

218-RICR-40-00-06

TITLE 218 – DEPARTMENT OF HUMAN SERVICES

CHAPTER 40 – DIVISION OF ELDERLY AFFAIRS

SUBCHAPTER 00 – N/A

PART 06 – Rules and Regulations Governing the Prescription Drug Discount Program for the Uninsured

6.1 The Best RX Prescription Drug Program for the Uninsured

6.1.1 Legal Provisions

A. Legal Authority

1. The Best RX Prescription Drug Program for the Uninsured is authorized by, and these regulations are promulgated under, the authority of R.I. Gen. Laws § 42-66.2.1-1 et. seq., as amended “Rhode Island Best RX Prescription Drug Discount Program for the Uninsured”.

B. Nondiscrimination and Civil Rights Policy

1. Each agency that provides prescription drug discount services to uninsured Rhode Island residents shall be responsible for maintaining a policy of nondiscrimination in the provision of services to participants and in the employment of staff without regard to race, color, creed, national origin, sex, sexual orientation, age, handicapping condition or degree of handicap, in accordance with 42 U.S.C. § 2000d et seq.; Americans with Disabilities Act of 1990, 42 U.S.C. § 12101; Public Law 88-352, July 2, 1964, 78 Stat. 253, 42 U.S.C. Sec. 2000e et. seq; United States Department of Labor Regulations, 20 C.F.R. § 1 - 1099; Title V of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §792; the 1990 Americans With Disabilities Act, 42 U.S.C. § 12101; R.I. Gen. Laws § 42-87, which states that “Discrimination” includes those acts prohibited on the basis of race by 42 U.S.C. §1981, 42 U.S.C. § 1983 and those on the basis of handicap by 29 U.S.C. § 794 and those on the basis of disability by U.S.C. § 12100 et seq. and U.S.C. § 12101 et seq., and those on the

basis of handicap by R.I. Gen. Laws § 28-5; and the Rhode Island Fair Employment Practices Act, § 28-5-7.3.

C. Compliance with All Laws, Codes, Rules and Regulations

1. Each agency that provides prescription drug discount services to uninsured Rhode Island residents shall be responsible for complying with all local, state, and federal laws, codes, rules and regulations that apply to the program.

D. Severability

1. If any provision of the rules and regulations herein or the application thereof to any program or circumstances shall be held invalid, such invalidity shall not affect the provision or application of the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

6.1.2 Definitions

A. For the purpose of these Rules & Regulations, the following words and phrases shall mean:

1. "Administrative Fee" means a fee which will be collected from the participants by the participating pharmacy for each transaction at the point-of-sale.
2. "Department" means the Rhode Island Department of Human Services and Division of Elderly Affairs.
3. "Directors" means the Directors of the Department of Human Services and Director of the Division of Elderly Affairs.
4. "Participating Pharmacy" means any pharmacy licensed in the State of Rhode Island which has a written agreement with the Program Contractor agreeing to the conditions and requirements of participation in the Best RX Prescription Drug Discount Program for the Uninsured.
5. "Pharmacy dispensing fees" are fees to cover dispensing of the drugs by participating pharmacies.

6. "Program" means the Best RX Prescription Drug Discount Program for the Uninsured.
7. "Resident" means any resident of the State of Rhode Island who fulfills the residency requirements set forth in R.I. Gen. Laws § 17-1-3.1 entitled "Residence for voting purposes".
 - a. A person's residence for voting purposes is his/her fixed and established domicile.
 - (1) The determinant of one's domicile is that person's factual physical presence in the voting district on a regular basis incorporating an intention to reside for an indefinite period.
 - (2) The domicile is the place to which, upon temporary absence, he/she has the intention of returning.
 - (3) Once acquired, this domicile continues until another such domicile is established.
 - (4) A person can have only one (1) domicile.

6.1.3 Eligibility

- A. The following are required to be eligible for the Best RX Program:
 1. Persons who are residents of this state and:
 - a. Are over the age of sixty (60) and are ineligible for Medicare Part D;
or
 - b. Receive Social Security Disability Insurance benefits; or
 - c. Subject to subsection (B) of this section, are uninsured for prescription drugs and have an annual family income at or below three hundred percent (300%) of the federal poverty level, shall be eligible for the prescription drug discount program offered under the provisions of this Part.
- B. Persons eligible shall not include an individual who is eligible, or has been eligible for the four (4) months prior to the application for the drug discount

program offered under the provisions of this chapter, for outpatient prescription drug coverage under a health benefits program, other than a worker's compensation program, paid for in whole or in part by an employer, Medicaid, Medicare, or another state or federal health plan or pharmaceutical assistance program that uses state or federal funds to pay part or all of the individual's prescription drug costs.

