

SECOND REGULAR SESSION

HOUSE BILL NO. 894

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES SALVA (Sponsor), AND WILDBERGER (Co-sponsor).

Pre-filed December 17, 2003, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

3401L.011

AN ACT

To repeal sections 208.556 and 208.559, RSMo, and to enact in lieu thereof two new sections relating to the senior Rx program, with a penalty provision.

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

Section A. Sections 208.556 and 208.559, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 208.556 and 208.559, to read as follows:

208.556. 1. There is hereby established the "Missouri Senior Rx Program" within the
2 division of [aging] **senior services** in the department of health and senior services to help defray
3 the costs of prescription drugs for elderly Missouri residents. The division shall provide
4 technical assistance to the commission for the administration and implementation of the
5 program. The commission shall solicit requests for proposals from private contractors for the
6 third-party administration of the program; except that, the commission shall either administer
7 the rebate program established in section 208.565 or contract with the division of medical
8 services for such rebate program. The program shall be governed by the commission for the
9 Missouri Senior Rx program established in section 208.553.

10 2. Administration of the program shall include, but not be limited to, devising program
11 applications, enrolling participants, administration of prescription drug benefits, and
12 implementation of cost-control measures, including such strategies as disease management
13 programs, early refill edits, drug utilization review which includes retroactive approval systems,
14 fraud and abuse detection system, and auditing programs. The commission shall select a
15 responsive, cost-effective bid from the requests for proposal; however, if no responsive,
16 cost-effective bids are received, the program shall be administered collaboratively by the

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

17 department of health and senior services and the department of social services.

18 3. Prescription drug benefits shall not include coverage of the following drugs or classes
19 of drugs, or their medical uses:

20 (1) Agents when used for anorexia or weight gain;

21 (2) Agents when used to promote fertility;

22 (3) Agents when used for cosmetic purposes or hair growth;

23 (4) Agents when used for the symptomatic relief of cough and colds;

24 (5) Agents when used to promote smoking cessation;

25 (6) Prescription vitamins and mineral products, except prenatal vitamins and fluoride
26 preparations;

27 (7) Nonprescription drugs;

28 (8) Covered outpatient drugs which the manufacturer seeks to require as a condition of
29 sale that associated tests or monitoring services be purchased exclusively from the manufacturer
30 or its designee;

31 (9) Barbiturates;

32 (10) Benzodiazepines.

33 4. Subject to appropriations, available funds and other cost-control measures authorized
34 herein, any Missouri resident sixty-five years of age or older, who has not had access to
35 employer-subsidized health care insurance that offers a pharmacy benefit for six months prior
36 to application, who is not currently ineligible pursuant to subsection 8 of this section:

37 (1) Who has a household income at or below twelve thousand dollars for an individual
38 or at or below seventeen thousand dollars for a married couple is eligible to participate in the
39 program; or

40 (2) Who has a household income at or below seventeen thousand dollars for an
41 individual or at or below twenty-three thousand dollars for a married couple is eligible to
42 participate in the program.

43 (3) However, the commission may restrict income eligibility limits as a last resort to
44 obtain program cost control.

45 5. The commission shall have the authority to set and adjust coinsurance, deductibles and
46 enrollment fees at different amounts pursuant to subdivisions (1) and (2) of subsection 4 of this
47 section as a cost-containment measure.

48 6. Any person who has retired and received employer-sponsored health insurance while
49 employed, but whose employer does not offer health insurance coverage to retirees shall not be
50 subject to the six-month uninsured requirement.

51 7. The program established in this section is not an entitlement. Benefits shall be limited
52 to the level supported by the moneys explicitly appropriated pursuant to this section. If in any

53 fiscal year the commission projects that the total cost of the program will exceed the amount
54 currently appropriated for the program, the commission may direct the third-party administrator
55 to implement cost-control measures to reduce the projected cost. Such cost-control measures
56 may include, but are not limited to, increasing the enrollment fees in subsection 12 of this
57 section, the deductibles in subsection 11 of this section, and the coinsurance outlined in
58 subsection 12 of this section. The Missouri Senior Rx program is a payer of last resort. If the
59 federal government establishes a pharmaceutical assistance program that covers program-eligible
60 seniors under Medicare or another program, the Missouri Senior Rx program shall cover only
61 eligible costs not covered by the federal program.

62 8. Any person who is receiving Medicaid benefits shall not be eligible to participate in
63 the program. The Missouri Senior Rx program is a payer of last resort. If a senior has coverage
64 for pharmaceutical benefits through a health benefit plan, as defined in section 376.1350, RSMo,
65 including a Medicare supplement or Medicare+Choice plan, or through a self-funded employee
66 benefit plan, the Missouri Senior Rx program shall pay only for eligible costs not provided by
67 such coverage. Individuals who have benefits with an actuarial value greater than or equal to the
68 benefits in the program are not eligible for the program.

