

SENIOR CITIZEN RX DRUG PURCHASE ASSISTANCE

House Bill 4323 as passed by the House Second Analysis (7-30-97)

Sponsor: Rep. Clark Harder
**Committee: Senior Citizens and Veterans
Affairs**

THE APPARENT PROBLEM:

Michigan currently has two programs through which senior citizens can obtain assistance in paying for their prescription drugs: an income tax credit program administered by the Department of Treasury and an emergency assistance program administered by the Office of Services to the Aging in the Department of Community Health (the office was moved from the Department of Management and Budget to the Department of Community Health in March 1997 by executive order 1997-5).

Public Act 516 of 1988 created a prescription drug credit against the state income tax for low-income senior citizens. People over 65 whose income does not exceed 150 percent of the federal poverty income standards (see BACKGROUND INFORMATION) can claim a credit equal to the amount by which their expenditures for prescription drugs exceed five percent of their household income up to a limit of \$600 per credit. The credit must be claimed on a separate treasury department form that must be filed by June 1 in the year after that for which the credit is being claimed. The act stipulates that the amount of credit refunded cannot exceed \$20 million minus the amount spent for the Older Michiganians Pharmaceutical Assistance Fund. (This fund is cited in the Income Tax Act but was never established anywhere in statute.) An earlier attempt to help seniors defray the cost of prescription drugs, House Bill 4141 of the 1987-88, was vetoed by Governor Blanchard on the grounds that there was no identified funding source for it. The bill would have provided direct assistance upon application rather than a credit. The Blanchard Administration subsequently recommended increasing railroad and tobacco taxes to pay for such a program, but this approach was opposed by the affected industries and did not get sufficient legislative support to pass. Late in 1988, the legislature approved a bill that was estimated to increase the tax liability of construction contractors by at least \$20 million annually, basically ratifying a compromise solution of a long-standing dispute between contractors and the treasury department over how to calculate use taxes. This revenue increase from Public Act 506 of

1988 was identified as a likely source of funding for a senior citizen prescription drug tax credit proposal. Although the construction use tax and the prescription drug credit were conceptually linked, there is no formal statutory linkage between the two. Reportedly, in fiscal year 1989-90, \$9.5 million in prescription drug tax credits were paid out for the 1989 tax year, while in the 1990-91 fiscal year, \$11.7 million in tax credits were paid out for the 1990 tax year.

In addition to the tax credit program, beginning in fiscal year 1989-90, the legislature also began appropriating \$2 million a year for a program established by administrative rule that provides emergency financial assistance to seniors called the Michigan Emergency Pharmaceutical Program for Seniors (MEPPS -- see BACKGROUND INFORMATION). In fiscal years 1989-90 and 1990-91, the total expenditures for senior prescription drug assistance programs came to \$11.5 million and \$13.7 million, respectively. By 1995, according to the House Fiscal Agency, the amount refunded under the tax credit program came to \$16 million.

Advocates of the senior drug programs maintain that the full \$20 million should be available each year, and that amounts unspent should not go into the general fund to be used for other purposes but should be saved for future assistance to seniors for prescription drug purchases. This, they say, was the intent when the original legislation was enacted.

THE CONTENT OF THE BILL:

The bill would add a new section to the Older Michiganians Act (MCL 400.586) to establish the "Michigan Emergency Pharmaceutical Program for Seniors" (MEPPS) fund and to require the Office of Services to the Aging to use the fund to help older people to pay for prescription drugs. The fund would be housed in the Department of Treasury but would be administered by the Office of Services to the Aging in the Department of Community Health. The state

treasurer would credit to the fund all amounts appropriated for Michigan pharmaceutical programs for seniors as well as money contributed from any other source. Any money remaining in the fund at the end of a fiscal year, including interest earned by the fund, would be carried over to the next and succeeding fiscal years and would not be credited to or revert to the general fund.

The bill would define "prescription drug" as that term is defined in the Public Health Code (drugs dispensed according to a prescription, those designated by the Board of Pharmacy as only dispensable with a prescription, and those that bear the federal legend "CAUTION: federal law prohibits dispensing without prescription"), and for purposes of the bill, also would include insulin, syringes, and needles.

