

Enrolled Senate Bill 362

Sponsored by Senators MORRISETTE, MONNES ANDERSON, Representatives GREENLICK, MERKLEY; Senators AVAKIAN, BATES, BROWN, BURDICK, CARTER, COURTNEY, DEVLIN, GORDLY, JOHNSON, METSGER, MONROE, PROZANSKI, SCHRADER, VERGER, WESTLUND, Representative READ (Pre-session filed.)

CHAPTER

AN ACT

Relating to Oregon Prescription Drug Program; amending ORS 414.312 and 414.314; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 414.312, as amended by section 1, chapter 2, Oregon Laws 2007 (Ballot Measure 44 (2006)), is amended to read:

414.312. (1) As used in ORS 414.312 to 414.318:

(a) "Pharmacy benefit manager" means an entity that, in addition to being a prescription drug claims processor, negotiates and executes contracts with pharmacies, manages preferred drug lists, negotiates rebates with prescription drug manufacturers and serves as an intermediary between the Oregon Prescription Drug Program, prescription drug manufacturers and pharmacies.

(b) "Prescription drug claims processor" means an entity that processes and pays prescription drug claims, adjudicates pharmacy claims, transmits prescription drug prices and claims data between pharmacies and the Oregon Prescription Drug Program and processes related payments to pharmacies.

(c) "Program price" means the reimbursement rates and prescription drug prices established by the administrator of the Oregon Prescription Drug Program.

(2) The Oregon Prescription Drug Program is established in the Oregon Department of Administrative Services. The purpose of the program is to:

(a) Purchase prescription drugs or reimburse pharmacies for prescription drugs in order to receive discounted prices and rebates;

(b) Make prescription drugs available at the lowest possible cost to participants in the program; and

(c) Maintain a list of prescription drugs recommended as the most effective prescription drugs available at the best possible prices.

(3) The Director of the Oregon Department of Administrative Services shall appoint an administrator of the Oregon Prescription Drug Program. The administrator shall:

(a) Negotiate price discounts and rebates on prescription drugs with prescription drug manufacturers;

(b) Purchase prescription drugs on behalf of individuals and entities that participate in the program;

- (c) Contract with a prescription drug claims processor to adjudicate pharmacy claims and transmit program prices to pharmacies;
 - (d) Determine program prices and reimburse pharmacies for prescription drugs;
 - (e) Adopt and implement a preferred drug list for the program;
 - (f) Develop a system for allocating and distributing the operational costs of the program and any rebates obtained to participants of the program; and
 - (g) Cooperate with other states or regional consortia in the bulk purchase of prescription drugs.
- (4) The following individuals or entities may participate in the program:
- (a) Public Employees' Benefit Board;
 - (b) Local governments as defined in ORS 174.116 and special government bodies as defined in ORS 174.117 that directly or indirectly purchase prescription drugs;
 - (c) Enrollees in the Senior Prescription Drug Assistance Program created under ORS 414.342;
 - (d) Oregon Health and Science University established under ORS 353.020;
 - (e) State agencies that directly or indirectly purchase prescription drugs, including agencies that dispense prescription drugs directly to persons in state-operated facilities; *[and]*
 - (f) Residents of this state who *[do not have]* **lack or are underinsured for** prescription drug coverage;.]

(g) Private entities; and

(h) Labor organizations.

(5) The state agency that receives federal Medicaid funds and is responsible for implementing the state's medical assistance program may not participate in the program.

(6) The administrator may establish different reimbursement rates or prescription drug prices for pharmacies in rural areas to maintain statewide access to the program.

(7) The administrator shall establish the terms and conditions for a pharmacy to enroll in the program. A licensed pharmacy that is willing to accept the terms and conditions established by the administrator may apply to enroll in the program.

(8) Except as provided in subsection (9) of this section, the administrator may not:

- (a) Contract with a pharmacy benefit manager;
- (b) Establish a state-managed wholesale or retail drug distribution or dispensing system; or
- (c) Require pharmacies to maintain or allocate separate inventories for prescription drugs dispensed through the program.

(9) The administrator shall contract with one or more entities to provide the functions of a prescription drug claims processor. The administrator may also contract with a pharmacy benefit manager to negotiate with prescription drug manufacturers on behalf of the administrator.

(10) Notwithstanding subsection (4)(f) of this section, individuals who are eligible for Medicare Part D prescription drug coverage may participate in the program.

SECTION 2. ORS 414.314 is amended to read:

414.314. (1) An individual or entity described in ORS 414.312 (4) may apply to participate in the Oregon Prescription Drug Program. Participants shall apply *[annually]* on an application provided by the Oregon Department of Administrative Services. The department may charge participants a nominal fee to participate in the program. The department shall issue a prescription drug identification card *[annually]* to participants of the program.

(2) The department shall provide a mechanism to calculate and transmit the program prices for prescription drugs to a pharmacy. The pharmacy shall charge the participant the program price for a prescription drug.

(3) A pharmacy may charge the participant the professional dispensing fee set by the department.

(4) Prescription drug identification cards issued under this section must contain the information necessary for proper claims adjudication or transmission of price data.

SECTION 3. This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.

Passed by Senate March 13, 2007

Repassed by Senate April 12, 2007

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Secretary of Senate

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President of Senate

Passed by House April 4, 2007

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Speaker of House

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State