

SECOND REGULAR SESSION

HOUSE BILL NO. 986

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MEADOWS (Sponsor), YAEGER, JOLLY, YOUNG,
FRASER AND BAKER (25) (Co-sponsors).

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STEPHEN S. DAVIS, Chief Clerk

3449L.01I

AN ACT

To repeal section 208.574, RSMo, and to enact in lieu thereof five new sections relating to the continuation of benefits for the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

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

Section A. Section 208.574, RSMo, is repealed and five new sections enacted in lieu thereof, to be known as sections 208.575, 208.577, 208.579, 208.581, and 208.583, to read as follows:

208.575. 1. For the purposes of sections 208.575 to 208.581, the following terms shall mean:

(1) "2006 standard drug benefit coverage gap", the difference between the 2006 annual out-of-pocket threshold as defined in Section 1860D-2.(a)(3)(A)(I) of P.L. 108-173, which is three thousand six hundred dollars and the amount of money an eligible senior would spend to meet the 2006 initial coverage limit as defined in Section 1860D-2.(a)(3)(B)(i)(1) of P.L. 108-173, which is two hundred fifty dollars plus the product of twenty-five hundredths multiplied by two thousand dollars, expressed mathematically as follows: $3600 - [250 + (.25 \times 2000)]$;

(2) "Eligible senior", any Missouri resident who is sixty-five years of age or older, and who is a participant in the Medicare Part D benefit, and whose income is:

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

12 (a) Equal to or greater than one hundred fifty percent of the federal poverty level
13 and less than two hundred percent of the federal poverty level; or

14 (b) Less than one hundred fifty percent of the federal poverty level and the
15 individual does not qualify for Medicare Part D low-income subsidies because the value of
16 the individual's assets exceeds that amount allowed for qualification pursuant to P.L. 108-
17 173.

18 (3) "Gap", the difference in prescription drug coverage incurred each year by an
19 eligible senior:

20 (a) After the eligible senior has incurred qualified prescription drug expenses equal
21 to the initial coverage limit as defined in the Medicare Prescription Drug, Improvement
22 and Modernization Act of 2003; and

23 (b) Before the eligible senior has incurred qualified prescription drug expenses
24 equal to the annual out-of-pocket threshold as defined in the Medicare Prescription Drug,
25 Improvement and Modernization Act of 2003;

26 (4) "Prescription drug plan (PDP) sponsors", providers who meet the requirements
27 as prescribed in section 1860D-12 of the Medicare Prescription Drug, Improvement and
28 Modernization Act of 2003, P.L. 108-173.

29 2. In order to fill the gap created due to the enactment of the Medicare Prescription
30 Drug, Improvement and Modernization Act of 2003, P.L. 108-173, the "Missouri Senior
31 Prescription Drug Plan" is established within the department of health and senior services.
32 The Missouri senior prescription drug plan shall be effective following notice to the revisor
33 of statutes by the Missouri senior prescription drug plan commission that the Medicare
34 Prescription Drug, Improvement and Modernization Act of 2003 has been fully
35 implemented.

36 3. The Missouri senior prescription drug plan is not an entitlement to replace the
37 Medicare Prescription Drug, Improvement and Modernization Act of 2003. Benefits shall
38 be limited to the level supported by the moneys explicitly appropriated under this section.
39 If in any fiscal year the commission projects that the total cost of the plan will exceed the
40 amount currently appropriated for the plan, the commission may request a supplemental
41 appropriation to fund the plan or may direct the prescription drug plan sponsor to
42 implement cost control measures to reduce the projected cost. Such cost control measures
43 may include, but are not limited to, increasing the coinsurance outlined in subsection 5 of
44 section 208.577. The Missouri senior prescription drug plan is a payer of last resort.

45 4. Subject to appropriations and other available funds, the Missouri senior
46 prescription drug plan shall pay seventy-five percent of the 2006 standard drug benefit
47 coverage gap of up to two thousand eight hundred fifty dollars, which shall not exceed two

48 thousand one hundred thirty-eight dollars, for each eligible senior in a plan year as defined
49 by the commission. The eligible senior shall pay the remaining amount of such
50 prescription drug expenses incurred.

51 5. Applications for the Missouri senior prescription drug plan will be conducted
52 jointly with applications for the Medicare Part D benefit. The enrollment period for the
53 state plan shall correspond with the enrollment period for the federal program as
54 prescribed in P.L. 108-173.

55 6. The Missouri senior prescription drug plan shall include and provide coverage
56 for only the prescription drugs that are covered in the prescription drug plan sponsors'
57 formulary under the Medicare Prescription Drug, Improvement and Modernization Act,
58 P.L. 108-173.

