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HUMAN RESOURCES

HOUSE FILE 375  
BY OSTERHAUS

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the establishment of a senior pharmaceutical  
2 assistance program and making an appropriation.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF-375

1 Section 1. NEW SECTION. 155B.1 IOWA SENIOR  
2 PHARMACEUTICAL CARE PROGRAM ESTABLISHED.

3 The Iowa senior pharmaceutical care program is established  
4 to provide a comprehensive pharmacy benefits plan for Iowa's  
5 Medicare-eligible population.

6 Sec. 2. NEW SECTION. 155B.2 DEFINITIONS.

7 As used in this chapter, unless the context otherwise  
8 indicates:

9 1. "Brand name" means brand name as defined in section  
10 155A.3.

11 2. "Department" means the Iowa department of public  
12 health.

13 3. "Federal poverty level" means the federal poverty level  
14 as defined by the most recently revised poverty income  
15 guidelines published by the United States department of health  
16 and human services.

17 4. "Generic name" means generic name as defined in section  
18 155A.3.

19 5. "Iowa senior pharmaceutical care program" or "program"  
20 means the Iowa senior pharmaceutical care program created in  
21 section 155B.1.

22 6. "Medical assistance" means medical assistance as  
23 defined in section 249A.2

24 7. "Medicare" means the federal Medicare program  
25 established by Title XVIII of the federal Social Security Act.

26 8. "Prescription drug" means a prescription drug as  
27 defined in section 155A.3 that is included in coverage under  
28 the medical assistance program and that is manufactured by a  
29 drug manufacturer that enters into a rebate agreement under  
30 this chapter.

31 9. "Prescription drug manufacturer" means a producer of a  
32 prescription drug product that is made available for  
33 distribution to consumers through licensed pharmacies in the  
34 state.

35 10. "Prescription drug order" means prescription drug

1 order as defined in section 155A.3.

2 11. "Program payment rate" means the maximum rate of  
3 payment allowed to participating pharmacies under the program,  
4 established as the lower of either the pharmacy's usual and  
5 customary charge or the average wholesale price minus ten  
6 percent plus a dispensing fee which dispensing fee represents  
7 the seventy-fifth percentile of dispensing fee charges by Iowa  
8 pharmacists to private-paying patients.

9 Sec. 3. NEW SECTION. 155B.3 PROGRAM ELIGIBILITY --  
10 BENEFIT LEVELS -- APPLICATION.

11 1. An individual may participate in the Iowa senior  
12 pharmaceutical care program if the individual meets all of the  
13 following criteria:

- 14 a. Is a resident of this state.
- 15 b. Is at least sixty-five years of age.
- 16 c. Is not a recipient of medical assistance or, as a  
17 recipient, does not receive prescription drug coverage.
- 18 d. Does not have third-party coverage of prescription  
19 drugs.
- 20 e. Pays the program enrollment fee, deductible, and  
21 copayment amount specified in this section, as applicable.

22 2. Program participants shall pay all of the following:

- 23 a. For each twelve-month benefit period, a program  
24 enrollment fee of twenty dollars.
- 25 b. (1) For an individual whose income is below one  
26 hundred sixty percent of the federal poverty level, a  
27 copayment of twenty dollars for each brand name prescription  
28 drug and a copayment of five dollars for each generic name  
29 prescription drug.

30 (2) For an individual whose income is between one hundred  
31 sixty percent and two hundred forty percent of the federal  
32 poverty level, a deductible for prescription drugs of five  
33 hundred dollars for each twelve-month benefit period, and  
34 following payment of the deductible amount, a copayment of  
35 twenty dollars for each brand name prescription drug and a

1 copayment of five dollars for each generic name prescription  
2 drug.

3 (3) For an individual whose income is above two hundred  
4 forty percent of the federal poverty level, a deductible for  
5 prescription drugs of one thousand dollars for each twelve-  
6 month benefit period, and following payment of the deductible  
7 amount, a copayment of twenty dollars for each brand name  
8 prescription drug and a copayment of five dollars for each  
9 generic prescription drug.

10 3. The department shall develop and distribute a form for  
11 application for the program, shall determine eligibility of  
12 applicants for each twelve-month period, and shall issue to  
13 program participants a prescription drug card for use in  
14 purchasing prescription drugs.

15 Sec. 4. NEW SECTION. 155B.4 CALCULATION OF CHARGES TO  
16 PROGRAM PARTICIPANTS -- PAYMENTS TO PHARMACISTS -- REBATES --  
17 PROGRAM ADMINISTRATION.

