

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1278

(As amended December 7, 2000)

A bill to create certain prescription programs relating to the elderly; to enhance access to prescription drugs to certain elderly residents of the state; to prescribe the powers and duties of certain state departments and agencies; to make appropriations; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. (1) This act shall be known and may be cited as the  
2 "elder prescription insurance coverage act".

3       (2) It is the intent of the legislature that the EPIC pro-  
4 gram defray the cost of obtaining medically necessary prescrip-  
5 tion drugs by elderly Michigan residents under the conditions  
6 specified in this act.

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1       Sec. 2. As used in this act:

2       (a) "Department" means the department of community health.

3       (b) "EPIC program" means the elder prescription insurance  
4 coverage program established in section 1 and created in section  
5 3.

6       (c) "Federal poverty guidelines" means the poverty guide-  
7 lines updated annually in the federal register by the United  
8 States department of health and human services under authority of  
9 42 U.S.C. 9902(2).

10       (d) "Household income" means all income received by all per-  
11 sons of a household in a tax year while members of a household.

12       (e) "Medicaid" means the program for medical assistance  
13 established under title XIX of the social security act, chapter  
14 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396f, 1396g-1 to 1396r-6,  
15 and 1396r-8 to 1396v, and administered by the department under  
16 the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

17       (f) "MEPPS" means the Michigan emergency pharmaceutical pro-  
18 gram for seniors.

19       (g) "Michigan resident" means a person who resides in a set-  
20 tled or permanent home or domicile within the state, except for a  
21 temporary absence, with the intention of remaining in this  
22 state.

23       (h) "Prescription" and "prescription drug" mean those terms  
24 as defined in section 17708 of the public health code, 1978  
25 PA 368, MCL 333.17708.

26       Sec. 3. (1) The elder prescription insurance coverage  
27 program is created within the department of community health.

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1           (2) The EPIC program shall provide prescription drug  
2 coverage, including related supplies, to each person to whom all  
3 of the following apply:

4           (a) The person is a Michigan resident 65 years of age or  
5 older.

6           (b) The person has a household income at or below 200% of  
7 the federal poverty guidelines.

8           (c) The person is not eligible for medicaid.

9           (d) Excluding medicare supplemental insurance or a federal  
10 program described in subsection (7), the person is not covered by  
11 other insurance that provides prescription drug coverage.

12           (3) The department shall give initial enrollment priority to  
13 applicants who in the 12 months preceding the effective date of  
14 this act participated in the MEPPS or who received a senior pre-  
15 scription tax credit in former section 273 of the income tax act  
16 of 1967, 1967 PA 281. A second enrollment priority will be  
17 afforded to applicants with annual household incomes up to 150%  
18 of the federal poverty guidelines who did not participate in the  
19 MEPPS program or who did not receive a senior prescription tax  
20 credit in former section 273 of the income tax act of 1967, 1967  
21 PA 281. Applicants with incomes above 150% and up to 200% of the  
22 federal poverty guidelines will be enrolled contingent upon  
23 available money.

24           (4) An individual or married couple meeting the basic eligi-  
25 bility criteria established in subsection (2) may apply for  
26 enrollment in the EPIC program by submitting an annual  
27 application to the department, or the department's designee, that

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1 attests to the age, residence, and household income of the  
2 individual applicant or couple, if married. A nonrefundable  
3 administrative fee must be included with the application. The  
4 administrative fee is \$25.00. The administrative fee shall apply  
5 to the annual copayment.

6 (5) Subsequent to enrollment in the EPIC program, an appli-  
7 cant who has a household income at or below 100% of the federal  
8 poverty guidelines shall be referred to the local family indepen-  
9 dence agency for assessment of eligibility for medicaid.

10 (6) The department may require a copayment on each  
11 prescription. No copayment is required for a person who has a  
12 household income equal to or less than 100% of the federal pov-  
13 erty guidelines. For a person who has a household income between  
14 100% to 200% of the federal poverty guidelines, the department  
15 shall establish and implement a graduated annual copayment  
16 policy. The total annual copayment shall not exceed 5% of the  
17 person's annual household income. No single copayment shall  
18 exceed 20% of the cost of the prescription being purchased.

19 (7) The EPIC program is a payer of last resort. If the fed-  
20 eral government establishes a pharmaceutical assistance program  
21 that covers EPIC eligible seniors under medicare or any other  
22 program, the EPIC program shall cover only eligible costs not  
23 covered by the federal program. This subsection does not require  
24 payment by a local prescription drug discount program or a local  
25 emergency prescription drug assistance program for a prescription  
26 drug covered under the EPIC program.

