

HOUSE BILL No. 4040

January 31, 1991, Introduced by Reps. Mathieu, Harrison, Barns, Joe Young, Sr., Gire, Rocca, London, O'Neill, Varga, Webb, Harder, Dobronski, Bodem, Leland, Martin, Shugars, Baade, Willis Bullard, Olshove, Gagliardi, Allen, Jacobetti, Gubow, Law, Bennane, Alley, Niederstadt, Trim, Byrum, Berman, Middaugh and Hunter and referred to the Committee on Senior Citizens and Retirement.

A bill to amend the title and section 2 of Act No. 180 of the Public Acts of 1981, entitled as amended

"Older Michiganians act,"

section 2 as amended by Act No. 35 of the Public Acts of 1987, being section 400.582 of the Michigan Compiled Laws; to add sections 5a, 5b, 5c, 5d, and 5e; and to repeal certain acts and parts of acts on specific dates.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and section 2 of Act No. 180 of the
2 Public Acts of 1981, section 2 as amended by Act No. 35 of the
3 Public Acts of 1987, being section 400.582 of the Michigan
4 Compiled Laws, are amended and sections 5a, 5b, 5c, 5d, and 5e
5 are added to read as follows:

TITLE

1
2 An act to create a commission on services to the aging
3 within the executive office of the governor; to create an office
4 of services to the aging as an autonomous entity within the
5 department of management and budget; TO ESTABLISH AN OLDER
6 PERSON'S PRESCRIPTION DRUG COVERAGE PROGRAM AND A TASK FORCE FOR
7 THE PROGRAM; to authorize the designation of area agencies on
8 services to the aging and to prescribe their powers and duties;
9 to establish certain programs relating to older persons; to pre-
10 scribe the powers and duties of certain state departments, offi-
11 cers, and agencies; to create funds; to provide penalties; to
12 repeal certain acts and parts of acts; and to repeal certain
13 parts of this act on specific dates.

14 Sec. 2. As used in this act:

15 (a) "Area agency on aging" means an agency designated by the
16 commission under section ~~4(i)~~ 4(1)(i).

17 (B) "BOARD OF PHARMACY" MEANS THE MICHIGAN BOARD OF PHARMACY
18 CREATED IN SECTION 17721 OF THE PUBLIC HEALTH CODE, ACT NO. 368
19 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.17721 OF THE
20 MICHIGAN COMPILED LAWS.

21 (C) ~~(b)~~ "Chief elected official administrative officer"
22 means any of the following:

23 (i) The president of a village.

24 (ii) The mayor of a city.

25 (iii) The supervisor of a township.

26 (iv) The elected county executive or appointed county
27 manager of a county; or if the county has not adopted an optional

1 unified form of county government, the chairperson of the county
2 board of commissioners of the county.

3 (D) ~~(e)~~ "Commission" means the commission on services to
4 the aging established under section 3.

5 (E) ~~(d)~~ "Director" means the director of the office of
6 services to the aging.

7 (F) ~~(e)~~ "Long-term care facility" means 1 or more of the
8 following:

9 (i) A home for the aged as defined in section 20106(3) of
10 the public health code, Act No. 368 of the Public Acts of 1978,
11 being section 333.20106 of the Michigan Compiled Laws.

12 (ii) An adult foster care facility as defined in
13 section 3(4) of the adult foster care facility licensing act, Act
14 No. 218 of the Public Acts of 1979, being section 400.703 of the
15 Michigan Compiled Laws.

16 (iii) A nursing home as defined in section 20109(1) of Act
17 No. 368 of the Public Acts of 1978, being section 333.20109 of
18 the Michigan Compiled Laws.

19 (iv) A county medical care facility as defined in
20 section 20104(4) of Act No. 368 of the Public Acts of 1978, being
21 section 333.20104 of the Michigan Compiled Laws.

22 (v) A hospital long-term care unit as defined in
23 section 20106(6) of Act No. 368 of the Public Acts of 1978.

24 (G) ~~(f)~~ "Office" means the office of services to the aging
25 created by section 5.

26 (H) ~~(g)~~ "Older person", EXCEPT AS OTHERWISE PROVIDED IN
27 THIS SUBDIVISION, means a state resident who is 60 years of age

1 or older, and the spouse of the older person, regardless of age.
2 FOR PURPOSES OF SECTIONS 5A, 5B, 5C, 5D, AND 5E, OLDER PERSON
3 MEANS A STATE RESIDENT WHO IS 62 YEARS OF AGE OR OLDER.