1. This provision shall not apply to individuals who become uninsured due to a layoff or sponsored health plan bankruptcy.
- C. An individual or a household member acting on behalf of an individual may establish eligibility by self-certification of the criteria established in § 6.1.3(A) and § 6.1.3(B) of this Subchapter, and prospective enrollees shall be informed of the penalties for making false statements on a government application.
1. The contractor shall facilitate distribution of information needed to make self-certification application and may provide for enrollment using telephone, Internet and such other means as are likely to reach prospective enrollees, including use of volunteers and community based outreach.

6.1.4 Fraud and Abuse

- A. The Department and/or their designee shall declare ineligible any consumer who abuses or misuses the Best RX Program. The Department and/or their designee is empowered to investigate cases of suspected provider or consumer fraud.
- B. Delegate agencies and participating pharmacies shall report to the Department and/or their designee any suspected incident of fraud or abuse. Such reports shall be made to the Directors and/or their designee.
- C. Fraud and abuse shall include but not be limited to:
 1. Falsification of information on the application for assistance;
 2. Use or attempted use of an eligibility card by an unauthorized individual;
 3. Rebates or reimbursements to consumers for pharmaceutical expenses other than that allowable by law;
 4. Falsification of information by a participating pharmacy;

5. Consumer or provider claims for duplicative benefits;
 6. Any violation or attempt to violate the provisions of R.I. Gen. Laws § 42-66.2, as amended or these rules and regulations.
- D. Individuals attempting fraud or abuse and individuals who aid or abet another in attempting fraud or abuse shall be subject to imprisonment for a term of not more than one (1) year or a fine of not less than five hundred dollars (\$500) or both.
1. The Department and/or their designee shall investigate all reports of fraud and abuse, and shall refer all pertinent findings to the Office of the Attorney General.
- E. Any provider or consumer found guilty of intentionally violating the provisions of these rules and regulations shall be subject to immediate termination from this program for a period of no less than one (1) year.
1. Notice of such termination shall be in writing and will not carry with it the right for to appeal.
- F. Any provider or consumer who is found guilty under this the Act and these regulations is shall be subject to repay three (3) times the value of the material gain he or she received.

6.1.5 Discount Agreements

- A. The contractor shall be authorized to negotiate and enter into agreements with manufacturers and pharmacies to provide discounts on prescription drugs.
1. In general, the contractor shall seek discounts from pharmacies and manufacturers that are comparable to those available under health plans that provide pharmacy benefits to employees of state and local government entities.
- B. The Department and /or their designee in consultation with the contractor, shall establish maximum prices to be charged an enrollee, and the contractor shall establish and publicize special value prices where it has established a significant discount on a generic drug or where a drug's manufacturer has agreed to subsidize discounts by making quarterly rebate payments.

1. The contractor shall establish any arrangements for compensating pharmacies where the prices payable by enrollees have been reduced using manufacturer rebates, and for collecting administrative fees paid by enrollees to pharmacies.
 2. The contractor shall establish arrangements for facilitating application by Best RX enrollees to patient assistance programs offered by participating manufacturers.
- C. Pharmacy dispensing fees shall be uniformly established in advance at an amount that shall not exceed two dollars and fifty cents (\$2.50) per prescription, and shall be paid directly to the pharmacy by the program beneficiaries.

6.1.6 Reporting Requirements

- A. The Department and/or their designee shall regularly publish information on the number of enrollees, and the number of prescriptions filled under the program, and ensure timely availability to the public of the drug prices payable by enrollees and the percentage savings off the usual and customary charge reflected by such prices.

6.1.7 Administrative Fees

- A. The Department and/or their designee shall ensure that administrative fees imposed by means of § 6.1.7(A)(1) or § 6.1.7(B) of this Subchapter, are sufficient to cover all expenses related to the management of the discount program.
1. Per prescription administrative fees paid by the enrollee shall be established as follows:
 - a. for the first twenty thousand (20,000) prescriptions filled for program beneficiaries, two dollars (\$2.00) per prescription;
 - b. for the next twenty thousand (20,000) prescriptions filled for program beneficiaries, one dollar and fifty cents (\$1.50) per prescription;
 - c. for the next twenty thousand (20,000) prescriptions filled for program beneficiaries, one dollar (\$1.00) per prescription;

- d. after the initial sixty thousand (60,000) prescriptions are filled, the Rhode Island Best RX Program Advisory commission, established in R.I. Gen. Laws § 42-66.2.1-6 below, shall advise the Department and/or their designee regarding an appropriate per prescription administrative fee, which shall not exceed one dollar (\$1.00) per prescription.
- B. Any authority for the contractor to retain a share of manufacturer rebates to defray administrative expenses shall be subject to a quarterly review and revision based on reconciliation of aggregate rebates received and administrative costs in excess of fees established under § 6.1.7(A) of this Subchapter.

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