

## **ELDER PRESCRIPTION INSURANCE COVERAGE**

### **Senate Bill 1278 (Substitute H-3) First Analysis (12-7-00)**

**Sponsor: Sen. Harry Gast**  
**House Committee: Appropriations**  
**Senate Committee: Appropriations**

#### ***THE APPARENT PROBLEM:***

As prescription drug prices continue to increase, more and more senior citizens without insurance coverage for prescription drugs or Medicaid coverage are finding it increasingly difficult to afford needed medications. To address this concern, Public Act 114 of 1999, the fiscal year 1999-2000 appropriations bill for the Department of Community Health, stated that it was the legislature's intent to establish an elder prescription insurance coverage (EPIC) program, though no program has yet been implemented. Public Act 114 specified certain guiding principles for the program, including enhancing access to prescription medications for low income elderly residents of the state and reducing the cost to senior citizens to purchase prescription drugs. Public Act 114 also set several operating parameters; for example, age and income restrictions, the establishment of variable premium rates based on a percentage of household income, and a requirement to develop a mechanism to ensure that expenditures would not exceed available revenue.

Similar language was included in Public Act 296 of 2000, the fiscal year 2000-2001 budget for the department. However, Public Act 296 includes provisions for the continuation of emergency prescription assistance in the EPIC program and that the Michigan Emergency Pharmaceutical Program for Seniors (MEPPS) be continued until the EPIC program becomes fully implemented. Public Act 296 also includes an effective date of January 1, 2001.

Legislation is now being proposed to repeal the senior income tax drug credit and to place a framework for an elder prescription insurance coverage program in statute.

#### ***THE CONTENT OF THE BILL:***

The bill would establish a new Elder Prescription Insurance Coverage (EPIC) program which would replace the existing senior prescription drug tax credit

and the Michigan Emergency Pharmaceutical Program for Seniors (MEPPS), though the repeal of the tax credit would not occur until the January following the year in which the EPIC program was operational. The MEPPS would also continue until the EPIC program were fully implemented. Under the bill, the elder prescription insurance coverage program (EPIC) would be established, subject to annual appropriations, within the Department of Community Health. The program would provide prescription drug coverage, including related supplies, to eligible seniors. To be eligible, a person would have to be a Michigan resident who was at least 65 years old, have a household income at or below 200 percent of the federal poverty guidelines, and be ineligible for Medicaid. In addition, a person could not be covered by any other insurance that provided prescription drug coverage; however, a person could have Medicare supplemental insurance or be covered under a federal program as described in the bill and still be eligible for enrollment in the EPIC program. "Michigan resident" would be defined as a person who resided in a settled or permanent home or domicile within the state, except for a temporary absence, with the intention of remaining in the state.

The department would have to do the following:

- Give initial enrollment priority to a person who, in the 12 months preceding the bill's effective date, had participated in MEPPS or who had received a senior prescription drug tax credit under Section 273 of the Income Tax Act. (The bill would repeal Section 273 of the Income Tax Act, MCL 206.273 on January 1 of the year immediately following the first year that the EPIC program was implemented.) Second priority in enrollment would be given to seniors who did not utilize either of these assistance programs but who have annual household incomes up to 150 percent of the federal poverty guidelines. Those with incomes above 150 percent and up to 200 percent of the federal

poverty guidelines would be enrolled contingent upon available money.

- Presume that an applicant were eligible for coverage until the department, based on a preponderance of evidence, determined otherwise. Subsequent to enrollment in the EPIC program, any applicant having a household income at or below 100 percent of the federal poverty guidelines would have to be referred to the local Family Independence Agency for assessment of eligibility for Medicaid.

- Make emergency pharmaceutical assistance available for up to 90 days to eligible persons. Eligibility requirements for emergency vouchers could not be more restrictive than current requirements for MEPPS clients.

- Work with the Office of Services to the Aging, area agencies on aging, senior citizen centers, and the like to provide outreach, enrollment assistance, and education services for both the EPIC and Medicaid programs.

- Utilize the Medicaid automated pharmacy claims adjudication and prospective utilization review system, which would have to contain the necessary edits to reduce the risk of adverse drug reactions in the enrolled populations.

- Set the pharmaceutical dispensing fee under the EPIC program to be equal to the fee allowed under Medicaid.

- Establish an expedited enrollment process or emergency pharmaceutical assistance if an eligible applicant had an immediate need for a necessary prescription.

- Establish a steering committee to assist in determining the coverage appropriate under the bill. Committee members would have to be knowledgeable in areas of pharmacology, geriatrics, development and review of budgetary issues and practice, and policy development. The committee would also have to include consumer representatives. At least one meeting a year would have to be held.

