLE FOR DRUG BENEFIT COVERAGE FROM PUBLIC OR PRIVATE SOURCES; TO PROVIDE ELIGIBILITY STANDARDS; TO AUTHORIZE THE DIVISION TO ESTABLISH A STATE REBATE PROGRAM FROM PHARMACEUTICAL MANUFACTURERS; TO AUTHORIZE A CO-PAYMENT PROGRAM; TO CREATE A PRESCRIPTION ASSISTANCE FUND; TO AUTHORIZE THE DIVISION TO ADOPT RULES TO IMPLEMENT THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known and may be cited as the "Mississippi RX Senior Patient Assistance Program."

SECTION 2. The Mississippi Rx Senior Patient Assistance Program shall provide payment assistance for prescription drugs to the state's low-income senior and disabled citizens who are ineligible for, or do not have, prescription drug benefits or coverage through federal, state, or private sources.

SECTION 3. As used in this act:

(a) "Division" shall mean the Division of Medicaid in the Office of the Governor.

(b) "Eligible person" shall mean a person eligible for the Mississippi RX Senior Patient Assistance Program.

(c) "Prescription drugs" shall mean drugs and supplies that have been approved safe and effective by the Federal Food and Drug Administration or are otherwise legally marketed in the United States, including items related to diabetes management, if not covered by Medicare, that a physician has deemed medically necessary for the diagnosis and/or treatment of the patient.

Prescription drugs covered under this Chapter shall be limited and
subject to the provisions of Section 5 and the rules and
regulations adopted pursuant thereto.

(d) The "program" shall mean the Mississippi Rx Senior
Patient Assistance Program.

SECTION 4. To be eligible for payment assistance for
prescription drugs a person must:

(a) Be a United States citizen or lawfully admitted
alien.

(b) Have resources (as determined under 42 USC 1382B
for purposes of the supplemental security income program) that do
not exceed twice the maximum amount of resources that an
individual may have to obtain benefits under that program;
(c) Be a resident of the State of Mississippi;
(d) Be ineligible for Medicaid prescription benefits;
(e) Be ineligible for and/or not receiving a
prescription drug benefit through a Medicare supplemental policy
or any other third-party payer prescription benefit; and

(f) Be an individual aged sixty-five (65) or over or be
an individual between the ages of nineteen (19) and sixty-four
(64) who is otherwise eligible for benefits under Title II of the
Social Security Act (Federal Old Age, Survivors and Disability
Insurance).

SECTION 5. (1) The Mississippi Rx Senior Patient Assistance
Program shall be administered by the division. The division shall
promulgate and adopt rules and regulations as are necessary to
implement the program in a cost-effective manner and to ensure the
program is the payer of last resort for prescription drugs. Rules
and regulations shall include the following:

(a) Payment assistance shall not exceed a dollar amount
established by the division per state fiscal year to assist each
eligible person in the purchase of prescription drugs.

(b) The division shall establish a state rebate program
to collect rebates from pharmaceutical manufacturers in an amount
consistent with the base Medicaid rebate of fifteen and one-tenth percent (15.1%) of Average Manufacturer Price (AMP) for innovator/brand name products and eleven percent (11%) of AMP for noninnovator/generic products. The program shall not provide for a Consumer Price Index penalty.

(c) The division shall not restrict by any prior or retroactive approval process a physician's ability to treat a patient with a prescription drug that has been approved as safe and effective by the Food and Drug Administration or is otherwise legally marketed under Food and Drug Administration regulations.

(d) The division shall develop a co-payment requirement which shall not exceed a percentage of the acquisition cost as determined by the division. Co-payments may be waived in cases of severe hardship.

(e) The division shall provide a clear, written explanation defining the scope of the program's coverage and the amount of the cost-sharing requirements. The division shall provide notice to the program participant when the cap has been expended. The division shall also notify program participants of the process to appeal a decision denying reimbursement for prescription drugs or denying a person's eligibility for the program. Services shall begin on the first day of the month, following the month that eligibility is determined. Eligible persons will receive an identification card for the program.

(f) No drug prescription may exceed one hundred (100) dosing units or a thirty-four-day supply, whichever is greater.

(g) No system of administration shall make a direct cash payment to any eligible person.

(h) The division shall require a mandatory point-of-sale claim submission within fourteen (14) days unless extenuating circumstances as defined by the division exist.

(2) The division may promulgate and adopt rules and regulations consistent with the following:
(a) Limiting application to the program to a specific open-enrollment period with coverage effective as of the date the application is approved.

(b) Imposing an annual enrollment fee to be paid by all eligible persons in the program to defray administrative expenses. Payment of any such fee shall be credited to a special fund to be designated the Prescription Assistance Fund. For each fiscal year, the maximum unencumbered balance that remains in the Prescription Assistance Fund at the end of any fiscal year shall be no more than the administrative cost of the program in the subsequent fiscal year.

(c) Determining income eligibility of a person by any reasonable means, including but not limited to a review of the person's most recent federal and state income tax returns and copies of income checks. Residence and age/disability eligibility may be verified by submission of such document, as the division deems reasonable.

(d) Rules and regulations the division deems necessary to implement the program consistent with the purposes outlined herein and appropriations provided to implement this program.

SECTION 6. The division shall maintain data to evaluate the cost and effectiveness of the program and shall produce a semi-annual report summarizing participant demographics, utilization, utilization review results, and such other available information as may be needed to evaluate the costs and benefits of the program.

SECTION 7. A pharmacist shall not dispense or provide a covered prescription drug to an eligible person until the eligible person makes the required copayment.

SECTION 8. This act shall take effect and be in force from and after July 1, 2003.