

SUBSTITUTE FOR  
SENATE BILL NO. 1278

A bill to create certain prescription programs relating to the elderly; to enhance access to prescription drugs to certain elderly residents of the state; to prescribe the powers and duties of certain state departments and agencies; to make appropriations; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. (1) This act shall be known and may be cited as the  
2 "elder prescription insurance coverage act".

3       (2) It is the intent of the legislature that the EPIC pro-  
4 gram defray the cost of obtaining medically necessary prescrip-  
5 tion drugs by elderly Michigan residents under the conditions  
6 specified in this act.

7       (3) Subject to annual appropriations, the elder prescription  
8 insurance coverage program is established within the department  
9 of community health.

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1       Sec. 2. As used in this act:

2       (a) "Department" means the department of community health.

3       (b) "EPIC program" means the elder prescription insurance  
4 coverage program created in section 3.

5       (c) "Federal poverty guidelines" means the poverty guide-  
6 lines updated annually in the federal register by the United  
7 States department of health and human services under authority of  
8 42 U.S.C. 9902(2).

9       (d) "Household income" means all income received by all per-  
10 sons of a household in a tax year while members of a household.

11       (e) "Medicaid" means the program for medical assistance  
12 established under title XIX of the social security act, chapter  
13 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6,  
14 and 1396r-8 to 1396v, and administered by the department under  
15 the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

16       (f) "MEPPS" means the Michigan emergency pharmaceutical pro-  
17 gram for seniors.

18       (g) "Michigan resident" means an individual who establishes  
19 residence for a period of 3 months in a settled or permanent home  
20 or domicile within the state with the intention of remaining in  
21 this state. An individual is a resident until the individual  
22 establishes a permanent residence outside this state.

23       (h) "Prescription" and "prescription drug" mean those terms  
24 as defined in section 17708 of the public health code, 1978 PA  
25 368, MCL 333.17708.

26       Sec. 3. (1) A noninstitutionalized Michigan resident 65  
27 years old or older, with a household income at or below 200% of

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1 the federal poverty guidelines, who is not currently a medicaid  
2 recipient, is eligible to enroll in the EPIC program.

3 (2) The department shall give initial enrollment priority to  
4 applicants who in the 12 months preceding the effective date of  
5 this act participated in the MEPPS. A second enrollment priority  
6 will be afforded to applicants with annual household incomes up  
7 to 150% of the federal poverty guidelines who did not participate  
8 in the MEPPS program. Applicants with incomes above 150% and up  
9 to 200% of the federal poverty guidelines will be enrolled con-  
10 tingent upon available money.

11 (3) An individual or married couple meeting the basic eligi-  
12 bility criteria established in subsection (1) may apply for  
13 enrollment in the EPIC program as follows:

14 (a) Submit an annual application to the department, or the  
15 department's designee, that attests to the age, residence, and  
16 household income of the individual applicant or couple, if  
17 married. A nonrefundable administrative fee must be included  
18 with the application. For the initial year of operation, the  
19 administrative fee is \$25.00. For subsequent years, the amount  
20 of the administrative fee may be established by the legislature.

21 (b) Upon notification of eligibility, the enrollee may  
22 access the EPIC program by meeting the cost-sharing obligation  
23 through a monthly deductible calculated based on 1 of the  
24 following:

25 (i) If the applicant's household income is at or below 100%  
26 of the federal poverty guidelines, the monthly deductible is 1/12

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1 of 1% of household income as established during the annual  
2 application process.

3       (ii) If the applicant's household income is at or below 125%  
4 but greater than 100% of the federal poverty guidelines, the  
5 monthly deductible is 1/12 of 2% of household income as estab-  
6 lished during the annual application process.

7       (iii) If the applicant's household income is at or below  
8 150% but greater than 125% of the federal poverty guidelines, the  
9 monthly deductible is 1/12 of 3% of household income as estab-  
10 lished during the annual application process.

11       (iv) If the applicant's household income is at or below 175%  
12 but greater than 150% of the federal poverty guidelines, the  
13 monthly deductible is 1/12 of 4% of household income as estab-  
14 lished during the annual application process.

15       (v) If the applicant's household income is at or below 200%  
16 but greater than 175% of the federal poverty guidelines, the  
17 monthly deductible is 1/12 of 5% of household income as estab-  
18 lished during the annual application process.

19       (4) Subsequent to enrollment in the EPIC program, an appli-  
20 cant who has a household income at or below 100% of the federal  
21 poverty guidelines shall be referred to the local family indepen-  
22 dence agency for assessment of eligibility for medicaid. Nothing  
23 in this subsection shall be construed as mandating that an appli-  
24 cant found eligible for medicaid must enroll in that program in  
25 lieu of enrollment in the EPIC program.

