

SECOND REGULAR SESSION

# HOUSE BILL NO. 1641

## 92ND GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVES PAGE (Sponsor), ZWEIFEL, DONNELLY, BISHOP, DOUGHERTY, JOHNSON (90), SKAGGS, HENKE, WILLOUGHBY, LeVOTA, KUESSNER, WALSH, HARRIS (110), YAEGER, BRINGER, MUCKLER, RIBACK WILSON (25), DAUS, YOUNG, GEORGE, HARRIS (23), LOWE, LIESE, BURNETT, HOSKINS, BARNITZ, WILDBERGER, SCHOEMEHL, MEADOWS, SALVA, WALKER, FRASER, BOYKINS, WALTON, BLAND, EL-AMIN, AND HUBBARD (Co-sponsors).

Read 1<sup>st</sup> time March 9, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

4860L.011

---

### AN ACT

To repeal section 208.574, RSMo, and to enact in lieu thereof four new sections relating to the coordination of benefits for the Medicare Prescription Drug, Improvement and Modernization Act of 2003, with a termination date for a certain section.

---

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

Section A. Section 208.574, RSMo, is repealed and four new sections enacted in lieu  
2 thereof, to be known as sections 208.574, 208.580, 208.582, and 208.584 to read as follows:

208.574. The provisions of sections 208.550 to 208.571 shall [be reauthorized every four  
2 years] **terminate thirty days following notice to the revisor of statutes by the director of the**  
3 **department of health and senior services that the Medicare Prescription Drug,**  
4 **Improvement and Modernization Act of 2003 has been fully implemented.**

208.580. 1. For the purposes of this section, the term "gap" means the gap in  
2 prescription drug coverage between the initial coverage limit and qualified senior citizens  
3 annual out-of-pocket threshold created due to the enactment of the Medicare Prescription  
4 Drug, Improvement and Modernization Act of 2003, P.L. 108-173.

5 2. In order to fill the gap created due to the enactment of the Medicare Prescription  
6 Drug, Improvement and Modernization Act of 2003, P.L. 108-173, the "Missouri Senior  
7 Prescription Drug Plan" is established within the department of health and senior services.  
8 This plan is not an entitlement to replace Medicare Prescription Improvement and

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.

9 **Modernization Act of 2003 or any other third party insurance coverage. The Missouri**  
10 **senior prescription drug plan is a payer of last resort.**

11 **3. Beginning January 1, 2006, and subject to appropriations, the state shall pay**  
12 **seventy-five percent of the 2006 standard drug benefit coverage gap of two thousand eight**  
13 **hundred fifty dollars for eligible individuals whose income is within one hundred fifty to**  
14 **two hundred percent of the federal poverty level and for eligible individuals whose income**  
15 **is below one hundred fifty percent of the federal poverty level and who fail to meet the**  
16 **asset test as prescribed in P.L. 108-173.**

17 **4. Beginning November 15, 2005, applications for the Missouri senior prescription**  
18 **drug plan will be conducted jointly with applications for the Medicare Part D benefit. The**  
19 **Missouri senior prescription drug plan commission shall verify annually the eligibility of**  
20 **applicants for the plan.**

21 **5. The Missouri senior prescription drug plan shall include and provide coverage**  
22 **for only the prescription drugs that are covered in the providers' formulary pursuant to**  
23 **the Medicare Prescription Drug, Improvement and Modernization Act.**

24 **6. The Missouri senior prescription drug plan shall not include coverage of the**  
25 **following drugs or classes of drugs, or their medical uses:**

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

27 **(2) Agents when used to promote fertility;**

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

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

30 **(5) Prescription vitamins and mineral products, except prenatal vitamins and**  
31 **fluoride preparations;**

32 **(6) Nonprescription drugs;**

33 **(7) Covered outpatient drugs which the manufacturer seeks to require as a**  
34 **condition of sale that associated tests or monitoring services be purchased exclusively from**  
35 **the manufacturer or its designee;**

