

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 286
92ND GENERAL ASSEMBLY

Reported from the Committee on Aging, Families, Mental and Public Health, April 17, 2003, with recommendation that the Senate Committee Substitute do pass.

1125S.02C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 208.480 and 208.565, RSMo, and to enact in lieu thereof two new sections relating to the health care programs, with an emergency clause for a certain section.

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

Section A. Sections 208.480 and 208.565, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 208.480 and 208.565, to read as
3 follows:

208.480. Notwithstanding the provisions of section 208.471 to the contrary,
2 sections 208.453 to 208.480 shall expire on September 30, [2004] **2006**.

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

8 **2. For all transactions occurring prior to July 1, 2003, the rebate**
9 **amount for each drug shall be fifteen percent of the average manufacturers'**
10 **price as defined pursuant to 42 U.S.C. 1396r-8(k)(1). For all transactions**
11 **occurring on or after July 1, 2003, the rebate amount for [each drug] name brand**
12 **prescription drugs shall be fifteen percent and the rebate amount for generic**

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

13 **prescription drugs shall be eleven percent** of the average manufacturers' price as
14 defined pursuant to 42 U.S.C. 1396r-8(k)(1). No other discounts shall apply. In order
15 to receive a certificate of participation a manufacturer or distributor participating in the
16 Missouri Senior Rx program shall provide the division of aging the average
17 manufacturers' price for their contracted products. The following shall apply to the
18 providing of average manufacturers' price information to the division of aging:

19 (1) Any manufacturer or distributor with an agreement under this section that
20 knowingly provides false information is subject to a civil penalty in an amount not to
21 exceed one hundred thousand dollars for each provision of false information. Such
22 penalties shall be in addition to other penalties as prescribed by law;

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

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

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

Section B. Because immediate action is necessary to ensure the fiscal stability
2 of the Senior Rx program, the repeal and reenactment of section 208.565 of this act is
3 deemed necessary for the immediate preservation of the public health, welfare, peace,
4 and safety, and is hereby declared to be an emergency act within the meaning of the
5 constitution, and the repeal and reenactment of section 208.565 of this act shall be in full
6 force and effect upon its passage and approval.