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1 Sec. 4. (1) The department shall establish an expedited  
2 enrollment process if an otherwise eligible EPIC applicant  
3 immediately needs to obtain a medically necessary prescription.

4 (2) The department shall give an applicant enrolled under  
5 subsection (1) a temporary EPIC program eligibility card that is  
6 valid for not more than 1 month from the issue date.

7 (3) For the initial year of operation, the department shall  
8 allocate up to \$3,000,000.00 of the total EPIC program appropria-  
9 tion to be used to provide emergency prescription vouchers if  
10 enrollment in the program is suspended as authorized under sec-  
11 tion 8(c). Eligibility requirements for emergency vouchers shall  
12 not be more restrictive than the requirements established for the  
13 Michigan emergency pharmaceutical program for seniors previously  
14 funded in the annual appropriation for the department.

15 Sec. 5. Except as otherwise specified in section 8, if an  
16 enrollee chooses to have a prescription filled with a brand name  
17 drug when a recognized generic drug is available, a copayment is  
18 required. For the initial year of operation, the copayment  
19 amount is \$15.00. For subsequent years, the amount of a copay-  
20 ment applied under this section may be established by the  
21 legislature. **Nothing in this section shall be construed as allowing**  
22 **therapeutic substitution.** This section does not apply to a  
23 **prescription** marked as "dispense as written".

24 Sec. 6. In providing program benefits, the department may  
25 do all of the following:

26 (a) Enter into a contract with a private individual,  
27 corporation, or agency to manage the EPIC program.

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1 (b) Take measures necessary to obtain the best available  
2 quarterly pharmaceutical manufacturer rebate.

3 (c) Use procedures and rebate amounts specified under sec-  
4 tion 1927 of title XIX of the social security act, 42  
5 U.S.C. 1396r-8, to obtain quarterly rebates from pharmaceutical  
6 manufacturers for outpatient drugs dispensed to participants in  
7 EPIC.

8 (d) For products distributed by the pharmaceutical manufac-  
9 turers not providing quarterly rebates as listed in subdivision  
10 (c), require preauthorization.

11 Sec. 7. To assist in implementing this act, the department  
12 shall utilize the office of services to the aging, area agencies  
13 on aging, senior citizens centers, or other senior focused enti-  
14 ties, to provide outreach, enrollment assistance, and education  
15 services to potentially eligible seniors for both the EPIC and  
16 medicaid programs.

17 Sec. 8. The department shall provide quarterly reports to  
18 the senate and house appropriations committees, and the senate  
19 and house fiscal agencies, that include quantified data as to the  
20 number of program applicants and enrollees, the amount of expen-  
21 ditures, and the number of enrollees subsequently found eligible  
22 for medicaid. Each report shall also contain an estimate of  
23 whether or not the current rate of expenditures will exceed the  
24 existing amount of money appropriated for the EPIC program in the  
25 current fiscal year. If the estimate indicates that the program  
26 would end the year in deficit, the department and the department

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1 of management and budget shall take 1 or more of the following  
2 actions:

3 (a) Request a supplemental appropriation for the EPIC  
4 program.

5 (b) Request a transfer of spending authority from any sur-  
6 plus appropriation within the department.

7 (c) Suspend further enrollment in the EPIC program.

8 (d) Increase deductibles or copayments for new applicants.

9 In no case shall an adjustment in program cost sharing result in  
10 a cost to an eligible senior in excess of 5% of the eligible  
11 senior's household income.

12 Sec. 9. (1) The program created by this act is not an  
13 entitlement. Benefits are limited to the level supported by the  
14 money explicitly appropriated in this or other acts for the EPIC  
15 program.

16 (2) Except as allowed in section 3(4), the EPIC program is a  
17 payer of last resort. If the federal government establishes a  
18 pharmaceutical assistance program that covers EPIC eligible  
19 seniors under medicare or another program, the EPIC program shall  
20 cover only eligible costs not covered by the federal program.

21 (3) The EPIC program shall utilize the medicaid automated  
22 pharmacy claims adjudication and prospective drug utilization  
23 review system. This automated system shall contain those edits  
24 necessary to reduce the risk of adverse drug reactions in the  
25 enrolled population.

26 (4) For the initial year of operation, the pharmacy  
27 dispensing fee payable under the EPIC program shall be no less

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1 than 100% of the current medicaid dispensing fee. For subsequent  
2 years, the amount may be established by the legislature.

3 Enacting section 1. Section 273 of the income tax act of  
4 1967, 1967 PA 281, MCL 206.273, is repealed on January 1 of the  
5 year immediately following the first year that the EPIC program  
6 provides prescription drug coverage to a person under this act. In  
addition, the MEPPS shall continue until the EPIC program is fully  
operational.

7 Enacting section 2. This act takes effect January 1, 2001.

Enacting section 3. Section 1695 of 2000 PA 296 is repealed.