4 (I) "PRESCRIPTION" AND "PRESCRIPTION DRUG" MEAN THOSE TERMS
5 AS DEFINED IN SECTION 17708 OF THE PUBLIC HEALTH CODE, ACT
6 NO. 368 OF THE PUBLIC ACTS OF 1978, BEING SECTION 333.17708 OF
7 THE MICHIGAN COMPILED LAWS. IN ADDITION, PRESCRIPTION AND PRE-
8 SCRIPTON DRUG INCLUDES INSULIN, SYRINGES, AND NEEDLES.

9 (J) "PROGRAM" MEANS THE OLDER PERSON'S PRESCRIPTION DRUG
10 COVERAGE PROGRAM ESTABLISHED IN SECTION 5A.

11 SEC. 5A. (1) AN OLDER PERSON'S PRESCRIPTION DRUG COVERAGE
12 PROGRAM IS ESTABLISHED, TO BE ADMINISTERED BY THE OFFICE.

13 (2) THE PROGRAM SHALL PROVIDE FOR THE PAYMENT OF PRESCRIP-
14 TION DRUGS FOR EACH ELIGIBLE APPLICANT. THE NUMBER OF PRESCRIP-
15 TION DRUGS FOR WHICH PAYMENT IS MADE ON BEHALF OF EACH ELIGIBLE
16 APPLICANT UNDER THE PROGRAM MAY BE REVISED ANNUALLY BY THE
17 DIRECTOR.

18 SEC. 5B. IN ADMINISTERING THE PROGRAM, THE OFFICE SHALL DO
19 ALL OF THE FOLLOWING:

20 (A) DETERMINE THE ELIGIBILITY OF APPLICANTS TO THE PROGRAM.

21 (B) ENTER INTO CONTRACTS WITH PUBLIC OR PRIVATE ENTITIES FOR
22 THE PROCESSING AND PAYMENT OF CLAIMS AND MANAGEMENT REPORTING TO
23 INCLUDE, AT A MINIMUM, COST ANALYSIS AND UTILIZATION MONITORING.

24 (C) ESTABLISH A DISPENSING FEE TO BE PAID TO PHARMACIES THAT
25 PARTICIPATE IN THE PROGRAM. THE FEE SHALL NOT BE LESS THAN THE
26 DISPENSING FEE PAID TO PHARMACIES PARTICIPATING IN THE MEDICAL
27 ASSISTANCE PROGRAM ESTABLISHED UNDER THE SOCIAL WELFARE ACT, ACT

1 NO. 280 OF THE PUBLIC ACTS OF 1939, BEING SECTIONS 400.1 TO
2 400.121 OF THE MICHIGAN COMPILED LAWS.

3 (D) ESTABLISH A BENEFITS AND COVERAGES PANEL TO ENSURE THE
4 RESPONSIBLE DISPENSING AND CONTROL OF THE DISTRIBUTION OF PRE-
5 SCRIPTON DRUGS PROVIDED UNDER THE PROGRAM. THE BENEFITS AND
6 COVERAGES PANEL SHALL INCLUDE AT LEAST 1 PHYSICIAN, 3 PHARMACISTS
7 INCLUDING AT LEAST 1 CLINICAL PHARMACIST, A BIOCHEMIST, AND A
8 REGISTERED NURSE.

9 (E) PROMULGATE RULES PURSUANT TO THE ADMINISTRATIVE PROCE-
10 DURES ACT OF 1969, ACT NO. 306 OF THE PUBLIC ACTS OF 1969, BEING
11 SECTIONS 24.201 TO 24.328 OF THE MICHIGAN COMPILED LAWS, TO
12 IMPLEMENT SECTIONS 5A TO 5E.

13 SEC. 5C. (1) AN OLDER PERSON WHO MEETS ALL OF THE FOLLOWING
14 REQUIREMENTS IS ELIGIBLE TO PARTICIPATE IN THE PROGRAM:

15 (A) IF UNMARRIED, HAVE AN ANNUAL INCOME OF NOT MORE THAN
16 \$9,000.00. THE AMOUNT STATED IN THIS SUBDIVISION SHALL BE
17 ADJUSTED BY AN AMOUNT DETERMINED BY THE DIRECTOR AT THE END OF
18 EACH CALENDAR YEAR TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE
19 CHANGE IN THE CONSUMER PRICE INDEX. AS USED IN THIS SUBDIVISION,
20 "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX FOR ALL
21 URBAN CONSUMERS, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF
22 LABOR.

