



1           (4) "Participating pharmacy" means an establishment located in the United States that has  
2 a valid state license or registration to dispense prescription drugs to residents of Rhode Island and  
3 that is registered to participate in the Rhode Island Rx program.

4           (5) "Rx program participant" means an individual determined eligible for the Rhode  
5 Island Rx program who has attested to meeting the eligibility requirements in accordance with  
6 Section 7, and has been issued a Rhode Island Rx program enrollment card.

7           (6) "State employee health plan" means a health benefits program paid for in whole or in  
8 part by the state for employees of Rhode Island, active and/or retired, that is authorized to  
9 negotiate prescription drug discounts separately and independently from other state programs.

10           **27-20.9-3. Enrollment cards.** -- A participant in the Rhode Island Rx program  
11 established pursuant to this chapter shall receive a Rhode Island Rx program enrollment card to  
12 be presented to participating pharmacies to receive discounts provided by the Rhode Island Rx  
13 program on the participant's purchases of outpatient prescription drugs.

14           **27-20.9-4. Rx program fund.** -- There is hereby created in the state treasury the "Rhode  
15 Island Rx Program Fund." The fund shall consist of rebates paid by manufactures pursuant to  
16 agreements entered into under section 27-20.9-5, funds appropriated to the program, and any gifts  
17 or grants to the program as provided in section 27-20.9-7, and investment earnings. Investment  
18 earnings of the fund shall be credited to the fund. The director shall use money in the fund to  
19 reimburse a participating pharmacy the amount of the manufacturer's discount off the ingredient  
20 cost for an outpatient prescription drug that the participating pharmacy passes through to a Rhode  
21 Island Rx program participant pursuant to section 4, and for bona fide administrative costs of the  
22 program.

23           **27-20.9-5. Program established.** -- (a) There is hereby established a discount drug  
24 program known as the "Rhode Island Rx program" to provide eligible uninsured persons with  
25 access to discounts on outpatient prescription drugs from participating pharmaceutical companies  
26 and pharmacists through a state-sponsored discount card program. The program will provide  
27 participants discounts on prescriptions based on existing negotiated discounts available to state  
28 employee health plans, established through agreements with participating pharmacists and  
29 manufacturers under this section, or at a manufacturer's option, an agreement to coordinate  
30 enrollment in a pharmaceutical manufacturer's prescription drug assistance program for the  
31 uninsured.

32           (b) The entire rebate or discount on a drug offered by the Rhode Island Rx program by a  
33 participating pharmaceutical manufacturer must be received by the Rx program participant.

34           (c) Subject to subsection 27-20.9-5(e), the manufacturer of a specific drug product may

1 enter into an agreement with the director to offer any of the following to the Rhode Island Rx  
2 program participants with respect to such drug;

3 (1) The average discount/rebate offered for the same drug(s) to state employee health  
4 plans; or

5 (2) A discount/rebate different specified by the manufacturer; or

6 (3) The prescription assistance program the manufacturer offers for such drug to eligible  
7 Rhode Island Rx program participants.

8 (d) Subject to subsection 27-20.9-5(e), participating pharmacies may enter into an  
9 agreement with the director to provide the Rhode Island Rx program participants the discount  
10 provided in section 27-20.9-10, and may offer program participants further discounts on their  
11 dispensing fees and on the amount they mark up their purchase price for prescription drugs by  
12 charging a price lower than their usual and customary price.

13 (e) The director shall adopt rules to implement the Rhode Island Rx program. The rules  
14 shall provide for all of the following:

15 (1) Simplified eligibility determination procedures for the Rhode Island Rx program,  
16 including methodology for documenting applicants' attestation of income, disability, and  
17 coverage status, as appropriate to eligibility groups for which application is being made, and for  
18 coordinating any arrangements that may be provided pursuant to subsection 27-20.9-5(c)(3).

