

## EPIC REVISIONS

**House Bill 4179 as introduced**  
**Sponsor: Rep. Scott Shackleton**

**House Bill 4670 (Substitute H-1)**  
**Sponsor: Rep. Stephen Ehardt**

**Committee: Health Policy**

**First Analysis (12-9-03)**

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

Public Act 499 of 2000 replaced the senior prescription drug tax credit and the Michigan Emergency Pharmaceutical Program for Seniors (MEPPS) with the Elder Prescription Insurance Coverage program (EPIC). The EPIC program provides prescription drug coverage, including related supplies, to eligible seniors. Though not open for general enrollment at the present time, applications are being accepted for those needing help in an emergency; for example, when the medication needs for a sudden illness or injury exceeds the financial resources of low-income seniors.

Currently, a \$25 administration fee must accompany an application for the EPIC program. At the time the legislation that became PA 499 was being discussed, concerns were raised over the legislation's requirement that the fee be nonrefundable. Since many senior citizens are living on fixed incomes, the loss of the application fee was argued as being a hardship for those who were determined to be over the income eligibility threshold. Some people still believe that the application fee should be refunded if the applicant is not eligible.

In a separate matter, residents of "institutions" are not eligible for the EPIC program; however, that term is not defined in the Elder Prescription Insurance Act. Many seniors are residents in adult foster care homes or assisted living facilities. Though these facilities provide supervision and help with life activities such as dressing and bathing, they do not provide skilled nursing care. In fact, many of these facilities serve a very mobile population who prefer to purchase their own medications at their favorite pharmacy rather than have the medications supplied through the home or facility. However, currently, residents of foster care homes and assisted living facilities are considered ineligible for participation in EPIC.

Advocates for the elderly believe that the EPIC statute should be amended to allow residents of such facilities to qualify for EPIC.

### ***THE CONTENT OF THE BILLS:***

House Bills 4179 and 4670 would each amend the same section of the Elder Prescription Insurance Coverage Act (MCL 550.2003) to change the nonrefundable administrative fee to a refundable fee and to clarify that residents of an adult foster care home or assisted living facility would be eligible for the EPIC program. Specifically, the bills would do the following:

House Bill 4179 would amend Section 3 of the Elder Prescription Insurance Act to specify that a refundable (instead of nonrefundable) administrative fee must be included with an application. Currently, the administrative fee is \$25. The bill would require that the fee be returned to an applicant who the Department of Community Health determined to be ineligible for the EPIC program.

House Bill 4670 would also amend Section 3 of the Elder Prescription Insurance Act. Currently, to be eligible for the EPIC program, a person must, among other things, be a "noninstitutionalized Michigan resident" 65 years of age or older. The bill would clarify that for the purpose of determining eligibility for the program, an "institution" would be a facility in which an individual resided and received medical care through that facility, including prescription drugs. An institution could include a hospital, nursing home, convalescent center, home for the aged, mental health or psychiatric facility, or a jail, prison, or other correctional facility. However, an adult foster care home or assisted living facility would not be an institution for purposes of determining eligibility for the EPIC program.

Further, the bill would specify that household income for the purpose of determining income eligibility for EPIC would be determined after excluding the business or farm expenses that are deductible for federal tax purposes. However, this would only apply to an owner of a sole proprietorship whose business had no more than one employee and less than \$200,000 in assets or the owner of a family-owned farm with less than \$200,000 in assets.

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

According to the House Fiscal Agency, enactment of House Bill 4179 would potentially result in a small decrease in revenue available to finance the EPIC program due to the refunding of application fees to persons who are not eligible for the program. According to the Department of Community Health, its current policy is to refund the \$25 fee to applicants who do not qualify for EPIC.

If HB 4670 is enacted, state expenditures for senior prescription drug costs through the EPIC program would increase by an indeterminate amount because senior citizens in adult foster care and assisted living facilities would potentially qualify for the program. By excluding farm and business losses from consideration for financial eligibility purposes, some individuals may qualify for EPIC who otherwise would be ineligible. This would also add to EPIC program costs. The potential number of additional seniors who would become eligible and the associated increase in expenditures is unknown.