23 (B) IF MARRIED, HAVE A COMBINED ANNUAL INCOME OF NOT MORE
24 THAN \$12,000.00. THE AMOUNT STATED IN THIS SUBDIVISION SHALL BE
25 ADJUSTED BY AN AMOUNT DETERMINED BY THE DIRECTOR AT THE END OF
26 EACH CALENDAR YEAR TO REFLECT THE CUMULATIVE ANNUAL PERCENTAGE
27 CHANGE IN THE CONSUMER PRICE INDEX. AS USED IN THIS SUBDIVISION,

1 "CONSUMER PRICE INDEX" MEANS THE CONSUMER PRICE INDEX FOR ALL
2 URBAN CONSUMERS, AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF
3 LABOR.

4 (C) NOT BE ELIGIBLE TO PARTICIPATE IN THE MEDICAL ASSISTANCE
5 PROGRAM ESTABLISHED UNDER THE SOCIAL WELFARE ACT, ACT NO. 280 OF
6 THE PUBLIC ACTS OF 1939, BEING SECTIONS 400.1 TO 400.121 OF THE
7 MICHIGAN COMPILED LAWS.

8 (D) IF UNMARRIED, HAVE ASSETS TOTALING NOT MORE THAN
9 \$15,000.00, EXCLUDING ALL OF THE FOLLOWING:

- 10 (i) THE PERSON'S PRIMARY RESIDENCE.
- 11 (ii) ONE AUTOMOBILE.
- 12 (iii) ONE BURIAL PLOT.
- 13 (iv) ONE PREPAID FUNERAL PLAN.
- 14 (v) LIFE INSURANCE POLICIES.
- 15 (vi) PERSONAL POSSESSIONS AND HOUSEHOLD FURNISHINGS.

16 (E) IF MARRIED, HAVE COMBINED ASSETS TOTALING NOT MORE THAN
17 \$20,000.00, EXCLUDING ALL OF THE FOLLOWING:

- 18 (i) THE COUPLE'S PRIMARY RESIDENCE.
- 19 (ii) ONE AUTOMOBILE.
- 20 (iii) TWO BURIAL PLOTS.
- 21 (iv) ONE PREPAID FUNERAL PLAN WHICH COVERS 1 OR BOTH
22 PARTIES.

- 23 (v) LIFE INSURANCE POLICIES.
- 24 (vi) PERSONAL POSSESSIONS AND HOUSEHOLD FURNISHINGS.

25 (F) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBDIVISION, AT THE
26 TIME OF APPLICATION OR AT ANY TIME DURING PARTICIPATION IN THE
27 PROGRAM, NOT BE AN INPATIENT OR RESIDENT IN A HEALTH CARE

1 FACILITY OR MENTAL HEALTH FACILITY LICENSED OR OPERATED BY THE
2 STATE. THIS SUBDIVISION DOES NOT APPLY TO A RESIDENT OF A
3 LICENSED HOME FOR THE AGED.

4 (2) AN OLDER PERSON SHALL APPLY FOR PARTICIPATION IN THE
5 PROGRAM ON A FORM PRESCRIBED BY THE OFFICE. THE FORM SHALL
6 INCLUDE A STATEMENT REGARDING THE APPLICANT'S SOURCES OF INCOME.

7 (3) AN OLDER PERSON WHO IS ACCEPTED FOR PARTICIPATION IN THE
8 PROGRAM SHALL, BEFORE APPLYING FOR BENEFITS UNDER THE PROGRAM,
9 UTILIZE ANY OTHER THIRD PARTY REIMBURSEMENT FOR PRESCRIPTION
10 DRUGS AVAILABLE TO THE OLDER PERSON.

11 (4) EACH OLDER PERSON ACCEPTED FOR PARTICIPATION IN THE PRO-
12 GRAM SHALL PAY A COPAYMENT OF \$5.00 OR 50% OF THE COST, WHICHEVER
13 IS LESS, FOR EACH PRESCRIPTION PAID FOR BY THE PROGRAM. THE
14 COPAYMENT PRESCRIBED BY THIS SUBSECTION MAY BE ADJUSTED ANNUALLY
15 BY THE DIRECTOR, BASED ON FINANCIAL CONSIDERATIONS.

