

By: Senator(s) Smith

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2948

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

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

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

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

19 **SECTION 3.** As used in this act:

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

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

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

30 Prescription drugs covered under this Chapter shall be limited and



31 subject to the provisions of Section 5 and the rules and
32 regulations adopted pursuant thereto.

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

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

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

39 (b) Have resources (as determined under 42 USC 1382B
40 for purposes of the supplemental security income program) that do
41 not exceed twice the maximum amount of resources that an
42 individual may have to obtain benefits under that program;

43 (c) Be a resident of the State of Mississippi;

44 (d) Be ineligible for Medicaid prescription benefits;

45 (e) Be ineligible for and/or not receiving a
46 prescription drug benefit through a Medicare supplemental policy
47 or any other third-party payer prescription benefit; and

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

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

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

62 (b) The division shall establish a state rebate program
63 to collect rebates from pharmaceutical manufacturers in an amount



64 consistent with the base Medicaid rebate of fifteen and one-tenth
65 percent (15.1%) of Average Manufacturer Price (AMP) for
66 innovator/brand name products and eleven percent (11%) of AMP for
67 noninnovator/generic products. The program shall not provide for
68 a Consumer Price Index penalty.

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

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

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

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

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

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

95 (2) The division may promulgate and adopt rules and
96 regulations consistent with the following:



97 (a) Limiting application to the program to a specific
98 open-enrollment period with coverage effective as of the date the
99 application is approved.

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

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

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

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

123 **SECTION 7.** A pharmacist shall not dispense or provide a
124 covered prescription drug to an eligible person until the eligible
125 person makes the required co-payment.

126 **SECTION 8.** This act shall take effect and be in force from
127 and after July 1, 2002.