59 7. The Missouri senior prescription drug plan shall not include coverage of the
60 following drugs or classes of drugs, or their medical uses:

- 61 (1) Agents when used for anorexia or weight gain;
- 62 (2) Agents when used to promote fertility;
- 63 (3) Agents when used for cosmetic purposes or hair growth;
- 64 (4) Agents when used for the symptomatic relief of cough and colds;
- 65 (5) Prescription vitamins and mineral products, except prenatal vitamins and
66 fluoride preparations;
- 67 (6) Nonprescription drugs;
- 68 (7) Covered outpatient drugs which the manufacturer seeks to require as a
69 condition of sale that associated tests or monitoring services be purchased exclusively from
70 the manufacturer or its designee;
- 71 (8) Barbiturates;
- 72 (9) Benzodiazepines.

73 8. The Missouri senior prescription drug plan shall also exclude prescription drugs
74 which are not "reasonable and necessary" as defined under Section 1862(a) of P.L. 108-
75 173.

76 9. For the covered prescription drugs, the state shall not be charged an amount in
77 excess of the price charged under the federal benefit in P.L. 108-173.

208.577. 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 208.575. The commission shall consist of the
4 following twelve 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 department of health and senior services;

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

19 (7) A physician appointed by the governor with the advice and consent of the
20 senate;

21 (8) A representative from a senior advocacy group appointed by the governor with
22 the advice and consent of the senate;

23 (9) A representative from an area agency on aging appointed by the governor with
24 the advice and consent of the senate; and

25 (10) A representative from the pharmaceutical manufacturers industry as a
26 nonvoting member appointed by the president pro tem of the senate and the speaker of the
27 house of representatives.

28 2. Members appointed by the governor shall serve for three-year terms. Other
29 members, except legislative members, shall serve for as long as they hold the position which
30 made them eligible for appointment. Legislative members shall serve during their current
31 term of office but may be reappointed.

32 3. The commission shall elect a chair and may employ administrative staff as
33 necessary to assist in the performance of the commission's duties.

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

37 5. The commission shall have the authority to:

38 (1) Contract with prescription drug plan sponsors for the implementation and
39 administration of the Missouri senior prescription drug plan;

40 (2) Contract with prescription drug plan sponsors for the annual verification of
41 eligibility of applicants for the Missouri senior prescription drug plan;

- 42 (3) Adjust the fee payments for prescription drug plan sponsors;
43 (4) Set and adjust coinsurance at different amounts;
44 (5) Coordinate with the Missouri Senior Rx commission to avoid any duplication
45 in coverage and to ensure a smooth transition between the senior Rx program and the
46 Missouri senior prescription drug plan; and
47 (6) Perform any other function necessary for the implementation and
48 administration of the Missouri senior prescription drug plan.
- 49 6. The commission also shall apply to the United States Department of Health and
50 Human Services for any applicable federal waivers or public or private grants.
- 51 7. The commission shall have rulemaking authority for the implementation and
52 administration of sections 208.575 to 208.581. Any rule or portion of a rule, as that term
53 is defined in section 536.010, RSMo, that is created under the authority delegated in this
54 section shall become effective only if it complies with and is subject to all of the provisions
55 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter
56 536, RSMo, are nonseverable and if any of the powers vested with the general assembly
57 pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and
58 annul a rule are subsequently held unconstitutional, then the grant of rulemaking
59 authority and any rule proposed or adopted after August 28, 2006, shall be invalid and
60 void.
- 208.579. 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 and
9 (3) Serve as a resource for pharmaceutical benefit issues.
- 10 2. The administration of the clearinghouse shall include, but not be limited to:
- 11 (1) Providing a one-stop-shopping clearinghouse for all information for seniors
12 regarding prescription drug coverage programs and health insurance issues;
13 (2) Targeting outreach and education including print and media, social service and
14 health care providers to promote the program;
15 (3) Maintaining a toll-free 800-telephone number staffed by trained customer
16 service representatives;

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

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

208.581. 1. There is hereby created in the state treasury the "Missouri Senior
2 Prescription Drug Plan Fund", which shall consist of all moneys deposited in the fund
3 pursuant to sections 208.575 to 208.583 and all moneys which may be appropriated to it
4 by the general assembly, from federal or other sources.

5 **2.** The state treasurer shall administer the fund and credit all interest to the fund
6 and the moneys in the fund shall be used solely by the Missouri senior prescription drug
7 plan commission and the department of health and senior services for the implementation
8 of the Missouri senior prescription drug plan established in sections 208.575 to 208.583.

9 **3.** Notwithstanding the provisions of section 33.080, RSMo, to the contrary, moneys
10 in the fund shall not revert to the credit of the general revenue fund at the end of the
11 biennium.

208.583. The provisions of sections 208.575 to 208.581 shall be subject to
2 reauthorization every four years.

 [208.574. The provisions of sections 208.550 to 208.571 shall be
2 reauthorized every four years.]

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