19 (2) Claim forms and processes to be used by a participating pharmacy to obtain  
20 reimbursement for the ingredient cost discount provided to the Rhode Island Rx program  
21 participants as agreed to by the drug's manufacturer.

22 (3) Subject to section 27-20.9-6, the dispensing fee payable to participating pharmacies  
23 shall be two dollars and fifty cents (\$2.50), except as may be provided pursuant to an agreement  
24 under subsection 27-20.9-5(d) or pursuant to subsection 27-20.9-5 (f). The advisory council  
25 established in section 27-20.9-16 of this act shall review annually the appropriateness of the  
26 dispensing fee.

27 (4) An annual process for determining the discount price to be charged the Rhode Island  
28 Rx program participants for the drug, which shall be equal to the ingredient cost cap minus the  
29 manufacturer discount, established as follows:

30 (i) The ingredient cost cap for purposes of this section shall not be greater than the  
31 average amount payable to pharmacies for a drug by the state employee health plans. The director  
32 shall obtain on an annual basis the formula each state employee health plan uses to compute  
33 payments to a participating pharmacy for drugs furnished to a beneficiary of the state employee  
34 health plan, and shall determine the average amount payable to pharmacies for brand and generic

1 drugs by such plans. Such average shall be the ingredient cost cap for purposes of this section.

2 (ii) The manufacturer discount to be subtracted from the ingredient cost cap for purposes  
3 of this section shall be the greater of the average of the rebates reported by state employee health  
4 plans for the drug, or the amount made available by the manufacturer pursuant to subsection 27-  
5 20.9-5 (c)(2). The director shall obtain annually from state employee health plans the amount of  
6 the rebate, if any, negotiated by such plans on their contractors for each prescription drug for  
7 which the director has entered into a rebate agreement pursuant to section 27-20.9-5, and shall  
8 determine the average of any reported rebates for such drug. The rebate amount reported for each  
9 state employee health plan for each drug shall be the full amount negotiated by the manufacturer  
10 with the state or state agent that administers the state employee health plan.

11 (5) A process for considering whether the administrative fee may be lower than one  
12 dollar (\$1.00) per prescription, which shall be determined by the director no less frequently than  
13 annually.

14 (6) Arrangements for implementing an agreement entered into under subsection 27-20.9-  
15 5(c), including a schedule for participating manufacturers to pay rebates to the director.

16 (7) Arrangements for obtaining from state employee health plans the annual reports of the  
17 information required for purposes of this subsection.

18 (f) Subject to available funds, the director is authorized to contract with a third-party for  
19 administration of all or part of the program. The director is authorized to consider arrangements  
20 to include a mail service pharmacy option for program participants; provided, that no dispensing  
21 fee shall be charged for mail service prescriptions; and provided, that the discount price charged  
22 participants pursuant to section 27-20.9-10 is limited by mail service usual and customary prices.  
23 The availability of mail service, if any, shall be limited to prescriptions for a drug that the  
24 individual already has used for a minimum of three (3) months.

25 **27-20.9-6. Program review. --** The permanent joint committee on health care oversight  
26 established by the provisions of section 40-8.4-14 of the state of Rhode Island general laws shall  
27 review the Rhode Island Rx program on an annual basis to ensure it is meeting the goals of the  
28 program, including consideration of the appropriateness of the dispensing fee and the  
29 administrative fee charged participants, and any necessary revisions thereto. To the extent that  
30 funds are available in the Rhode Island Rx program fund, the permanent joint committee on  
31 health care oversight shall consider options for enhancing the assistance to participants, including  
32 consideration of the appropriateness of paying the dispensing fee, administrative fee, and some  
33 additional portion of the drug cost for the neediest participants out of program funds. For

1 purposes of this review the permanent joint committee on health care oversight shall receive, and  
2 be guided by, the report of the advisory council established pursuant to section 27-20.9-16.

