

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

HOUSE BILL 1347

By: Terrill

AS INTRODUCED

An Act relating to public health and safety; creating the Oklahoma Seniors Pharmacy Assistance Act; providing short title; defining terms; establishing Oklahoma Seniors Pharmacy Assistance Program; authorizing Department of Human Services to promulgate rules; defining eligibility; requiring Department of Human Services to provide certain assistance; providing for certain reimbursements and copayments; providing for certain denials; providing for certain appeals; providing for certain exceptions; restricting eligibility; providing for certain notifications by applicants; providing for certain reimbursements; authorizing Department of Human Services to recover certain costs; authorizing filing of suit; authorizing awards of judgment and certain costs; allowing Department of Human Services to receive certain monies; requiring promulgation of certain rules; requiring certain reports; providing for appropriations; providing for suspension; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5200 of Title 63, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 9 of this act shall be know and may be cited as the "Oklahoma Seniors Pharmacy Assistance Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5201 of Title 63, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Seniors Pharmacy Assistance Act:

1. "Department" means the Department of Human Services; and

2. "Federal poverty level" means the most recent poverty guidelines as published in the federal register by the United States Department of Health and Human Services;

3. "Income" means income from whatever source derived;

4. "Other benefits" means a benefit, other than one provided under the Oklahoma Seniors Pharmacy Assistance Act, to which a person is entitled for payment of the costs of prescription drugs, including benefits available from any of the following:

- a. an insurance policy, group health plan, or prepaid medical plan,
- b. Title XVIII or Title XIX of the Social Security Act (42 U.S.C., Sections 1395 et seq. and 1396 et seq.),
- c. the Department of Veterans Affairs,
- d. the Civilian Health and Medical Program of the Uniformed Services,
- e. workers' compensation or other employer's compulsory insurance program of the employer,
- f. a public program created by federal or state law or an ordinance or rule of a municipality or other political subdivision of the state, excluding benefits created by the establishment of a municipal or county hospital, a joint municipal-county hospital, or a county hospital authority, and
- g. a cause of action for medical expenses brought by an applicant for or recipient of services from the Department, or a settlement or judgment based on the cause of action, if the expenses are related to the need for services provided in this act.

5. "Director" means the Director of the Department of Human Services.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5202 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Director of the Department of Human Services shall establish the Oklahoma Seniors Pharmacy Assistance Program to provide financial assistance to eligible individuals for the purchase of prescription drugs.

B. The Department shall promulgate rules for the terms, conditions, and criteria, including financial criteria, for eligibility to participate in the program. Eligibility shall be limited to residents of the state who meet, at a minimum, all of the following criteria:

1. Must be sixty-five (65) years of age or older;
2. Must have a gross income that does not exceed one hundred percent (100%) of the federal poverty level;
3. Must not qualify for or receive other benefits; and
4. Must not have voluntarily canceled a state or federal prescription drug program or a private prescription reimbursement plan within six (6) months prior to application for enrollment in the program.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5203 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall provide financial assistance directly or through public or private resources to persons determined to be eligible for services authorized by this act.

B. Prescription drugs eligible for reimbursement shall be limited to maintenance drugs for specified diseases.

C. A copayment of no more than thirty percent (30%) of the cost of each prescription shall be established by the Department.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5204 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Department may deny for cause the application of or modify, suspend, or terminate services to an applicant for or recipient of services after notice and an opportunity for a hearing.

B. Any individual who is aggrieved by a decision of the Department with regard to a request for the provision of services may appeal such decision within thirty (30) days in accordance with the Administrative Procedures Act and shall be subject to judicial review.

C. The provisions of this section shall not apply if program services are restricted to conform to budgetary limitations that require the Department to adopt service priorities regarding types of services to be furnished or classes of eligible individuals.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5205 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. No applicant or recipient shall be eligible to receive services provided by the Oklahoma Seniors Pharmacy Assistance Act to the extent that the applicant or recipient, or another individual with a legal obligation to support the applicant or recipient, is eligible for some other benefit that would pay for all or part of the service.

B. When an application for services is made, or at any time while an individual is eligible for and receiving services, the applicant or recipient, or the individual with a legal obligation to support the applicant or recipient, shall inform the Department of any other benefit to which the applicant or recipient, or the individual with a legal obligation to support the applicant or recipient, may be entitled.

C. A recipient who has received services that are covered by some other benefit, or the individual with a legal obligation to support that recipient, shall reimburse the Department to the extent of the cost of the service provided, when the other benefit is received.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5206 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services may recover the costs of services provided by this act from an individual who does not reimburse the Department as required by Section 6 of this act or from any third party who has a legal obligation to pay other benefits and to whom notice of the interest of the Department has been given.

B. At the request of the Director, the Department may file suit in any court of competent jurisdiction.

C. In a judgment rendered in favor of the Department, the court may award attorney fees, court costs, and interest from the date on which the Department provided the service to the date on which the Department is reimbursed.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5207 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services may seek and receive voluntary monies from any sources, including federal funds, grants, and gifts which shall be expended for the purposes designated in this act.

B. If the Board of the Department determines that the funds appropriated may not meet projected expenditure for the fiscal year, the Board shall promulgate emergency rules for the following:

1. Adjusting the maximum benefits provided in Section 4 of this act;

2. Adjusting the income eligibility levels;

3. Adjusting the copayment level; and

4. Establishing a period of open enrollment which shall be not less than thirty (30) days and which shall include an enrollment period for those who become age eligible during the year. Any such changes shall be effective thirty (30) days after notice of such adjustment is published in a publication of statewide distribution.

C. No changes in enrollment shall occur until a rule has been promulgated in accordance with the Administrative Procedures Act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5208 of Title 63, unless there is created a duplication in numbering, reads as follows:

A. The Department of Human Services shall prepare and submit an annual report on the Oklahoma Seniors Pharmacy Assistance Program to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, and the Chairmen of the Senate and House Committees on Health and Human Services on or before January 15 of each year.

B. The Department shall implement the provisions of this act to the extent that funds are appropriated by the Legislature.

C. The provisions of this act shall be suspended on the day upon which payments commence under any federal law enacted on or after July 1, 2006, which provide financial assistance for the purchase of prescription drugs to those individuals eligible for financial assistance for the purchase of prescriptions.

SECTION 10. This act shall become effective November 1, 2005.

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