

HOUSE BILL NO. 44

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE GUTTENBERG

Introduced: 1/18/11

Referred: Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the Alaska prescription drug program, including negotiated**
2 **discounts or rebates for prescription drugs and a prescription drug card program to**
3 **provide discounts for prescription drugs; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 FINDINGS AND PURPOSE. (a) The legislature finds that

8 (1) many uninsured and underinsured residents require repeated doctor or
9 medical clinic appointments and have become sicker because they cannot afford to take the
10 drugs prescribed for them; many are admitted to or treated at hospitals each year because they
11 cannot afford the drugs prescribed for them that could have prevented the need for
12 hospitalization; others enter expensive institutional care settings because they cannot afford
13 the prescription drugs that could have supported them outside of an institution; in each of
14 these circumstances, uninsured and underinsured residents too often become medical

1 assistance recipients because of their inability to afford prescription drugs; therefore, helping
 2 to secure lower drug prices for the uninsured and underinsured directly benefits and supports
 3 medical assistance; and

4 (2) state government is the only entity that, as a practical matter, can play an
 5 effective role as a market participant on behalf of all residents who are uninsured or
 6 underinsured or are medical assistance beneficiaries; the state already provides drugs and acts
 7 as a prescription benefits manager for a variety of programs and should expand that role to
 8 negotiate voluntary drug rebates and, subject to appropriation, use the rebates to maintain and
 9 expand medical assistance services while offering lower drug prices to the underinsured and
 10 the uninsured who do not qualify for medical assistance.

11 (b) Recognizing that the state already acts as a prescription benefits manager for a
 12 variety of health plans and assistance programs, the purpose of this Act is to cover new
 13 populations by expanding the state's role as a participant in the prescription drug marketplace,
 14 negotiating voluntary rebates from drug companies, and, subject to appropriation, using the
 15 rebates to make prescription drugs more affordable to the medical assistance program and to
 16 state residents. This program will improve public health and welfare, promote the economic
 17 strength of the state's communities, and directly and indirectly benefit the medical assistance
 18 program.

19 * **Sec. 2.** AS 17 is amended by adding a new chapter to read:

20 **Chapter 25. Alaska Prescription Drug Program.**

21 **Sec. 17.25.010. Alaska prescription drug program.** (a) The Alaska
 22 prescription drug program is established in the Department of Health and Social
 23 Services. The purpose of the program is to

- 24 (1) purchase prescription drugs at discount prices;
 25 (2) reimburse participating pharmacies for prescription drug rebates
 26 obtained;
 27 (3) increase the availability of prescription drugs at the lowest possible
 28 cost to program participants; and
 29 (4) maintain a list of prescription drugs recommended as the most
 30 effective prescription drug available at the lowest price.

31 (b) The commissioner shall appoint an administrator of the program. The

1 administrator may contract with a qualified nonprofit entity to the extent necessary to
2 assist with negotiations with prescription drug manufacturers. In addition, the
3 administrator shall

4 (1) negotiate price discounts and rebates on prescription drugs with
5 prescription drug manufacturers;

6 (2) contract with prescription drug wholesalers and retail pharmacies
7 to deliver discounted prices to Alaska prescription drug card holders;

8 (3) purchase prescription drugs on behalf of individuals and entities
9 that participate in the program;

10 (4) contract with a prescription drug claims processor to adjudicate
11 participating pharmacy claims and to transmit program prices to participating
12 pharmacies;

13 (5) determine program prices;

14 (6) reimburse participating pharmacies for rebates due under the
15 program;

16 (7) implement the preferred drug list for the program;

17 (8) develop a system for allocating and distributing operational costs
18 and rebates from the program to program participants;

19 (9) cooperate with other states and regional consortia to make bulk
20 purchases of prescription drugs;

21 (10) establish and implement a mechanism to calculate and timely
22 transmit the program prices for prescription drugs to a participating pharmacy;

23 (11) recommend for adoption by the commissioner terms and
24 conditions for a participating pharmacy to enroll in the program.