18 1. Beginning October 1, 2003, as a condition of  
19 participation by a pharmacy or pharmacist in the medical  
20 assistance program, the pharmacy or pharmacist shall not  
21 charge an individual who presents a valid prescription drug  
22 order and an Iowa senior pharmaceutical care program card in  
23 excess of the following, as applicable:

24 a. For an individual whose income is below one hundred  
25 sixty percent of the federal poverty level, the applicable  
26 copayment.

27 b. For an individual whose income is between one hundred  
28 sixty percent and two hundred forty percent of the federal  
29 poverty level, payment of the program payment rate prior to  
30 reaching the five hundred dollar deductible amount. Once the  
31 five hundred dollar deductible amount is reached, such an  
32 individual shall not be charged in excess of the applicable  
33 copayment.

34 c. For an individual whose income is above two hundred  
35 forty percent of the federal poverty level, payment of the

1 retail price prior to reaching the one thousand dollar  
2 deductible amount. Once the one thousand dollar deductible  
3 amount is reached, such an individual shall not be charged in  
4 excess of the applicable copayment.

5 2. The department shall calculate and transmit to  
6 pharmacies and pharmacists that are certified providers of  
7 medical assistance the amounts that may be used in calculating  
8 charges under subsection 1. The department shall periodically  
9 update this information and transmit the updated amounts to  
10 pharmacies and pharmacists.

11 3. The department shall, under a schedule that is  
12 identical to that used by the department for payment of  
13 pharmacy provider claims under the medical assistance program,  
14 provide to pharmacies and pharmacists payments for  
15 prescription drugs sold by the pharmacies or pharmacists to  
16 participants in the program. The department shall develop and  
17 distribute a claim form for use by pharmacies and pharmacists  
18 under this subsection and may limit payment under this  
19 subsection to those prescription drugs for which payment  
20 claims are submitted by pharmacists or pharmacies directly to  
21 the department.

22 4. Pharmacists shall be reimbursed for each prescription  
23 drug sold to a program participant at the program payment  
24 rate, minus any copayment paid by the individual. In order to  
25 determine the dispensing fee paid under the program payment  
26 rate, the university of Iowa college of pharmacy, department  
27 of pharmaceutical socioeconomics, shall conduct a survey to  
28 determine the seventy-fifth percentile level of dispensing fee  
29 charges by Iowa pharmacists to private-paying patients on an  
30 annual basis.

31 5. To ensure appropriate use of pharmaceuticals, the  
32 program shall reimburse pharmacists for medication therapy  
33 management services. The reimbursement system shall include  
34 coverage for both pharmaceutical case management services and  
35 event-based services as defined by rule of the department.

1 The department may adopt rules for the program that are the  
2 same as the utilization and cost control procedures that apply  
3 under the medical assistance program.

4 6. The department shall provide to a prescription drug  
5 manufacturer that sells prescription drugs for use in this  
6 state documents designed for use by the prescription drug  
7 manufacturer in entering into a rebate agreement with the  
8 department that is modeled on the rebate agreement specified  
9 under 42 U.S.C. § 1396r-8. A rebate agreement under this  
10 subsection shall include all of the following:

11 a. The prescription drug manufacturer shall make rebate  
12 payments for each prescription drug of the manufacturer that  
13 is prescribed for and purchased by individuals who meet  
14 program criteria.

15 b. The rebate amount shall be determined by a method  
16 specified in 42 U.S.C. § 1396r-8.

17 7. The department shall establish an advisory council to  
18 provide advice regarding program policies and directions. The  
19 director shall appoint to the advisory council three  
20 practicing pharmacists, three practicing physicians, one  
21 representative of the university of Iowa college of public  
22 health, one representative of the university of Iowa college  
23 of medicine, one representative of the university of Iowa  
24 college of pharmacy, and three members of the public who are  
25 representative of individuals sixty-five years of age or  
26 older.

27 8. The department, in consultation with the department of  
28 human services, shall include in the contract for the Medicaid  
29 drug utilization review commission a directive that the  
30 commission develop and implement utilization and cost control  
31 strategies. Cost-containment and quality assurance services  
32 shall include but are not limited to formulary development,  
33 utilization review and management, and provider and patient  
34 education. Additionally, the commission shall manage the  
35 rebate negotiation and collection processes under this

1 chapter.

2 10. The department shall monitor compliance by pharmacies  
3 and pharmacists that are certified providers of medical  
4 assistance with the requirements of this section and shall  
5 annually submit a report to the general assembly and the  
6 governor regarding compliance. The report shall include  
7 information on any pharmacies or pharmacists that discontinue  
8 participation as certified providers of medical assistance and  
9 the reasons provided for the discontinuance.

