

AMENDED IN ASSEMBLY MAY 28, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 757

Introduced by Assembly Member Gallegos

(Coauthors: Assembly Members Aanestad, Bock, Calderon, Firebaugh, Havice, Keeley, Nakano, Romero, Scott, Vincent, Washington, and Wildman)

(Coauthors: Senators Alpert, Baca, Hayden, Perata, and Solis)

February 24, 1999

An act to add Section 14105.36 to, and to add Chapter 15 (commencing with Section 15775) to Part 3 of Division 9 of, the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

AB 757, as amended, Gallegos. Drugs for the elderly.

Existing law requires the provision of health care to eligible individuals through various programs.

This bill would require the State Department of Health Services to contract with drug providers to provide drugs to elders meeting age and income requirements, and establish a ~~\$1~~ \$4 copayment requirement. The bill would require that a drug manufacturer contract to provide drugs under this bill as a condition of contracting with the department to place drugs on the Medi-Cal formulary or the list of contract drugs. *It would specify that its provisions would only be implemented to the extent funds for these purposes are appropriated by the Legislature in the annual Budget Act.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14105.36 is added to the Welfare
2 and Institutions Code, to read:

3 14105.36. In addition to any other condition for
4 participation under this chapter, no manufacturer of
5 drugs may contract for the placement of drugs on the
6 drug formulary unless that manufacturer also
7 participates in the Pharmaceutical Assistance
8 Cooperative for the Elderly program.

9 SEC. 2. Chapter 15 (commencing with Section 15775)
10 is added to Part 3 of Division 9 of the Welfare and
11 Institutions Code, to read:

12
13 CHAPTER 15. PHARMACEUTICAL ASSISTANCE
14 COOPERATIVE FOR THE ELDERLY
15

16 15775. This chapter shall be known, and may be cited
17 as, the Pharmaceutical Assistance Cooperative for the
18 Elderly Act of 1999.

19 15776. The definitions contained in this section shall
20 govern the construction of this chapter, unless the
21 context requires otherwise.

22 (a) "Consumer" means any person who is over
23 64 years of age and who is authorized to
24 purchase drugs under this chapter.

25 (b) "Department" means the State Department of
26 Health Services.

27 (c) "Director" means the Director of Health Services.

28 15777. The department shall administer this chapter,
29 in coordination with the Department of Aging.

30 15778. (a) Any resident of the state who is a ~~recipient~~
31 ~~of disability insurance~~ *enrolled* under the federal
32 medicare program, whose annual income does not
33 exceed (\$) if single, or
34 (\$) for a ~~twenty thousand dollars (\$20,000) if~~
35 ~~single, or twenty-five thousand dollars (\$25,000) for a~~



1 married couple, who does not receive adequate
2 pharmacy benefit coverage, as determined by the
3 Director of Health Services, under the provisions of a
4 health care service plan, employer sponsored plan, or
5 other disability insurance plan, including, but not limited
6 to, Medi-Cal coverage, shall be eligible to purchase
7 discounted drugs pursuant to this chapter.

8 (b) For purposes of this chapter, “annual income”
9 means adjusted gross income, less reasonable deductions,
10 as specified by the director.

11 (c) Commencing January 1, 2001, and annually
12 thereafter, the income eligibility limits for single and
13 married persons provided by this section shall be
14 increased by the amount of the maximum federal Social
15 Security benefit cost-of-living increase for that year.

16 15779. (a) Any eligible individual purchasing drugs
17 under this chapter shall be responsible for a ~~one-dollar~~
18 ~~(\$1)~~ four dollar (\$4) copayment for each prescription.

19 (b) The copayment required by subdivision (a) may
20 be waived by the director in cases of extreme hardship,
21 as determined by the director.

22 15780. (a) Each manufacturer of drugs, as a
23 condition of placement of drugs on the Medi-Cal drug
24 formulary or list of contract drugs, shall enter into an
25 agreement with the department to provide drugs, at the
26 best price, under this chapter. The department shall
27 accept the manufacturer’s best price as sufficient for
28 purposes of entering into a contract under this chapter.