69 9. **All applicants [for] not currently participating in** the program shall submit an
70 [annual] **initial** application to the division, or the division's designee, that attests to the age,
71 residence, any third-party health insurance coverage, previous year prescription drug costs,
72 annual household income for an individual or couple, if married, and any other information the
73 commission deems necessary. The third-party administrator shall prescribe the form of the
74 application for **initial** enrollment in the program, which shall be approved by the division. The
75 commission shall develop and implement a means test by which applicants must demonstrate
76 that they meet the income requirement of the program. Information provided by applicants and
77 enrollees pursuant to sections 208.550 to 208.571 is confidential and shall not be disclosed by
78 the commission, the division or any other state agency or contractor therein in any form.

79 10. Nothing in this section shall be construed as requiring an applicant to accept
80 Medicaid benefits in lieu of participation in this program.

81 11. The following deductibles shall apply to enrollees in the program:

82 (1) For an individual with a household income at or below twelve thousand dollars, the
83 deductible shall, in the initial year, not be less than two hundred fifty dollars;

84 (2) For a married couple with a household income at or below seventeen thousand
85 dollars, the deductible shall, in the initial year, not be less than two hundred fifty dollars for each
86 person;

87 (3) For an individual with a household income between twelve thousand one dollars and
88 seventeen thousand dollars, the deductible shall, in the initial year, not be less than five hundred

89 dollars; and

90 (4) For a married couple with a household income between seventeen thousand one
91 dollars and twenty-three thousand dollars, the deductible shall, in the initial year, not be less than
92 five hundred dollars for each person.

93 12. For prescription drugs, enrollees shall pay a forty percent coinsurance. The division
94 may implement a higher coinsurance at the recommendation of the commission. Such
95 coinsurance may be adjusted annually by the commission and shall be used to reduce the state's
96 cost for the program. In addition, each enrollee with an annual household income at or below
97 twelve thousand dollars for an individual or at or below seventeen thousand dollars for a married
98 couple shall pay, in the initial year, not less than an annual twenty-five dollar enrollment fee and
99 each enrollee with a household income between twelve thousand one dollars and seventeen
100 thousand dollars for an individual or at or below between seventeen thousand one dollars and
101 twenty-three thousand dollars for a married couple shall pay, in the initial year, not less than an
102 annual thirty-five dollar enrollment fee to offset the administrative costs of the program.

103 13. The total annual expenditures for each enrollee under this program may be up to but
104 shall not exceed five thousand dollars for each participant.

105 14. In providing program benefits, the department may enter into a contract with a
106 private individual, corporation or agency to implement the program.

107 15. The division shall utilize area agencies on aging, senior citizens centers, and other
108 senior-focused entities to provide outreach, enrollment referral assistance, and education services
109 to potentially eligible seniors for the Missouri Senior Rx program. The division and third-party
110 administrators shall be responsible for informing eligible seniors on the availability of and
111 providing information about pharmaceutical company benefits which may be applicable.

112 16. The commission shall submit quarterly reports to the governor, the senate
113 appropriations committee, the house of representatives budget committee, the speaker of the
114 house of representatives, the president pro tem of the senate, and the division that include:

115 (1) Quantified data as to the number of program applicants;

116 (2) An estimate of whether the current rate of expenditures will exceed the existing
117 appropriation for the program in the current fiscal year; and

118 (3) Information regarding the commission's recommendations for changes to income
119 eligibility, enrollment fees, coinsurance, deductibles, and benefit caps for enrollees in the
120 program.

121 17. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that
122 is created under the authority delegated in sections 208.550 to 208.571 shall become effective
123 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
124 applicable, section 536.028, RSMo. Sections 208.550 to 208.571 and chapter 536, RSMo, are

125 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536,
126 RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently
127 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
128 after August 28, 2002, shall be invalid and void.

129 18. Any person who knowingly makes any false statements, falsifies or permits to be
130 falsified any records, or engages in conduct in an attempt to defraud the program is guilty of a
131 misdemeanor and shall forfeit all rights to which he or she may be entitled hereunder.

208.559. 1. [The Missouri Senior Rx program shall be operational no later than July 1,
2 2002.] The division shall accept applications for **initial** enrollment during an [initial] open
3 enrollment period from [April 1, 2002, through May 30, 2002. Beginning with the enrollment
4 period for fiscal year 2004, open enrollment periods for the program shall be held from] January
5 first through February twenty-eighth **of each year. Any current enrollee shall automatically**
6 **remain in the program unless such enrollee specifically opts out of the program during an**
7 **open enrollment period. The division may establish procedures for verifying a current**
8 **enrollee's continued eligibility for the program under section 208.556.**

9 2. A person may apply for participation in the program outside the enrollment periods
10 listed in subsection 1 of this section within thirty days of such person attaining the age and
11 income eligibility requirements of the program established in section 208.556.