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1 (8) The Michigan emergency pharmaceutical program for  
2 seniors shall be continued until the EPIC program is fully  
3 implemented.

4 Sec. 4. (1) The department shall establish an expedited  
5 enrollment process or provide emergency vouchers if an otherwise  
6 eligible EPIC applicant immediately needs to obtain a medically  
7 necessary prescription.

8 (2) The department shall make emergency pharmaceutical  
9 assistance available to provide coverage for up to 90 days to  
10 eligible persons as the department determines is necessary.  
11 Eligibility requirements for emergency vouchers shall not be more  
12 restrictive than the requirements established for the Michigan  
13 emergency pharmaceutical program for seniors previously funded in  
14 the annual appropriation for the department.

15 (3) Unless a preponderance of evidence of the application  
16 indicates otherwise, an applicant for the EPIC program is immedi-  
17 ately presumed to be eligible for coverage under the EPIC program  
18 until the department determines otherwise.

19 Sec. 5. In providing program benefits, the department may  
20 do all of the following:

21 (a) Enter into a contract with a private individual, corpo-  
22 ration, or agency to manage the EPIC program. A contract entered  
23 into under this subdivision shall be awarded through a competi-  
24 tive bidding process.

25 (b) Use procedures and rebate amounts specified under sec-  
26 tion 1927 of title XIX of the social security act, 42  
27 U.S.C. 1396r-8, to secure quarterly rebates from pharmaceutical

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1 manufacturers for outpatient drugs dispensed to participants in  
2 EPIC.

3 (c) For products distributed by the pharmaceutical manufac-  
4 turers not providing quarterly rebates as listed in subdivision  
5 (b), require preauthorization.

6 Sec. 6. (1) To assist in implementing this act, the depart-  
7 ment [may] utilize the office of services to the aging, area  
8 agencies on aging, senior citizens centers, or other senior  
9 focused entities, to provide outreach, enrollment assistance, and  
10 education services to potentially eligible seniors for both the  
11 EPIC and medicaid programs.

12 (2) To assist in determining the coverage appropriate under  
13 the provisions of this act, the department shall establish a  
14 steering committee. The committee shall consist of consumer rep-  
15 resentatives and members with knowledge in the areas of pharma-  
16 cology, geriatrics, development and review of budgetary issues  
17 and practice, and policy development. The committee shall meet  
18 at least once each year.

19 Sec. 7. The department shall provide quarterly reports to  
20 the senate and house appropriations committees, and the senate  
21 and house fiscal agencies, that include quantified data as to the  
22 number of program applicants and enrollees, the amount of expen-  
23 ditures, and the number of enrollees subsequently found eligible  
24 for medicaid. Each report shall also contain an estimate of  
25 whether or not the current rate of expenditures will exceed the  
26 existing amount of money appropriated for the EPIC program in the  
27 current fiscal year. If the estimate indicates that the program

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1 would end the year in deficit, the department and the department  
2 of management and budget shall take 1 or more of the following  
3 actions:

4 (a) Request a supplemental appropriation for the EPIC  
5 program.

6 (b) Request a transfer of spending authority from any sur-  
7 plus appropriation within the department.

8 (c) Suspend further enrollment in the EPIC program.

9 (d) Increase copayments for new applicants. In no case  
10 shall an adjustment in program cost sharing result in a cost to  
11 an eligible senior in excess of 5% of the eligible senior's  
12 household income.

13 Sec. 8. (1) The program created by this act is not an  
14 entitlement. Benefits are limited to the level supported by the  
15 money explicitly appropriated in this or other acts for the EPIC  
16 program.

17 (2) The EPIC program shall utilize [an ] automated  
18 pharmacy claims adjudication and prospective drug utilization  
19 review system. This automated system shall contain those edits  
20 necessary to reduce the risk of adverse drug reactions in the  
21 enrolled population.

22 (3) The pharmacy dispensing fee payable under the EPIC pro-  
23 gram shall be equal to the medicaid dispensing fee.

24 Enacting section 1. Section 273 of the income tax act of  
25 1967, 1967 PA 281, MCL 206.273, is repealed on January 1 of the  
26 year immediately following the first year that the EPIC program  
27 provides prescription drug coverage to a person under this act.

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**1** Enacting section 2. This act takes effect January [2], 2001.

**2** Enacting section 3. Section 1695 of 2000 PA 296 is

**3** repealed.