3 **27-20.9-7. Appropriations.** -- The director shall use available state general funds to  
4 administer this program and to undertake outreach efforts to publicize the Rhode Island Rx  
5 program. There is hereby authorized an appropriation of general funds for start up and  
6 administration of the program. The director is authorized to accept grants and gifts for deposit  
7 into the Rhode Island Rx program fund for the exclusive use of the program.

8 **27-20.9-8. Eligibility.** -- An individual who is a resident of this state is eligible to  
9 participate in the Rhode Island Rx program if any of the following is true at the commencement  
10 of the program year:

11 (a) The individual is over sixty (60) years of age;

12 (b) The individual is over fifty-five (55) years of age and is receiving Supplemental  
13 Security Disability Income on account of total disability; or

14 (c) The individual or household has an annual income of two hundred and fifty percent  
15 (250%) of the federal poverty level or less, which shall include all sources of income including  
16 but not limited to wages, salaries, interest, and dividends; and

17 (1) the individual is not eligible and for the four (4) months prior to the application has  
18 not been eligible for outpatient prescription drug coverage under a health benefits program paid  
19 for in whole or in part by an employer, Medicaid, Medicare, or another state or federal health plan  
20 or pharmaceutical assistance program that uses state or federal funds to pay part or all of the  
21 individual's prescription drug costs. The four (4) month period shall not apply with respect to an  
22 individual if:

23 (A) the health plan for which he or she has been eligible is terminated because of  
24 bankruptcy of the sponsor or if pension benefits are required to be cut in a plan being managed  
25 under ERISA protection;

26 (B) the individual has exhausted eligibility for Medicaid benefits;

27 (C) the individual has coverage for prescription drugs through a non-government  
28 program that is subject to an annual cap on expenditures, and in the judgment of the department  
29 based on information attested to in the application, is likely to have annual expenditures for  
30 prescription drugs in excess of the annual cap. An individual is eligible for the program pursuant  
31 to this paragraph only after prescription expenditures in the program year have exceeded the  
32 insurance cap that is the basis for eligibility; or

33 (D) the individual is laid-off as a result of a plant or company closing or significant layoff  
34 of more than fifty (50) workers.

1           **27-20.9-9. Enrollment. – Eligible programs.** -- (a) An individual seeking to participate  
2 in the Rhode Island Rx program shall apply to the director on an annual basis, providing an  
3 attestation of income, disability, and/or coverage status as appropriate to the eligibility category  
4 for which application is made. False attestations shall be subject to the provisions of section 40-8-  
5 9 of the Rhode Island general laws.

6           (b) Before enrolling the individual in the Rhode Island Rx program, the director shall  
7 determine whether the individual is eligible to be enrolled in the Rhode Island Medicaid program  
8 or any other state funded program offering prescription drug coverage, or is eligible for subsidies  
9 to pay for coverage under the Medicare part D drug benefit;

10          (c) The department shall ensure that the Rhode Island Rx program is the payer of last  
11 resort. No program funds pursuant to section 27-20.9-4 shall be expended where a government or  
12 private payer has paid for a prescription.

13           **27-20.9-10. Fee.** -- Subject to manufacturer arrangements under subsection 27-20.9-  
14 5(c)(3) and to any action taken pursuant to section 27-20.9-6, the amount payable to participating  
15 pharmacies by the Rhode Island Rx program participants for a prescription shall be no greater  
16 than the dispensing fee established under section 27-20.9-5 plus the discount price for the drug  
17 established under section 27-20.9-5, plus an administrative fee of no more than one dollar (\$1.00)  
18 per prescription, or if lower, the pharmacy's usual and customary charge for the drug.

19           **27-20.9-11. Claim submission.** -- (a) A participating pharmacy that charges a Rhode  
20 Island Rx program participant a discount price for a prescription drug shall submit a claim to the  
21 director verifying the quantity of each prescription drug dispensed to Rhode Island Rx program  
22 participants by the participating pharmacy. The participating pharmacy shall use the claim form  
23 or process established under section 27-20.9-5.