- Provide quarterly reports to the Senate and House Appropriations Committees and Fiscal Agencies. The reports would have to contain certain information, including the number of program applicants, enrollees, expenditures, and the number of enrollees later found to be Medicaid eligible. Each report would also have to contain an estimate as to whether or not the current rate of expenditures would exceed the existing amount

of money appropriated for the EPIC program in the current fiscal year.

Should the estimate indicate that the program would end the year in a deficit, both the Department of Community Health and the Department of Management and Budget would have to take one or more of the following steps:

--Request a supplemental appropriation;

--Request a transfer of spending authority from any DCH surplus appropriation;

--Suspend further enrollment in the EPIC program; and/or

--Increase copayments for new applicants. However, no adjustment in cost sharing to a participant could exceed five percent of his or her household income.

Further, the department could require a copayment on each prescription. If a copayment were required, only those having an income between 100 percent and 200 percent of the federal poverty level would be responsible for a copay. The copayment would be a graduated annual copayment which could not exceed five percent of a person's annual household income. Household income would be defined in the bill as all income received by all members of a household in a tax year. (Note: Currently used as an eligibility standard for the senior citizen prescription drug credit, the homestead property tax credit, and the home heating credit, household income includes types of income not subject to federal income taxes such as Social Security benefits, inheritances other than from a spouse, and worker's compensation benefits.) No single copayment could exceed 20 percent of a prescription drug's cost. An administration fee of \$25 per year would have to be included with the annual application for program participation; however, this fee would be included in computing a person's annual copayment amount.

The department could also enter into a contract with a private individual, corporation, or agency to manage the EPIC program. Any contract entered into under the bill would have to be awarded through a competitive bidding process. Procedures and rebate amounts specified in the federal Medicaid law could be used to secure quarterly rebates from pharmaceutical manufacturers for drugs dispensed to EPIC participants. Preauthorization would be required for any products distributed by manufacturers who did not provide such quarterly rebates.

In addition, the bill would specify that the EPIC program was not an entitlement, and benefits of the program would be limited to the funding levels appropriated annually for the program. The number of elderly persons enrolled in the program could be limited to ensure that the program expenditures did not exceed available revenue. The bill would also specify that the EPIC program was a payer of last resort. Should the federal government establish a pharmaceutical assistance program that covered EPIC eligible seniors, the EPIC program would then cover only eligible costs not covered by the federal program. Further, the bill would not require payment by any local prescription drug discount program or local emergency prescription drug assistance program for a prescription drug covered under the EPIC program.

Finally, Section 1695 of Public Act 296 of 2000 (the appropriations bill for the Department of Community Health for fiscal year 2000-2001), which contains boilerplate language creating the EPIC program, would be repealed. The bill would take effect January 1, 2001.

### ***HOUSE COMMITTEE ACTION:***

The House committee substitute retains many of the provisions of the Senate-passed version, but rewrites provisions regarding possible copayments for program participants to conform with House Bill 5869, which was previously passed by the House. In addition, the House committee substitute, like House Bill 5869, would exclude Medicaid-eligible persons from participating in the EPIC program.

### ***BACKGROUND INFORMATION***

The bill is similar to House Bill 5869, which was recently passed by the House and is pending Senate action. (For more information, see the House Legislative Analysis Section's analysis on House Bill 5869 dated 11-30-00.)

Michigan Emergency Pharmaceutical Program for Seniors. The Michigan Emergency Pharmaceutical Program for Seniors (MEPPS) helps low income seniors obtain necessary medication for up to three months in a year. The program is administered by the Michigan Office of Services to the Aging (OSA) and the 16 area agencies on aging. Eligibility is limited to persons at least 65 years old who are not eligible for Medicaid; have an income of no more than 150 percent of the federal poverty level (\$1,030 or less per month for a single person, \$1,383 if married); and have

documented prescription drug costs representing 10 percent or more of income for a single person's monthly income or eight percent of a married individual's joint income. The average monthly income for a MEPPS client in 1999 was \$780; clients had an average monthly cost for prescription drugs of \$269; and the average monthly prescription costs per participant was 37 percent of the person's monthly income. MEPPS served more than 13,118 persons with 159,000 prescriptions in fiscal year 1998-1999. The average cost to fill a prescription under MEPPS was \$33.54, seven percent higher than in fiscal year 1997-98. Participants pay a copayment of 25 cents per prescription.