29 (b) For purposes of this section, “best price” means
30 the negotiated price, or the manufacturer’s lowest price
31 available to any class of trade organization or entity,
32 including, but not limited to, wholesalers, retailers,
33 hospitals, health plans, pharmacy benefit managers,
34 repackagers, health care providers, or governmental
35 entities within the United States, that contracts with a
36 manufacturer for a specified price for drugs. The best
37 price shall be inclusive of cash discounts, volume
38 discounts, and rebates, to the extent permitted under
39 federal law.



1 15781. The department may enter into exclusive or
2 nonexclusive contracts with manufacturers on a bid or
3 negotiated basis for the purpose of obtaining the best
4 prices for drugs provided through this chapter and to
5 ensure adequate quantity and quality of those drugs.

6 ~~15782. The department may contract with a~~
7 ~~pharmacy benefits manager to provide services in the~~
8 ~~administration of this chapter.~~

9 ~~15783. The department may use, in whole or in part,~~
10 ~~a mail-order drug purchasing system to limit drug costs~~
11 ~~to consumers in the purchase of drugs under this chapter.~~

12 *15782. The department shall administer this program*
13 *in a manner that facilitates access to manufacturer*
14 *rebates.*

15 *15783. The department may utilize the services of a*
16 *contractor to administer, as appropriate, aspects of the*
17 *program provided for under this chapter.*

18 15784. In order to achieve maximum cost savings, the
19 Legislature hereby determines that an expedited
20 contract process for contracts under this chapter is
21 necessary. Therefore, contracts under this chapter shall
22 be exempted from Chapter 2 (commencing with Section
23 10290) of Part 2 of Division 2 of the Public Contract Code.
24 However, contracts under this chapter shall have no force
25 or effect unless approved by the Department of Finance.

26 15785. Contracts executed pursuant to this section
27 shall be confidential and shall be exempt from disclosure
28 under the California Public Records Act (Chapter 3.5
29 (commencing with Section 6250) of Division 7 of Title 1
30 of the Government Code).

31 15786. (a) If, within 45 days of notification from the
32 department, a manufacturer serving the Medi-Cal
33 program does not enter into negotiations for a contract
34 under this chapter, the department may suspend or
35 delete from, or refuse to consider the addition to, the
36 Medi-Cal drug formulary or list of contract drugs, drugs
37 of that manufacturer.

38 (b) If after 120 days from the date of the initial
39 notification from the department, a manufacturer does
40 not execute a contract with the department pursuant to



1 this article, the department may suspend or delete from
2 the Medi-Cal drug formulary or list of contract drugs or
3 may refuse to consider for addition to the Medi-Cal drug
4 formulary, drugs of that manufacturer.

5 15787. In order that eligible individuals may have
6 access to a range of affordable therapeutic agents, the
7 department shall ensure that there is representation on
8 the list of drugs available under this chapter for major
9 therapeutic categories that tend to be the most used and
10 most costly for seniors.

11 15788. (a) The department may enter into contracts
12 with manufacturers of single-source and multiple-source
13 drugs, on a bid or nonbid basis, for drugs from each
14 therapeutic category on the list of drugs available under
15 this chapter.

16 (b) The department shall maintain a list of those drugs
17 for which contracts have been executed.

18 (c) The list required by subdivision (b) shall be
19 provided to the California Department of Aging and the
20 Health Insurance Counseling and Advocacy Program.

21 15789. The department and the California
22 Department of Aging shall conduct a program of public
23 education and outreach to inform eligible individuals of
24 the program drug list and the cost of drugs available
25 under this chapter.

26 *15789.5. This chapter shall be implemented only to*
27 *the extent funds for this purpose are appropriated by the*
28 *Legislature in the annual Budget Act.*