24          (b) Using claims submitted by a participating pharmacy under section 27-20.9-11, the  
25 director shall reimburse a participating pharmacy the amount of the rebate a manufacturer has  
26 agreed to pay for the prescription drug pursuant to a rebate agreement entered into under section  
27 27-20.9-5 for each prescription drug the participating pharmacy has provided to a Rhode Island  
28 Rx program participant at the discount price pursuant to section 27-20.9-10. The director shall  
29 make the reimbursements and payments on a monthly basis.

30           **27-20.9-12. Information confidential.** -- (a) Notwithstanding any other provision of law,  
31 information disclosed by manufacturers and by state employee health plans under this chapter is  
32 confidential and shall not be disclosed by the director or a state agency (or contractor therewith)  
33 in a form which discloses the identity of a specific manufacturer, prices charged for drugs by such  
34 manufacturer or wholesaler, the identity of a specific state employee health plan (or its

1 contractor) or the payment methodologies or rebates of such plan, except:

2 (1) when the director determines it to be necessary to carry out this chapter; or

3 (2) to permit the attorney general to review the information provided.

4 All information provided by state employee health plans, pharmaceutical manufacturers and  
5 pharmacists under this chapter shall be deemed a trade secret under chapter 6-41 of the general  
6 laws and shall not be disclosed by the director or any other person pursuant to federal or state  
7 trade secrets law.

8 (b) Information on claims submitted by participating pharmacies under section 27-20.9-  
9 11 includes confidential patient information that shall be protected as provided under the privacy  
10 regulations under the Health Insurance Portability and Accountability Act.

11 **27-20.9-13. Program rebates and audits.** -- Each manufacturer that sells outpatient  
12 prescription drugs, whether branded or generic, may voluntarily enter into an agreement with the  
13 director as provided in subsection 27-20.9-5(c).

14 (a) Where such an agreement provides for rebates, the director shall report to each  
15 manufacturer in the standard reporting format established by the director, information on the total  
16 number of units of each dosage form and strength and package size of each outpatient  
17 prescription drug dispensed to the Rhode Island Rx program participants by participating  
18 pharmacies after the implementation date of the Rhode Island Rx program.

19 (b) Rebate payments shall be due to the director not later than thirty (30) days after the  
20 quarterly invoice is received by the participating manufacturer.

21 (c) The director shall permit a participating manufacturer to audit the information  
22 provided (or required to be provided) under subsection 27-20.9-13(a), including reasonable  
23 requests to audit participating pharmacies as may be appropriate to resolve disputes regarding  
24 utilization data submitted for rebate payment. The director shall ensure that any adjustments are  
25 made to reflect manufacturer and pharmacy agreements with the Rhode Island Rx program.

26 (d) The department may audit participating pharmacies to ensure the participating  
27 manufacturer's discounts are appropriately passed on to the Rhode Island Rx program  
28 participants. Audit reports shall be released to the legislature and to the public once a year.

29 **27-20.9-14. Duration of coverage.** -- The Rhode Island Rx program shall cover a  
30 prescription drug for at least one year if the prescription drug is included in an agreement entered  
31 into under section 27-20.9-5.

32 **27-20.9-15. Manufacturer participation.** -- Participation in the program by a  
33 manufacturer is voluntary.

34 (a) Failure of a manufacturer to participate in the Rhode Island Rx program will not result

1 in prior authorization of drugs in the Medicaid program that would not otherwise be subject to  
2 prior authorization but for the failure of the manufacturer to participate in the Rhode Island Rx  
3 program.

4 (b) A state employee health plan or any other state funded prescription drug program may  
5 not place a manufacturer's product on the prior authorization list or otherwise penalize or restrict  
6 access to any of the manufacturer's product(s) in response to a manufacturer's failing to enter into  
7 a rebate agreement under section 27-20.9-5.

8 (c) The program may not include the purchase of prescription drugs imported from  
9 jurisdictions outside of the United States.

