

By Mr. Kollios of Millbury, petition of Paul Kollios, Carmen D. Buell and David P. Magnani relative to establishing a prescription assistance program for elderly and disabled persons. Human Services and Elderly Affairs.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Eighty-Nine.

AN ACT TO ESTABLISH A PRESCRIPTION ASSISTANCE PROGRAM FOR ELDERS  
AND THE DISABLED.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 19A of the General Laws is hereby amended by  
2 inserting at the end thereof the following new sections: —

3 Section 36A. The secretary shall, within five months of  
4 enactment, establish rules and regulations for the purpose of  
5 implementing a two year pilot prescription assistance program to  
6 provide limited assistance, herein specified, to certain low income  
7 elderly and disabled persons, hereinafter referred to as eligible  
8 claimants, for the purchase from participating pharmacies of  
9 certain prescription products, hereinafter referred to as allowable  
10 prescription products, for which reimbursement is not provided  
11 under the federal Medicare program.

12 For the purpose of this section and sections 36B to 36D,  
13 inclusive, the following words and phrases shall have the following  
14 meanings unless the context clearly indicates otherwise:

15 "Prescription assistance program." The program established  
16 herein and further defined in sections 36B to 36D, inclusive,  
17 providing for the provision of limited assistance to certain low  
18 income elderly and disabled persons for the purchase of certain  
19 prescription products.

20 "Department." The executive office of elder affairs.

21 "Eligible claimant." A resident of the Commonwealth sixty-five  
22 years of age or older, or disabled within the definition of Title

23 XVI of the Social Security Act, whose annual income is less than  
24 the maximum annual income specified herein, who is not a  
25 recipient of medical assistance under the provisions of chapter  
26 118E, and who does not have comparable coverage for  
27 prescription drugs under any private health insurance plan in  
28 which he is enrolled.

29 “Resident.” A person legally domiciled within the Common-  
30 wealth for a period of at least one hundred eighty-three days  
31 immediately preceding the date of application for participation  
32 in the prescription assistance program.

33 “Income.” The adjusted gross income as defined in the internal  
34 revenue code of the United States. Persons who have not filed  
35 a federal income tax return shall be presumed to have incomes  
36 within the guidelines established for participation in the  
37 prescription assistance program. A copy of an applicant’s federal  
38 income tax return for the most recently completed calendar year,  
39 or a notarized statement affirming that the applicant did not file  
40 such a return, or documentation of said applicant’s income  
41 provided by an agent of the Commonwealth’s home care program,  
42 established elsewhere in this Chapter, shall be deemed sufficient  
43 evidence of said applicant’s income for the purpose of the  
44 prescription assistance program.

45 “Maximum annual income.” Annual income equal to one  
46 hundred twenty-five percent of the non-farm official poverty line  
47 as prescribed by the United States office of management and  
48 budget.

49 “Participating pharmacy.” A pharmacy licensed by the  
50 Commonwealth that agrees to participate in the prescription  
51 assistance program established pursuant to the provisions of this  
52 section and sections 36B to 36D, inclusive, thereby agreeing to  
53 accept as payment-in-full the sum of the claimant copayment and  
54 contractor payment provided under the provisions thereto.

55 “Allowable prescription product.” Insulin, insulin syringes and  
56 needles, and all other pharmaceutical products and prescription  
57 drugs which are considered reimbursable by the department of  
58 public welfare as a pharmaceutical benefit provided to recipients  
59 of medical assistance under the provisions of chapter 118E.  
60 Pursuant to section 12D of chapter 112, as most recently amended  
61 by chapter 678 of the Acts of 1986, except in cases where the



62 prescribing practitioner has indicated "no substitution", the term  
63 "allowable prescription product" shall refer to, and participating  
64 pharmacies shall be required to dispense, a less expensive,  
65 reasonably available, interchangeable drug product as allowed by  
66 the most current formulary or supplement thereof. The maximum  
67 dosage dispensed under any allowable prescription shall be equal  
68 to the maximum dosage allowed by the medical assistance  
69 program pursuant to the provisions of chapter 118E.

70 "Copayment." A payment made by an eligible claimant to a  
71 participating pharmacy in the amount of one third of the  
72 allowable cost of the allowable prescription product.

73 "Allowable cost." The total payment — including copayment  
74 — to be made to participating pharmacies dispensing allowable  
75 prescriptions. The allowable cost, including the dispensing fee,  
76 shall be equivalent to payments made by the department of public  
77 welfare for identical services provided to recipients of medical  
78 assistance under the provisions of chapter 118E.

79 "Private contractor." A private corporation or other  
80 organization which agrees to contract with the department to  
81 implement the prescription assistance program, insofar as such  
82 implementation shall include the determination of applicant  
83 eligibility; the distribution to eligible applicants of a program  
84 identification card to be used by eligible claimants in charging the  
85 reimbursable portion of the allowable cost of allowable  
86 prescriptions to the program; the processing and payment within  
87 twenty-one days of submission of claims submitted by  
88 participating pharmacies; the preparation of statistical reports  
89 requested by the department; the recovery of insurance payments  
90 from insurers of claimants; the conduct of periodic audits of  
91 participating pharmacies and claimant utilization of the program;  
92 and any additional responsibilities agreed upon as part of its  
93 contract with the department.

94 Section 36B. The department shall, within five months of  
95 enactment, prepare a request for proposals for the purpose of  
96 selecting a private contractor to implement the prescription  
97 assistance program as defined sections 36A to 36D, inclusive; shall  
98 select such a contractor from among the proposals thereby  
99 received within thirty days of the submission deadline, which  
100 deadline shall be sixty days after the publication of the request

101 for proposals; and shall require that said contractor shall be  
102 responsible for implementing said program within one hundred  
103 twenty days of selection by the department.

104 Section 36C. The department shall maintain monthly  
105 statistical records of the prescription assistance program to  
106 effectively determine the cost, levels of participation, and drug  
107 utilization patterns. The department shall submit and make public  
108 quarterly reports to the house and senate committees on ways and  
109 means and the joint committee on human services and elderly  
110 affairs which shall contain, but not be limited to, information  
111 relating to the number of persons served by the program, the  
112 numbers and kinds of prescription products purchased and their  
113 cost, and an estimate of the actual expenses incurred by  
114 participating pharmacies. The department shall contract for an  
115 independent evaluation of the program after fifteen months of  
116 implementation. Said independent evaluation shall include  
117 voluntary testimony from eligible claimants, participating  
118 pharmacies, agents of the contractor, prescribing practitioners,  
119 representatives of the provider and recipient communities, and  
120 other interested persons. The department shall require and review  
121 for the purpose of identifying possible abuses of the program  
122 reports detailing individual claimant and provider participation  
123 in the program.

124 Section 36D. Any person who submits a false or fraudulent  
125 claim for reimbursement by the prescription assistance program;  
126 or who aids or abets another in the submission of such a false  
127 or fraudulent claim; or who is eligible under a private, state, or  
128 federal program for reimbursement of prescription costs and who  
129 claims and receives duplicate benefits hereunder, or who otherwise  
130 violates any provision of this act shall be barred from future  
131 participation in this program. The license of any provider found  
132 guilty of intentional violations of the provisions of section 36A  
133 to 36D, inclusive, of this chapter shall be suspended for a period  
134 of not less than one year. Said provider shall be liable for the  
135 repayment of an amount not to exceed three times the value of  
136 the material gain made possible by violation of these sections. The  
137 department shall refer to the office of the attorney general all cases  
138 of suspected provider or claimant violation of the provisions of  
139 these sections for investigation and possible criminal prosecution.