

HOUSE BILL NO. 2340

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE GOSEN.

5546H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 208, RSMo, by adding thereto seven new sections relating to the Missouri Rx card program, with an emergency clause.

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

Section A. Chapter 208, RSMo, is amended by adding thereto seven new sections, to be known as sections 208.585, 208.587, 208.589, 208.591, 208.593, 208.595, and 208.597, to read as follows:

208.585. As used in sections 208.585 to 208.597, the following terms mean:

(1) "Department", the department of social services;

(2) "Director", the director of the department of social services;

(3) "Manufacturer", a manufacturer of prescription drugs, as defined in 42 U.S.C. Section 1396r-8(k)(5), including a subsidiary or affiliate of a manufacturer;

(4) "Participating retail pharmacy", a retail pharmacy or other business licensed to dispense prescription drugs in this state that participates in the MO HealthNet program or voluntarily agrees to participate in the Missouri Rx card program;

(5) "Third-party administrator", a private party contracted to administer the Missouri Rx card program established in section 208.587 and whose duties may include, but are not limited to, devising applications, enrolling members, and administration of prescription drug benefits;

(6) "Wholesaler", a business licensed under chapter 338 to distribute prescription drugs in this state.

208.587. 1. There is hereby established within the department the "Missouri Rx Card Program" as a state pharmaceutical assistance program under 42 U.S.C. Section

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.

3 1396r-8(c)(1)(C)(i)(III) to provide discounts to participants for drugs covered by a rebate
4 agreement established under section 208.589. Using sums from negotiated rebates, the
5 department shall contract with wholesalers or participating retail pharmacies to deliver
6 discounted prices to the Missouri Rx card participants.

7 2. The drug discounts received by Missouri Rx card participants shall be calculated
8 by the director on a quarterly basis. Such calculation shall provide discounts
9 approximately equal to the amount of the negotiated drug rebate minus an amount to cover
10 the reasonable administrative costs of the Missouri Rx card program.

11 3. Except as otherwise provided for under subsection 4 of this section, any person
12 who is a resident of this state and is eligible for participation in the Medicare program or
13 has a net family income below three hundred percent of the federal poverty level is eligible
14 to participate in the Missouri Rx card program.

15 4. A person shall be ineligible to participate in the Missouri Rx card program if
16 such person is eligible for assistance under the MO HealthNet program or is covered by
17 an insurance policy that provides benefits for prescription drugs equal to or greater than
18 the benefits provided under the Missouri Rx card program, as delineated by rules
19 promulgated by the department.

20 5. The department shall establish simple procedures for enrolling Missouri Rx card
21 participants and shall implement outreach efforts to increase public awareness of the
22 program and maximize enrollment by eligible residents.

23 6. The department shall solicit requests for proposals from private contractors for
24 the third-party administration of the program.

25 7. Administration of the program shall include, but not be limited to, devising
26 program applications, enrolling participants, and administration of prescription drug
27 benefits. The department shall select a responsive cost-effective bid from the requests for
28 proposals; except that, if no responsive cost-effective bids are received, the program shall
29 be administered by the department.

208.589. 1. The director shall negotiate discount prices or rebates for prescription
2 drugs from drug manufacturers and labelers. A drug manufacturer or labeler that sells
3 prescription drugs in this state may voluntarily elect to negotiate:

4 (1) Rebates for the MO HealthNet program over and above those required under
5 42 U.S.C. Section 1396r-8;

6 (2) Discount prices or rebates for the Missouri Rx card program; and

7 (3) Discount prices or rebates for any other state program that pays for or acquires
8 prescription drugs.

9 2. In negotiating rebate terms, the director shall take into consideration:

10 (1) The rebate calculated under the rebate program under 42 U.S.C. Section
11 1396r-8;

12 (2) The price provided to eligible entities under 42 U.S.C. Section 256b; and

13 (3) Any other available information on prescription drug prices, discounts, and
14 rebates.

15 3. (1) The director shall initiate a review of whether to place a manufacturer's or
16 labeler's products on the prior authorization list for the MO HealthNet program and take
17 similar actions involving prior authorization or formularies for any other state-funded or
18 operated prescription drug program if:

19 (a) The director and a drug manufacturer or labeler fail to reach agreement on the
20 terms of a supplemental MO HealthNet rebate or a discount or rebate for the Missouri Rx
21 card program; and

22 (b) The discounts or rebates offered by the manufacturer or labeler are not as
23 favorable to the state as the prices provided to eligible entities under 42 U.S.C. Section
24 256b.

25 (2) Any prior authorization shall meet the requirements of 42 U.S.C. Section
26 1396r-8(d)(5) and this chapter. The director shall promulgate rules establishing clear
27 procedures for the implementation of this section.

28 (3) The names of manufacturers and labelers that do not enter into rebate
29 agreements are public information. The department shall release such information to the
30 public and actively distribute such information to its physicians, pharmacists, and other
31 health care professionals.

208.591. The department may require prior authorization of pharmaceutical
2 products. Any such restriction may be based on medical and clinical criteria,
3 Missouri-specific data, or the manufacturer's refusal to participate in the Missouri Rx card
4 program.

208.593. 1. The department shall adopt rules requiring disclosure by participating
2 retail pharmacies to the Missouri Rx card program participants of the amount of savings
3 provided as a result of the program. Such rules shall protect information that is
4 proprietary in nature.

5 2. A participating retail pharmacy shall verify to the department the amounts
6 charged to Missouri Rx card program participants and shall provide the department with
7 utilization data necessary to calculate rebates from manufacturers and labelers. The
8 department shall protect the confidentiality of all information subject to confidentiality
9 protection under state or federal law, rule, or regulation. The department shall not impose

10 transaction charges on wholesalers or participating retail pharmacies that submit claims
11 or receive payments under the program.

12 3. Participating retail pharmacies shall be reimbursed by the department on a
13 bimonthly basis, including a dispensing fee that does not exceed seventy-five percent of the
14 MO HealthNet dispensing fee.

208.595. 1. The department shall report the enrollment and financial status of the
2 Missouri Rx card program to the general assembly by February first of each year.

3 2. The director may combine drug pricing negotiations to maximize drug rebates
4 if the director finds that it is beneficial to both the Missouri Rx card program and another
5 state program, including the MO HealthNet program.

6 3. The department shall adopt rules to implement the provisions of sections 208.585
7 to 208.597. Any rule or portion of a rule, as that term is defined in section 536.010, that is
8 created under the authority delegated in this section shall become effective only if it
9 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
10 section 536.028. Sections 208.585 to 208.597 and chapter 536 are nonseverable, and if any
11 of the powers vested with the general assembly pursuant to chapter 536 to review, to delay
12 the effective date, or to disapprove and annul a rule are subsequently held
13 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
14 after the effective date of this section shall be invalid and void.

15 4. The department may seek waivers of federal law, rule, or regulation necessary
16 to implement the provisions of sections 208.585 to 208.597.

208.597. Discounts to participants in the Missouri Rx card program shall begin by
2 July 1, 2016.

Section B. Because immediate action is necessary to provide adequate pharmaceutical
2 treatment for the residents of this state section A of this act is deemed necessary for the
3 immediate preservation of the public health, welfare, peace, and safety, and is hereby declared
4 to be an emergency act within the meaning of the constitution, and section A of this act shall be
5 in full force and effect upon its passage and approval.

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