25 (c) The administrator of the program may not contract with a participating
26 pharmacy benefits manager, establish a state managed wholesale or retail drug
27 distribution or dispensing system, or require a participating pharmacy to maintain or
28 allocate separate inventories for prescription drugs dispensed under the program.

29 (d) Reimbursement rates and prescription drug prices may be different for a
30 rural area and an urban area if the difference is necessary to maintain statewide access
31 to the program.

1 (e) The commissioner shall adopt regulations necessary to carry out the
2 purposes of the program.

3 **Sec. 17.25.020. Application; eligibility.** The department shall establish an
4 annual application procedure and a nominal fee for participation in the program
5 established under AS 17.25.010. An applicant must be

6 (1) a state or local government agency that directly or indirectly
7 purchases prescription drugs;

8 (2) a facility operated by the state that dispenses prescription drugs;

9 (3) a private entity;

10 (4) a labor organization; or

11 (5) an uninsured resident of the state who has not been covered under a
12 prescription drug benefit program for at least six months before filing an application.

13 **Sec. 17.25.030. Alaska prescription drug card.** (a) The department shall
14 issue a prescription drug card annually to participants in the Alaska prescription drug
15 program. Presentation of a current prescription drug card issued under this section
16 entitles the participant to purchase prescription drugs at the price of prescription drugs
17 established under the program plus a professional dispensing fee set by the
18 department.

19 (b) A card issued under this section must contain information necessary to
20 process a claim and to transmit pricing data.

21 **Sec. 17.25.035. Preferred drug list.** The commissioner shall develop, in
22 cooperation with the state Board of Pharmacy, a preferred drug list that identifies
23 preferred choices of prescription drugs within therapeutic classes for particular
24 diseases and conditions, including generic alternatives, for use in the program
25 established under this chapter. The commissioner shall conduct public hearings and
26 use evidence-based evaluations on the effectiveness of similar prescription drugs to
27 develop the drug list.

28 **Sec. 17.25.300. Definitions.** In this chapter,

29 (1) "commissioner" means the commissioner of health and social
30 services;

31 (2) "department" means the Department of Health and Social Services;

1 (3) "manufacturer" means a manufacturer of prescription drugs, as
2 defined in 42 U.S.C. 1396r-8, including a subsidiary or affiliate of a manufacturer;

3 (4) "participating pharmacy" means a retail pharmacy or other business
4 licensed to dispense prescription drugs in this state that

5 (A) participates in the state medical assistance program; or

6 (B) voluntarily agrees to participate in the Alaska prescription
7 drug program.

8 * **Sec. 3.** AS 37.05.146(c) is amended by adding a new paragraph to read:

9 (87) receipts of the Alaska prescription drug program under
10 AS 17.25.010.

11 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 TRANSITION: REGULATIONS. The commissioner of health and social services
14 may proceed immediately to adopt regulations necessary to carry out the purposes of this Act,
15 including procedures for issuing prescription drug cards under AS 17.25.030, added by sec. 2
16 of this Act, and for enrolling participating pharmacies in the Alaska prescription drug
17 program. The regulations may not take effect until the effective date of this section.

18 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 ALASKA PRESCRIPTION DRUG PROGRAM; REPORT. The Department of
21 Health and Social Services shall, not later than January 1, 2012, report to the Joint Health and
22 Social Services Committee the preparations taken by the department to implement the Alaska
23 prescription drug program established under AS 17.25.010 - 17.25.300, added by sec. 2 of this
24 Act. The report must include

25 (1) the number of individuals and entities that the department expects to enroll
26 in the program;

27 (2) the number of persons for whom the department expects to purchase
28 prescription drugs;

29 (3) how the department expects the program to affect prescription drug prices
30 for participants in the programs;

31 (4) the regulations proposed or adopted by the department to implement the

1 program;

2 (5) the feasibility and advisability of expanding the program; and

3 (6) a plan to expand the program if the department determines that expansion
4 is feasible and advisable.

5 * **Sec. 6.** Sections 2 and 3 of this Act take effect May 31, 2012.

6 * **Sec. 7.** Except as provided in sec. 6 of this Act, this Act takes effect immediately under
7 AS 01.10.070(c).