The HFA notes that \$30 million of tobacco settlement revenue is appropriated for the EPIC program in FY 2003-04. If federal officials approve Michigan's Pharmacy Plus waiver request, total funding for the program would increase to \$68 million due to the availability of federal Medicaid matching funds. This would allow for a significant expansion of participants in EPIC.

EPIC is not open for general enrollment at the present time, and only emergency applications are being accepted. In June of 2003, there were 13,368 persons enrolled in the EPIC program. Presumably, there may be some increase in administrative costs to the department when enrollment in EPIC is open to all potential applicants if the number of those determined to be ineligible increases significantly.

### ***ARGUMENTS:***

#### ***For:***

House Bill 4179 would amend the EPIC law so that the administrative fee submitted with an application would be refundable instead of nonrefundable. This is important because many seniors who apply to the EPIC program but are determined to be ineligible based on income are nonetheless living on fixed incomes and may not be able to afford high-priced medications. For seniors with low or moderate incomes, even \$25 can seem like a lot of money and therefore may discourage some from applying for fear of losing it.

#### ***Response:***

According to information supplied by the House Fiscal Agency, the Department of Community Health is already refunding these administrative fees, even though it is statutorily required to retain them. Besides, each application must be reviewed by department staff and then checks returned to ineligible seniors, resulting in administrative costs. Even retaining \$5 of the administrative fee may help to offset costs associated with screening applicants for the program without causing undue financial hardship to seniors.

#### ***For:***

House Bill 4670 would appropriately exclude adult foster care homes and assisted living facilities from the definition of "institution", thereby expanding eligibility for the EPIC program to residents of those facilities. Residents of adult foster care homes and assisted living facilities, which include many low-income individuals, often are highly mobile and need only low to moderate amounts of assistance with daily activities. Many of them still purchase the medications themselves from their local pharmacies. This is usually cheaper for the resident and easier for the facility. It is only appropriate, therefore, to include these low-income individuals in the eligibility pool.

#### ***Response:***

The Michigan Association for Homes and Services to the Aging (MAHSA) points out that according to the state's licensing code, the only difference between homes for the aged (HFA) and adult foster care homes (AFC) is the number of residents served. HFAs are licensed for 21 or more residents, whereas AFCs are licensed for 20 or less. Services provided are very similar, as HFAs also serve a more independent population than do nursing homes and hospitals, which deserve classification as "institutions". Adding to the confusion is that some assisted living facilities, which are not included in the

definition of an institution, choose to be licensed as homes for the aged – which would then make them an institution. In fact, “assisted living facility” is not a legal term; it is more of a marketing or general heading for identifying various types of housing for independent seniors and is understood to encompass homes for the aged along with adult foster care homes, independent living complexes, and so forth. In short, a senior who lives in a home for the aged and who has the same income as a resident of an AFC home or other type of assisted living facility and receives the same level of care and supervision, would be ineligible for participation in the EPIC program but the senior residing in the AFC home or other assisted living facility would be eligible.

***Against:***

Adult foster care homes and assisted living facilities, as well as homes for the aged, should not be classified as “institutions”. However, as eligibility increases for the EPIC program, so do demands on the program. The program has never been fully funded as envisioned due to recent economic conditions and currently only provides aid on an emergency basis. Before eligibility is expanded, the level of funding should be examined to see if program revenues could be increased.

***Response:***

It is true that the program can only support a limited number of participants at this time. However, the current emphasis is to provide relief to those with the greatest need. House Bill 4670 would only increase the pool from which to identify those with the greatest need.

***POSITIONS:***

The Department of Community Health supports House Bill 4670 and supports the concept of House Bill 4179, but is working on language to prohibit refunds to applicants who deliberately submit false information. (12-8-03)

The Michigan Association of Homes and Services for the Aging is generally supportive of House Bill 4179 and supports House Bill 4670. (12-5-03)

AARP supports House Bill 4179 but does not support House Bill 4670 unless there is proportionate funding support for the EPIC program to absorb the additional eligible people.

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.