

By Mr. Herren of Fall River, petition of Albert Herren relative to establishing a prescription assistance program for elderly and disabled persons. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO ESTABLISHING A PRESCRIPTION ASSISTANCE PROGRAM FOR ELDERLY AND DISABLED PERSONS.

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 six 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.

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

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

19 “Department.” The executive office of elder affairs.

20 “Eligible claimant.” A resident of the Commonwealth sixty-five
21 years of age or older, or disabled within the definition of Title XVI
22 of the Social Security Act, whose annual income is less than the

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

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

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

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

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

53 "Allowable prescription products." Insulin, insulin syringes and
54 needles, and all other pharmaceutical products and prescription
55 drugs which are considered reimbursable by the department of
56 public welfare as a pharmaceutical benefit provided to recipients
57 of medical assistance under the provisions of chapter 118E.
58 Pursuant to section 12D of chapter 112, as most recently amended
59 by chapter 678 of the Acts of 1986, except in cases where the
60 prescribing practitioner has indicated "no substitution", the term

61 “allowable prescription product” shall refer to, and participating
62 pharmacies shall be required to dispense, a less expensive,
63 reasonably available, interchangeable drug product as allowed by
64 the most current formulary or supplement thereof. The maximum
65 dosage dispensed under any allowable prescription shall be equal
66 to the maximum dosage allowed by the medical assistance
67 program pursuant to the provisions of chapter 118E.

68 “Copayment.” A payment made by an eligible claimant to a
69 participating pharmacy in the amount of one-third of the
70 allowable cost of the allowable prescription product.

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

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

91 Section 36B. The department shall, within five months of
92 enactment, prepare a request for proposals for the purpose of
93 selecting a private contractor to implement the prescription assis-
94 tance program as defined in sections 36A to 36D, inclusive; shall
95 select such a contractor from among the proposals thereby
96 received within thirty days of the submission deadline, which dead-
97 line shall be sixty days after the publication of the request for
98 proposals; and shall require that said contractor shall be respon-

99 sible for implementing said program within one hundred twenty
100 days of selection by the department.

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

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