10 11. The department shall adopt rules to implement and  
11 administer this chapter. The department may contract with  
12 outside entities to administer the program including but not  
13 limited to contracting for rebate negotiation and collection  
14 processes, and pharmacy claims administration to provide for  
15 electronic, point-of-service claims adjudication.

16 Sec. 5. NEW SECTION. 155B.5 IOWA SENIOR PHARMACEUTICAL  
17 CARE PROGRAM FUND.

18 There is created in the state treasury an Iowa senior  
19 pharmaceutical care program fund under the authority of the  
20 Iowa department of public health. Program enrollment fees and  
21 any other moneys appropriated to or collected by the program  
22 shall be deposited in the fund and are appropriated to the  
23 department to carry out the purposes and requirements of this  
24 chapter. Amounts deposited in the fund shall not be  
25 transferred, used, obligated, appropriated, or otherwise  
26 encumbered except as provided in this chapter.

27 Notwithstanding section 8.33, any unexpended balance in the  
28 fund at the end of the fiscal year shall be retained in the  
29 fund. Notwithstanding section 12C.7, subsection 2, interest  
30 or earnings on moneys deposited into the fund shall be  
31 credited to the fund. Amounts deposited in the fund that  
32 remain unexpended or unencumbered at the close of the fiscal  
33 year shall remain in the fund for utilization as provided in  
34 this section for the following fiscal year.

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EXPLANATION

1 This bill establishes an Iowa senior pharmaceutical care  
2 program to provide coverage for prescription drugs for  
3 individuals 65 years of age or older who meet certain other  
4 program criteria. The prescription drugs for which coverage  
5 is provided under the program are prescription drugs covered  
6 under the medical assistance program for which a prescription  
7 drug manufacturer has entered a rebate agreement with the Iowa  
8 department of public health. The bill provides that as a  
9 condition of participation in the medical assistance program,  
10 a pharmacy or pharmacist must participate in the Iowa senior  
11 pharmaceutical care program.

12 Under the program, eligible individuals would pay an annual  
13 program enrollment fee of \$20, a copayment, and for those  
14 individuals with incomes of 160 percent of the federal poverty  
15 level and above, an annual deductible amount based on income.  
16 The bill directs the Iowa department of public health to  
17 develop and distribute a form for application for the program,  
18 determine eligibility of applicants, and issue prescription  
19 drug cards for use in purchasing prescription drugs under the  
20 program.

21 The bill provides for the calculation of charges to program  
22 participants by participating pharmacies and pharmacists and  
23 directs the department to calculate and transmit to pharmacies  
24 and pharmacists the amounts to be used in calculating the  
25 charges. The bill provides for payment of participating  
26 pharmacies and pharmacists based on a program payment rate,  
27 minus any copayment paid by the participant. The program also  
28 provides for reimbursement to pharmacists for medication  
29 therapy management services. The bill also authorizes the  
30 department to adopt rules for the program that are the same as  
31 the utilization and cost control procedures that apply under  
32 the medical assistance program.

33 The bill directs the department to provide to a  
34 prescription drug manufacturer that sells prescription drugs  
35 for use in this state documents designed for use by the



1 manufacturer in entering into a rebate agreement with the  
2 department that is modeled on the rebate agreement specified  
3 under federal law. The rebate agreement is to include that  
4 the manufacturer make rebate payments for each prescription  
5 drug of the manufacturer that is prescribed for and purchased  
6 by individuals who meet program criteria and that the rebate  
7 amount shall be determined by a method specified in federal  
8 law.

9 The bill directs the department to establish an advisory  
10 council to provide advice regarding program policies and  
11 directions. The bill also directs the department to include  
12 in the contract for the Medicaid drug utilization review  
13 commission a directive that the commission develop and  
14 implement utilization and cost control strategies. Cost-  
15 containment and quality assurance services are to include  
16 formulary development, utilization review and management, and  
17 provider and patient education.

18 The bill directs the department to monitor compliance by  
19 pharmacies and pharmacists with the requirements of the bill  
20 and to submit an annual report to the general assembly and the  
21 governor regarding compliance. The bill directs the  
22 department to adopt rules to implement and administer the  
23 bill.

24 The bill creates in the state treasury an Iowa senior  
25 pharmaceutical care program fund under the authority of the  
26 department. Program enrollment fees and any other moneys  
27 appropriated to or collected by the program are to be  
28 deposited in the fund and are appropriated to the department  
29 to carry out the purposes and requirements of the bill.

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