

ELDER PRESCRIPTION INSURANCE COVERAGE ACT

**House Bill 5869 (Substitute H-1)
First Analysis (11-30-00)**

**Sponsor: Rep. Mary Ann Middaugh
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:

House Bill 5869 would create the Elder Prescription Insurance Coverage Act, and thus create a statutory basis for the program. Under the bill, the elder prescription insurance coverage program (EPIC), which

would provide prescription drug coverage to eligible seniors, would be created within the Department of Community Health. 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 level, 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 bill 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 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 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.)
- 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 to increase awareness of the EPIC program and assist the elderly in applying for the program.
- Before the EPIC program could be implemented, establish an automated pharmacy claims adjudication and prospective utilization review system.

- Ensure that any pharmaceutical dispensing fee under the EPIC program would 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 the current rate of expenditures would exceed the existing amount of money appropriated for the EPIC program in the current fiscal year.

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. (Annual household income is not defined in the bill, but is an eligibility standard currently used for the senior citizen prescription drug credit, the homestead property tax credit, and the home heating credit. It 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 enrollment fee up to \$25 per year could be charged to be in the program; however, this fee would be included in computing a person's annual copayment amount.

The department could also enter into a contract with an individual or agency to manage the EPIC program. Any contract entered into under the bill would have to be awarded through a competitive bidding process. 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 by the department. The department could also limit the number of elderly persons enrolled in the program to ensure that the program expenditures did not exceed available revenue.

BACKGROUND INFORMATION:

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, 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. The lower funding amount in the current fiscal year budget (\$45 million) reflects a January 1, 2001 implementation date and a change in how premiums and copayments would be counted.

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). The number of persons who may actually apply for EPIC and qualify for the program is expected to be substantially less than 200,000. For example, about 124,000 seniors may currently qualify for MEPPS and the senior prescription drug tax credit, but only about 45,000 are currently served by these programs. (11-29-00)

ARGUMENTS:

For:

Though it is reported that about 80 percent of senior citizens use prescription drugs on a regular basis, at least one-third of them have no prescription drug coverage. Since many seniors are on maintenance drugs, such as medications to manage diseases like heart disease, diabetes, and reflux disease, prescription drug costs can easily eat up a significant portion of a senior citizen's living expenses. For example, a year's supply of Prilosec, a popular drug used for treatment of ulcers and reflux disease, can easily top \$1,400. Many seniors find themselves in the predicament of earning too much income (or exceeding asset restrictions) to qualify for Medicaid, but not earning enough yearly to afford supplemental insurance that would cover prescription drugs. Some seniors have reported having to choose between paying the rent or buying food and filling prescriptions for needed medicines.

The EPIC program would provide necessary assistance for those seniors who are unable to secure

supplemental insurance coverage for prescription drugs. Though the state currently provides assistance to low-income seniors through the MEPPS program, the funds are limited and people must often be put on waiting lists. The senior prescription drug credit is limited to no more than \$600 per person and the program funding is capped at \$20 million a year minus what is spent on the MEPPS program. If there is not sufficient revenue left to cover the refunds due to eligible seniors, the refunds are prorated. Therefore, seniors may receive a refund that is considerably less than what they expected.

By comparison, the EPIC program would expand eligibility to persons with an annual income up to 200 percent of the federal poverty level who have no other form of prescription drug insurance coverage. The bill would impose a small yearly fee to enroll in the program, and the fee would be used toward satisfying the required annual copay, which could not exceed five percent of a person's yearly income. Those at 100 percent of the poverty level would not pay a copay.

Though the MEPPS program would be abolished, a similar component of emergency pharmaceutical assistance would remain a part of the EPIC program. Therefore, seniors needing immediate help to obtain prescription drugs or those who had a short term need for expensive drugs could still obtain assistance. The senior prescription drug credit would also be abolished, but most seniors using the credit should see a greater savings through participation in the EPIC program. The bill also contains needed flexibility for the Department of Community Health to structure a program unique to the needs of Michigan seniors.

No person should have to choose between possibly life saving medications and food or a place to sleep. Implementation of the EPIC program will provide necessary assistance for those seniors who need help the most.

For:

Many states are looking into various programs to provide assistance to the elderly in obtaining lower cost prescription drugs. Though programs vary from state to state (some 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), what is clear is that people are struggling to meet the ever increasing cost to buy prescription drugs. The EPIC program is not a cure-all for higher drug prices,

nor does it reach every segment of the state that is in need of assistance. However, it would target and provide relief for one of the most vulnerable populations in the state - senior citizens. Though several proposals have been debated on the national level, Michigan should not wait for federal action. Most likely, the EPIC program would be able to supplement any federal program implemented in the future.

Response:

It is unclear at this time what impact a federal program would have on the EPIC program. It is conceivable that any federal program would contain a "maintenance of benefit" provision, meaning that states would have to continue to fund state programs in operation at the time a federal program went into effect. That would mean that a state could not necessarily scale back a prescription program in place and let the federal government replace it with a program funded with federal money. What is clear is that EPIC will be an expensive program to fund, and may continue to be so regardless of future federal programs. Prescription drugs have increased an average of 18 percent per year for the last several years. Future projections have estimated a continuing increase of 15 percent or more a year. Therefore, state costs could continue to escalate. With increases in prescription drug costs expected to continue year after year, it may well be that a federal solution is the best solution. Therefore, federal price controls coupled with a federal senior prescription drug program may be the best solution.

Against:

Some have cited budget restrictions and long waiting lists as reasons to scrap the MEPPS program and replace it and the senior prescription drug tax credit with the EPIC program. However, it could be more cost effective to instead increase revenue earmarked to MEPPS, raise the \$20 million cap for refunds for the tax credit, and expand eligibility restrictions for both programs to those proposed for EPIC. The infrastructure to administer MEPPS is already in place, plus MEPPS has many unique components that may not be available under EPIC. For example, MEPPS representatives provide in-home services for shut-ins and those in rural areas, and often provide transportation to pharmacies to pick up the prescriptions. In addition, MEPPS staffers assist seniors to apply for indigent drug programs offered by most pharmaceutical companies. Such programs offer drugs at a discount (usually 20 percent) and sometimes provide free medications for higher priced drugs such as drugs to fight cancer.

Against:

News of the implementation of the EPIC program could be very misleading to the public. The bill clearly states that it is not an entitlement program; therefore, not everyone meeting eligibility requirements would be helped. When the well runs dry, so to speak, those who come for a drink will not find any water left. This is simply a program of first come, first served. As the revenues are spent, enrollment into the program can be reduced or cut off so that expenditures would not exceed revenue appropriated for that year. This is not necessarily the life saver that some may be thinking it is. Though first priority would be given to those in the lowest income brackets, other seniors needing assistance may find themselves locked out of the program, even though they fit into the income restrictions of the bill. Perhaps a prescription drug tax credit should remain for those who would be otherwise eligible for the EPIC but have been turned away because of insufficient revenue to fund the demand.

POSITIONS:

The Michigan Pharmacists Association supports the bill. (11-30-00)

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.