36 **(8) Barbiturates;**

37 **(9) Benzodiazepines.**

38

39 **The Missouri senior prescription drug plan shall also exclude prescription drugs which are**  
40 **not "reasonable and necessary" as defined in Section 1862(a) of P.L. 108-173.**

41 **7. The state shall not be charged any amount in excess of the amount that the**  
42 **providers of the Medicare Prescription Drug, Improvement and Modernization Act charge**  
43 **for the federal program.**

**208.582. 1. There is hereby established the "Missouri Senior Prescription Drug**

2 **Plan Commission" within the department of health and senior services to govern the**  
3 **implementation and administration of section 208.580. The commission shall consist of the**  
4 **following nine members:**

5 **(1) The lieutenant governor, in his or her capacity as advocate for the elderly;**

6 **(2) Two members of the senate, with one member from the majority party**  
7 **appointed by the president pro tem of the senate and one member of the minority party**  
8 **appointed by the president pro tem of the senate with the concurrence of the minority floor**  
9 **leader of the senate;**

10 **(3) Two members of the house of representatives, with one member from the**  
11 **majority party appointed by the speaker of the house of representatives and one member**  
12 **of the minority party appointed by the speaker of the house of representatives with the**  
13 **concurrence of the minority floor leader of the house of representatives;**

14 **(4) The director of the division of medical services in the department of social**  
15 **services;**

16 **(5) The director of the division of senior services in the department of health and**  
17 **senior services;**

18 **(6) A pharmacist appointed by the governor with the advice and consent of the**  
19 **senate; and**

20 **(7) A physician appointed by the governor with the advice and consent of the**  
21 **senate.**

22

23 **Members appointed by the governor shall serve for three-year terms. Other members,**  
24 **except legislative members, shall serve for as long as they hold the position which made**  
25 **them eligible for appointment. Legislative members shall serve during their current term**  
26 **of office but may be reappointed.**

27 **2. The commission shall elect a chair and may employ administrative staff as**  
28 **necessary to assist in the performance of the commission's duties.**

29 **3. The commission shall have rulemaking authority for the implementation and**  
30 **administration of section 208.580. Any rule or portion of a rule, as that term is defined in**  
31 **section 536.010, RSMo, that is created under the authority delegated in this section shall**  
32 **become effective only if it complies with and is subject to all of the provisions of chapter**  
33 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**  
34 **RSMo, are nonseverable and if any of the powers vested with the general assembly**  
35 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**  
36 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
37 **authority and any rule proposed or adopted after August 28, 2004, shall be invalid and**

38 void. The commission also shall apply to the United States Department of Health and  
39 Human Services for any applicable federal waivers or public or private grants.

40 4. The members of the commission shall receive no compensation for their service  
41 on the commission, but shall be reimbursed for ordinary and necessary expenses incurred  
42 in the performance of their duties as a member of the commission.

208.584. 1. Subject to appropriations, there is hereby established the "Missouri  
2 Senior Prescription Drug Plan Clearinghouse" within the Missouri senior prescription  
3 drug plan commission. The commission may submit requests for proposal for the  
4 third-party administration of the clearinghouse. The purpose of the clearinghouse shall  
5 include, but not be limited to:

6 (1) Assist all Missouri residents in accessing prescription drug programs;  
7 (2) Educate the public on quality drug programs and cost-containment strategies;  
8 (3) Serve as a resource for pharmaceutical benefit issues.

9 2. The administration of the clearinghouse shall include, but not be limited to:

10 (1) Providing a one-stop-shopping clearinghouse for all information for seniors  
11 regarding prescription drug coverage programs and health insurance issues;

12 (2) Targeting outreach and education including print and media, social service and  
13 health care providers to promote the program;

14 (3) Maintaining a toll-free telephone number staffed by trained customer service  
15 representatives;

16 (4) Providing the state with measurable data to identify the progress and success  
17 of the plan, including but not limited to, the number of individuals served, length and type  
18 of assistance, follow-up and plan evaluation; and

19 (5) Providing information on eligibility, enrollment, and benefits for the Missouri  
20 senior prescription drug plan on the department of health and senior services Internet web  
21 site.