Senior citizens prescription drug credit. Eligible seniors can claim an income tax credit for a portion of what they spent on prescription drugs in a year. The credit is limited to no more than \$600. Under a provision in the Michigan Income Tax Act (MCL 206.273), the amount available in each tax year to pay for the tax credits is capped at \$20 million minus the amount expended by MEPPS. MEPPS expenditures have risen from \$2.5 million in fiscal year 1994-95 to \$6 million in fiscal year 1998-99; if the remaining funds are not sufficient to cover the tax credits applied for, the state must prorate the credit allowed.

### ***FISCAL IMPLICATIONS:***

According to information supplied by the House Fiscal Agency, the bill is expected to result in an increase in costs for the state. Funding for the EPIC program would come from Tobacco Settlement Revenue, anticipated premiums from program participants, and revenues currently supporting the Senior Prescription Drug Tax Credit Program and the Michigan Emergency Pharmaceutical Program for Seniors (MEPPS).

The agency reports that initial cost projections were \$56 million, with \$30 million in funding being provided by tobacco settlement revenue and \$26 million provided by the elimination of the drug tax credit and MEPPS. Actual EPIC program costs would be a function of many factors, including the number of eligible persons who participate in the program, the scope of the drug benefit package, the amount of premiums and copayments, and changes in drug prices over time. The EPIC program could also be impacted if federal legislation creates a national senior prescription drug program.

Though there is no firm estimate as to the costs of the program, most estimates fall in the range of \$1,200 per person per year. It has been estimated that

approximately 200,000 persons in Michigan may qualify for the EPIC program (this number excludes Medicaid eligible persons). (12-6-00)

### **ARGUMENTS:**

#### **For:**

Though both the senior prescription tax credit and the MEPPS program provide some assistance to seniors for their prescription costs, the coverage is limited, there are long delays between expenditures and the receipt of tax refunds, and the emergency program can be taken advantage of only two or three times a year. In recent years, the media have reported stories of many seniors being forced to choose between costly medicines and paying their rent or buying food. Often, seniors forgo even medications necessary to sustain health, such as blood pressure medication, in order to pay other bills. Since up to 80 percent of seniors use prescription drugs on a regular basis, and since more than one-third of seniors have no third-party prescription drug coverage, it is time for a new approach to help seniors obtain necessary medications.

Many states are looking into a variety of approaches to meet the need of helping seniors afford prescription drugs. Some states subsidize senior prescriptions with revenue from state lotteries, some states require drug companies to offer discount prices similar to Medicaid prices or prices charged to federal agencies, and some states are entering into purchasing blocks with other states to increase their ability to negotiate bulk pricing. The EPIC program would allow the Department of Community Health to negotiate with a pharmacy benefits manager, who would be able to negotiate discount prices for drugs and also apply for drug rebates. Such a practice, combined with having seniors share the costs of the program through an administrative fee and graduated annual copayment obligation, would enable the program to be expanded beyond what the current programs are able to offer. For those without prescription drug coverage, this is a long-awaited answer to a difficult situation.

#### **Against:**

As written, the bill would exclude those individuals who could qualify for Medicaid benefits from participation in the EPIC program. The result could be that many lower-income seniors would continue to have no prescription drug assistance. To some, there is a stigma attached to going on “welfare-type” programs such as Medicaid. These people have a mind set that they should make their own way in life and not receive such public assistance. These individuals

should be given the choice whether to enroll in the Medicaid program or the EPIC program. To take away such an important and life-affirming option would in effect give them no choice, and no help, at all.

#### **Response:**

Though certainly consideration should be given to the sensitivities of others, the fact remains that limiting enrollment in EPIC to those who are not eligible for Medicaid coverage makes better use of limited financial resources. It is not known how many people will apply for participation in the EPIC program; therefore, program expenditures are hard to accurately predict. It is desired, however, to include as many individuals as possible who have annual incomes of 200 percent or less of the federal poverty guidelines and who have no prescription drug coverage. The advantage of requiring Medicaid eligible persons to enroll in the Medicaid program is that the state receives a federal match for Medicaid enrollees, and so state dollars could be stretched further. Further, it is likely that a person who would qualify for Medicaid would also benefit from the health care assistance component of that program, and would most certainly benefit from the lower copays for prescription drugs and lack of an annual application fee. Diverting people to the Medicaid program would then open up more slots in the EPIC program for those with a slightly higher annual income who are ineligible for Medicaid but cannot afford supplemental prescription drug coverage. Hopefully, volunteers and staff with the various senior centers and agencies on aging will be able to successfully address this issue as they work with the Office of Services to the Aging in educating seniors on assistance programs.

#### **POSITIONS:**

There are no positions on the bill.

Analyst: S. Stutzky

---

#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.