16 (5) A PERSON SHALL NOT SUBMIT OR AID IN THE SUBMISSION OF A
17 FALSE OR FRAUDULENT CLAIM UNDER THE PROGRAM, OR MAKE A CLAIM
18 UNDER THE PROGRAM IN ORDER TO DUPLICATE OTHER GOVERNMENTAL OR
19 PRIVATE PAY BENEFITS. A PERSON WHO VIOLATES THIS SUBSECTION IS
20 GUILTY OF A MISDEMEANOR. IF, AS A RESULT OF A VIOLATION OF THIS
21 SUBSECTION, A PERSON RECEIVES A FINANCIAL BENEFIT, THE PERSON
22 SHALL REIMBURSE THE PROGRAM IN AN AMOUNT EQUAL TO 3 TIMES THE
23 AMOUNT OF THE FINANCIAL BENEFIT RECEIVED.

24 SEC. 5D. (1) AN OLDER PERSON'S PRESCRIPTION DRUG COVERAGE
25 PROGRAM TASK FORCE IS ESTABLISHED IN THE OFFICE. THE TASK FORCE
26 SHALL CONSIST OF THE FOLLOWING MEMBERS:

1 (A) THE DIRECTOR.

2 (B) THE COMMISSIONER OF INSURANCE OR HIS OR HER OFFICIAL
3 DESIGNEE.

4 (C) THE DIRECTOR OF THE STATE DEPARTMENT OF PUBLIC HEALTH OR
5 HIS OR HER OFFICIAL DESIGNEE.

6 (D) A REPRESENTATIVE OF THE DEPARTMENT OF MANAGEMENT AND
7 BUDGET APPOINTED BY THE DIRECTOR OF THE DEPARTMENT OF MANAGEMENT
8 AND BUDGET.

9 (E) TWO REPRESENTATIVES OF THE BOARD OF PHARMACY, APPOINTED
10 BY THE DIRECTOR OF THE DEPARTMENT OF LICENSING AND REGULATION.

11 (F) THREE REPRESENTATIVES OF OLDER PERSONS, APPOINTED BY THE
12 DIRECTOR.

13 (2) THE DIRECTOR SHALL SERVE AS THE CHAIRPERSON OF THE TASK
14 FORCE. THE MEMBERS OF THE TASK FORCE DESCRIBED IN SUBSECTION
15 (1)(D) TO (F) SHALL SERVE FOR TERMS OF 3 YEARS AND SHALL NOT
16 SERVE FOR MORE THAN 2 CONSECUTIVE TERMS.

17 (3) THE TASK FORCE SHALL DO ALL OF THE FOLLOWING:

18 (A) OVERSEE THE OPERATION OF THE PROGRAM.

19 (B) EVALUATE THE EFFECTIVENESS OF THE PROGRAM.

20 (C) MAKE BIENNIAL RECOMMENDATIONS TO THE DIRECTOR FOR
21 IMPROVEMENTS IN THE PROGRAM.

22 (D) REPORT BIENNIALY TO THE DIRECTOR ON THE ACTIVITIES OF
23 THE TASK FORCE.

24 SEC. 5E. (1) WITHIN 2 YEARS AFTER THE EFFECTIVE DATE OF
25 THIS SECTION, THE TASK FORCE SHALL REPORT TO THE HOUSE AND SENATE
26 COMMITTEES HAVING JURISDICTION OVER LEGISLATION RELATING TO OLDER
27 PERSONS ON THE FEASIBILITY OF CONTINUING THE PROGRAM.

1 (2) IF, AFTER THE EFFECTIVE DATE OF THIS SECTION, THERE IS
2 ESTABLISHED UNDER FEDERAL LAW AN OLDER PERSON'S PRESCRIPTION DRUG
3 COVERAGE PROGRAM THAT IS SUBSTANTIALLY SIMILAR TO THE PROGRAM
4 ESTABLISHED UNDER SECTIONS 5A TO 5D, THE OFFICE SHALL DISCONTINUE
5 THE PROGRAM.

6 (3) THIS SECTION AND SECTIONS 5A TO 5D ARE REPEALED EFFEC-
7 TIVE 3 YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION.

8 Section 2. Section 273 of the income tax act of 1967, Act
9 No. 281 of the Public Acts of 1967, being section 206.273 of the
10 Michigan Compiled Laws, is repealed.

11 Section 3. This amendatory act shall take effect upon the
12 expiration of 1 year after the date of its enactment.