

FIRST REGULAR SESSION

HOUSE BILL NO. 47

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES PORTWOOD AND PAGE (Co-sponsors).

Pre-filed December 3, 2002, and copies ordered printed.

TED WEDEL, Chief Clerk

0399L.021

AN ACT

To repeal section 208.565, RSMo, and to enact in lieu thereof one new section relating to the senior Rx program, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 208.565, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 208.565, to read as follows:

208.565. 1. The division shall negotiate with manufacturers for participation in the program. The division shall issue a certificate of participation to pharmaceutical manufacturers participating in the Missouri Senior Rx program. A pharmaceutical manufacturer may apply for participation in the program with an application form prescribed by the commission. A certificate of participation shall remain in effect for an initial period of not less than one year and shall be automatically renewed unless terminated by either the manufacturer or the state with sixty days' notification.

2. The rebate amount for [each drug] **name brand prescription drugs** shall be fifteen percent **and the rebate amount for generic prescription drugs shall be eleven percent** of the average manufacturers' price as defined pursuant to 42 U.S.C. 1396r-8(k)(1). No other discounts shall apply. In order to receive a certificate of participation a manufacturer or distributor participating in the Missouri Senior Rx program shall provide the division of aging the average manufacturers' price for their contracted products. The following shall apply to the providing of average manufacturers' price information to the division of aging:

(1) Any manufacturer or distributor with an agreement under this section that knowingly provides false information is subject to a civil penalty in an amount not to exceed one hundred

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 thousand dollars for each provision of false information. Such penalties shall be in addition to
18 other penalties as prescribed by law;

19 (2) Notwithstanding any other provision of law, information disclosed by manufacturers
20 or wholesalers pursuant to this subsection or under an agreement with the division pursuant to
21 this section is confidential and shall not be disclosed by the division or any other state agency
22 or contractor therein in any form which discloses the identity of a specific manufacturer or
23 wholesaler or prices charged for drugs by such manufacturer or wholesaler, except to permit the
24 state auditor to review the information provided and the division of medical services for rebate
25 administration.

26 3. All rebates received through the program shall be used toward refunding the program.
27 If a pharmaceutical manufacturer refuses to participate in the rebate program, such refusal shall
28 not affect the manufacturer's status under the current Medicaid program. There shall be no drug
29 formulary, prior approval system, or any similar restriction imposed on the coverage of
30 outpatient drugs made by pharmaceutical manufacturers who have agreements to pay rebates for
31 drugs utilized in the Missouri Senior Rx program, provided that such outpatient drugs were
32 approved by the Food and Drug Administration.

33 4. Any prescription drug of a manufacturer that does not participate in the program shall
34 not be reimbursable.

Section B. Because immediate action is necessary to ensure the fiscal stability of the
2 Senior Rx program, section A of this act is deemed necessary for the immediate preservation of
3 the public health, welfare, peace, and safety, and is hereby declared to be an emergency act
4 within the meaning of the constitution, and section A of this act shall be in full force and effect
5 upon its passage and approval.