Tie-bar. The bill would not take effect unless House Bill 4322, which would appropriate \$20 million a year (minus any tax credits for the preceding fiscal year) to the Older Michiganians Pharmaceutical Assistance Fund, took effect.

BACKGROUND INFORMATION:

Prescription drug credit program. In 1996, the federal poverty income level for one person was \$11,610; for married couples, \$15,540. People eligible for the prescription drug tax credit cannot be a resident of a licensed health care facility (including nursing homes, hospital long-term care units, county medical facilities, and mental health facilities), though otherwise eligible people who live in subsidized senior citizen apartments, adult foster care homes, or licensed homes for the aged are eligible to apply for the credit. The maximum credit allowed for one person is \$600; for eligible married people (that is, who both are at least 65 years old and meet the income requirements), \$1,200. The credit claim form is separate from the state income tax form, and must be filed by June 1 immediately following the year for which the credit is claimed.

The Michigan Emergency Pharmaceutical Program for Seniors (MEPPS). According to the Office of Services to the Aging, the Michigan Emergency Pharmaceutical Program for Seniors (MEPPS) is a state-funded program administered by the Michigan Office of Services to the Aging (OSA) and thirteen Area Agencies on Aging in 14 planning and service areas. MEPPS provides short-term, financial intervention and assistance to help adults 65 and older to meet an immediate need for prescribed medication, with the drugs most frequently purchased with MEPPS vouchers being for potentially life-threatening conditions, including heart and circulatory disease, high blood pressure, diabetes, ulcers, and breathing problems. MEPPS vouchers are distributed through the Area Agencies on Aging and volunteer

agencies statewide to people who meet the program eligibility criteria: they must (1) be 65 or older, (2) have an income in the month of application at or below 150 percent of poverty (in 1995, this came to \$920 or less for single people, \$1,230 for married people) and, (3) have documented prescription drug costs that are ten percent (eight percent for married people's joint income) or more of that month's income. The average monthly income of a MEPPS participant in 1995 was \$705.60, while his or her average total monthly prescription costs were 25.5 percent of his or her monthly income. Applications for MEPPS are taken throughout the year at over 185 sites throughout the state. In 1995, a total of 75,359 MEPPS prescriptions were issued in response to 13,501 applications -- an average of 5.6 prescriptions per application -- to 8,845 people. Two "accesses" a year were allowed, if needed; 4,656 people needed this option. Of the MEPPS participants, 36 percent were over 80 years old, 60 percent lived alone, 79 percent were female, 61 percent were widowed, and 18 percent belonged to a minority group. Participants, who formerly had a voluntary cost sharing option of paying for one prescription of choice, now pay a voluntary copayment of 25 cents for each prescription. In 1995, MEPPS participants contributed \$5,572.94 in copayments toward the cost of prescriptions. Over 650 private sector local pharmacies dispensed a total of 69,898 prescriptions to seniors under MEPPS in 1995, with the average claim paid per voucher costing \$28.84 (which included a dispensing fee of \$3.72 per prescription).

Legislative history. Attempts to establish and fund some kind of state-funded prescription drug program for low-income senior citizens goes back more than ten years.

** House Bill 5200 of 1985 would have established the "Older Person's Prescription Drug Coverage Program" in the Office of Services to the Aging to be paid from Medicaid overpayments, including recovery of third-party reimbursements owed to children from insured but absent parents. The bill passed the House but died in the Senate Committee on Senior Citizens and Social Services.

** House Bill 4141 of 1987 would have established an "Older Person's Prescription Drug Coverage Program" in the Office of Services to the Aging with costs to be offset by savings in the Medicaid program due to reduced hospitalizations for drug-induced problems. The bill passed the legislature but was vetoed by the governor.

** House Bill 5659 of 1987 would have created an "Older Person's Prescription Drug Coverage Program" in the Office of Services to the Aging, to be paid for by the repeal of the railroad property tax credit and taxes on smokeless, pipe, and bulk tobacco and on cigars.

The bill passed the House but died in the Senate Appropriations Committee.

** Public Act 506 of 1988 increased the use tax on construction contractors with the "understanding" that this revenue would support the \$20 million "Older Michiganians Pharmaceutical Assistance Fund" mentioned in Public Act 516 of 1988.

