

Legislative Analysis



PRESCRIPTION DRUG PROGRAMS: ESTABLISH TOLL-FREE NUMBER AND WEBSITE

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4037 (Substitute H-1)
Sponsor: Rep. Paul Condino

House Bill 4559 (Substitute H-2)
Sponsor: Rep. Roger Kahn
Committee: Health Policy

First Analysis (5-16-05)

BRIEF SUMMARY: House Bill 4037 would require the establishment of a toll-free telephone number providing consumers with information on Michigan prescription drug programs. House Bill 4559 would establish a website to educate consumers about the price of prescription drugs.

FISCAL IMPACT: A fiscal analysis is in process.

THE APPARENT PROBLEM:

People without prescription drug coverage as a health insurance benefit and people who are uninsured are often eligible for discount drug programs offered by public and private entities. For example, some counties have prescription drug programs for seniors that provide a discount on drugs at participating pharmacies. The state offers prescription drug assistance to eligible seniors through the Elder Prescription Insurance Coverage program (EPIC) and to low income residents with no prescription drug coverage through the MiRx Program – a prescription drug discount program. In addition, some associations offer discount drug cards to their members for a small monthly fee, and many pharmaceutical manufacturers support initiatives to provide free or discounted drugs to eligible persons.

Unfortunately, many of the state's more than 1.1 uninsured individuals and others without prescription drug coverage are not aware of these programs. In addition, drug prices can vary widely from pharmacy to pharmacy, making it difficult for those with limited income to know if they are being charged a fair price. Some believe that the state should do more to educate consumers about the free or discount drug programs that are available and also should provide the public with information regarding prices of popular medications. Legislation has been offered to address these concerns.

THE CONTENT OF THE BILLS:

The bills would establish a toll-free hotline and a website to provide information to consumers regarding prescription drug programs, prices of prescription drugs, and other

information. The bills are tie-barred to each other, meaning neither could take effect unless both did. Specifically, the bills would do the following:

House Bill 4037 would add a new section to the Public Health Code (MCL 333.9723) to require the Department of Community Health to establish and maintain a toll-free telephone number that consumers could call for information on prescription drug programs available in the state. This would have to include free and discounted prescription drug programs. An existing toll-free telephone line could be used. The department would have sole discretion to determine the information to be made available to the public through the toll-free telephone line. Further, the department would have to include on its website a link to the prescription drug website created and operated by the Department of Attorney General under provisions of House Bill 4559.

House Bill 4559 would add a new section to the Public Health Code (MCL 333.9721) to require the Department of Attorney General to create and operate a prescription drug website to educate consumers about the price of prescription drugs. A link would also have to be included on the site to other websites that could assist and educate consumers on the availability of public and private programs offering access to discounted or free prescription drugs in compliance with federal and state rules and regulations.

The website would also have to include:

- A list of the 25 most commonly prescribed medications as reported by the state's medical assistance program.
- The usual and customary price of these medications. This would be the price that was comparable to what a pharmacy would charge a cash-paying customer without insurance but would not include discounts, special promotions, or other reduced-price programs available to the general public or special populations. The Department of Community Health would have to compile this information as specified in the bill at least monthly and then supply the Department of Attorney General with a copy of the information.
- Links to at least five other helpful websites, including those that provide information on the availability of public and private programs for discounted or free medicines.
- The toll-free phone number created under House Bill 4037.

The Department of Attorney General would have sole discretion to determine which information should be made available to the public through the website.

ARGUMENTS:

For:

Establishment of a toll-free hotline as required by House Bill 4037 would provide residents with a "one stop" place to get information regarding prescription drug programs available in the state. Discount programs generally save consumers about 10-20 percent on the retail price of prescription drugs. For people on maintenance drugs, the yearly

savings could be significant. The Department of Community Health would be responsible for compiling the information on programs available to residents and would have to include both free and discounted programs. The service would be free to residents and should be very helpful in making this important information accessible to those who need it most.

For:

House Bill 4559 would require the attorney general to establish a website that would educate people on the prices of prescription drugs. Modeled after a Maryland program, the site would list 25 of the most commonly prescribed drugs along with the usual and customary price that a person without prescription drug insurance coverage would pay. If the person was enrolled in a program that provided a 10 percent discount, he or she would pay 10 percent less for that drug.

The "usual and customary" price of the drugs that would be listed on the website would be reported to the Department of Community Health by the state's pharmacy benefits manager for the Medicaid program (First Health Services Corporation). Since pharmacies that participate in the Medicaid program already report this information to First Health, the bill should not add any additional administrative burdens to these pharmacies. By knowing the usual and customary price, a consumer could better decide if the price charged by a pharmacy was indeed fair even if it wasn't exactly the same.

Further, the bill gives discretion to the AG's office to decide the types of information to appear on the website (other, of course, than information the bill specifically requires to be there.)

Against:

First Health Services Corporation and the Department of Community Health have expressed several concerns with the requirements of House Bill 4559 – the website established by the attorney general. Among issues mentioned in written testimony, First Health is concerned that the public release of the usual and customary pricing information could be considered confidential by retail pharmacies and that release of the information could violate the confidentiality provisions of the state's Medicaid contract with those pharmacies. Also, due to the manner in which pharmacy claims are paid and then reported to First Health, the price comparisons posted on the website would always be about 5-6 weeks out of date – thus, there could be significant discrepancies between the posted information and what consumers would be charged at their local pharmacies.

The Department of Community Health is concerned about the possible costs associated with operating the website. Though the bill places responsibility for developing and maintaining the website with the AG's office, it is DCH that must collect the data and provide it to the AG for inclusion on the site. DCH also cites the flux in drug pricing and believes that including such information on the website would be of little value to consumers who find the listed prices different from what they are charged. In addition, the Maryland program lists the prices for the 25 most commonly prescribed drugs for each pharmacy in the state. But Michigan has more than three times the pharmacies

Maryland does. Having to gather information on drug prices for a list of drugs that changes every month (because the drugs prescribed most in a month may change from month to month) from some 60,000 pharmacies could be a logistical nightmare, especially considering the department is still woefully understaffed due to continuing budget cuts. And, where some believe including such information would allow consumers to shop for the best prices, DCH is concerned that buying drugs from many different pharmacies could put consumers at risk for drug-drug interactions because pharmacies are not likely to have the patient's full medication history. Furthermore, citizens are more apt to look for information on drug discount programs on the DCH website, not the attorney general's website.

Response:

As mentioned earlier, most of the details regarding the specific information to be included on the website will be up to the discretion of the attorney general. There is flexibility to craft a website that will be helpful to Michigan consumers without being overly burdensome to the departments and businesses involved.

POSITIONS:

A representative of AARP indicated support for the bills. (5-10-05)

The Office of the Attorney General supports House Bill 4559. (5-10-05)

A representative of the Michigan Nurses Association indicated support for House Bill 4037. (5-3-05)

The Department of Community Health supports House Bill 4037 but has concerns regarding House Bill 4559. (5-10-05)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Susan Frey

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.