** Public Act 516 of 1988 created the prescription drug tax credit for senior citizens.

** House Bill 4400 of 1991 would have created a three-year trial Older Person's Prescription Drug Coverage Program to provide some people age 62 and older with help in buying prescription drugs. The bill passed the House but died in the Senate Committee on Mental Health, Human Resources, and Senior Citizens.

** House Bill 4399 of 1991 would have appropriated to the fund proposed in House Bill 4040 \$20 million a year. The bill passed the House but was defeated (twice) on Senate floor.

** House Bill 4012 of 1993 would have appropriated income tax credit money to the Senior Citizens Pharmaceutical Fund created by House Bill 4103. The bill passed the House but died in the Senate Committee on Finance.

** House Bill 4013 of 1993 would have created the Older Michiganians Pharmaceutical Assistance Fund. The bill passed the House but died in the Senate committee on Health Policy.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the fiscal implications to the state are indeterminate and would depend on the amount of money remaining in the fund at the end of a fiscal year, as opposed to reverting to the general fund and being made available for other programs. (7-30-97)

ARGUMENTS:

For:

The bill would establish in statute an emergency senior prescription drug fund and ensure that the revenues appropriated for the funding of the senior citizen prescription drug tax credit and emergency assistance programs would be used for those programs, and not be siphoned off to the state general fund for other purposes. While it is true that the senior prescription drug tax credit has not yet reached the \$20 million annual ceiling, as more people have become aware of the program it has grown and no doubt will continue to

grow with the continued aging of the "baby boomers." Since, in order to obtain the credit, seniors must file a separate form with the Department of Treasury, this means that seniors both must know of its availability in the first place and then that they overcome any reticence regarding applying for special benefits. The existence of the emergency senior prescription drug fund further emphasizes the existing need for such assistance, for it is used to help people who cannot afford to pay for needed prescription drugs in the first place, and thus for whom, obviously, assistance through a tax credit refund for money already spent is not available.

The senior citizen prescription drug assistance programs were created in the first place because seniors rely on prescription drugs more than other segments of the population and because many low-income seniors not eligible for Medicaid must choose between purchasing the drugs they need and other necessities, including food. For example, advocates cite a study indicating that 15 to 20 percent of the elderly forgo needed medications because they can't afford them. Older people who do not take their prescribed medications often see their health deteriorate and sometimes need to be hospitalized as a result. Currently, although money for the tax credits has apparently been offset by the increase in the contractors' use tax, there is no statutory link between the use tax and the drug program, merely an understanding of sorts that "here is some new revenue, so we can afford this new program." The bill would create in statute for the first time a senior citizens' emergency pharmaceutical fund that has been in existence, through annual appropriations, since 1989, thereby statutorily dedicating revenue for helping senior citizens pay for needed prescription drugs, and keeping in the fund any money appropriated for that purpose.

Against:

The Office of Services to the Aging does not believe that legislation is necessary, since the appropriations process is sufficient. Moreover, this year the executive office has requested the carryover that the proposed legislation would establish.

Response:

By placing the fund in statute, the bill would protect the program and its funding from legislative or executive whim, while at the same time continuing to make the fund dependent on the appropriations process.

Against:

At a time of scarce revenues and tough budget decisions, it is bad policy to stockpile current unused revenues for use in future years. Currently, the senior prescription drug programs carry a \$20 million cap, not a guarantee that they will get \$20 million every year regardless of need. Thus far, the difference between the amount spent on the prescription drug assistance

programs and the cap has stayed in the general fund, where it can be used for other purposes. There are a great many demands on the state budget, many needs to be met. It makes no sense to take money from the general fund for use in future years by one program when there are so many other good uses to which it could be put.

Response:

With the anticipated increase in the aging population, as more and more so-called "baby boomers" retire, it is likely that there will be a growing population of elderly people who will need financial help in order to buy needed prescription drugs.

POSITIONS:

The Office of Services to the Aging in the Department of Community Health neither supports nor opposes the bill. (7-28-97)

Analyst: S. Ekstrom

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their deliberations, and does not constitute an official statement of legislative intent.