10 **27-20.9-16. Advisory Council.** – (a) There is hereby established the Rhode Island Rx  
11 Program Advisory Council. The council shall advise the permanent joint committee on health  
12 care oversight on the Rhode Island Rx program. With the approval of a majority of the council's  
13 appointed members, the council may initiate studies to determine whether there are more  
14 effective way to administer the program and provide the permanent joint committee on health  
15 care oversight with suggestions for improvements. The council shall pay particular attention to  
16 the dispensing fee and the administrative fee, with the objective of ensuring an efficient program  
17 that offers the best value to program participants. The department, at its option, may take notice  
18 of the recommendations and deliberations of the advisory council in exercising its authority to  
19 operate the program.

20 (b) The advisory council shall have the following composition:

21 (1) A representative of organized labor appointed by the president of the Rhode Island  
22 AFL-CIO;

23 (2) A representative of the Alliance for Retired Americans appointed by the executive  
24 director;

25 (3) A representative of the American Association of Retired Persons appointed by the  
26 executive director;

27 (4) A representative of retail pharmacists licensed and operating in the state of Rhode  
28 Island, as appointed by the Rhode Island Pharmacists Association;

29 (5) Three representatives of the research-based pharmaceutical manufacturers;

30 (6) The speaker of the house; or his or her designee; and

31 (7) The president of the senate; or his or her designee.

32 (c) The speaker of the house; or his or her designee, and the president of the senate; or his  
33 or her designee, shall co-chair the advisory council, and the council shall meet at the call of the  
34 chair, but no less frequently than once per year.



1           (d) Council members in subsection (1) through (4) herein shall be appointed as above and  
2 shall serve such terms as may be designated by their respective constituencies and shall receive  
3 no compensation for their service.

4           (e) The director or designated representative of the department shall be a non-voting ex-  
5 officio of the advisory council.

6           (f) A quorum for consideration of business is no fewer than five (5) voting members  
7 present. Recommendations and report of the council shall be adopted by a two-thirds (2/3)  
8 majority, and no minority reports shall be authorized.

9           **27-20.9-17. Rx Clearinghouse.** -- There is hereby established and Rx Clearinghouse  
10 which shall be operated by the director. The Rx Clearinghouse shall serve as a central repository  
11 of registration and application information for all public and private prescription drug benefits not  
12 associated with a particular health plan or insurer, including, but not limited to, drug  
13 manufacturer patient assistance program, prescription drug discount card programs, the Rhode  
14 Island Rx Benefits Program, SCHIP, Medicare, and Medicaid.

15           (a) The Clearinghouse shall assist Rhode Island residents in identifying benefits for  
16 which they may be eligible.

17           (b) Information disclosed by private entities, including, but not limited to, drug  
18 manufacturers, during coordination and implementation of the Rx Clearinghouse shall be kept  
19 confidential, except as the director determines is necessary to carry out the Clearinghouse. All  
20 information received by the state or its contractors from a private entity for coordination under  
21 the Rx Clearinghouse shall be exempt from disclosure.

22           (c) All individual identifying information relating to any patient or consumer pursuant to  
23 the Rx Clearinghouse shall be kept confidential by the director, other state entities, and program  
24 administrators for drug manufacturer's programs. The director shall obtain any authorization  
25 from the patients or consumers necessary to assure uses of the information for the purpose of  
26 administering the Rx Clearinghouse and making any referrals to manufacturer programs.

27           **27-20.9-18. Severability.** -- If any provision of this chapter is declared unconstitutional  
28 or the applicability of this chapter to any person or circumstances is held invalid, the  
29 constitutionality of the remainder of the chapter and the applicability of it to other persons and  
30 circumstances shall not be affected by that invalidity.

31           SECTION 2. This act shall take effect on February 1, 2007.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO INSURANCE - THE RHODE ISLAND RX PROGRAM

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1           This act would create the Rhode Island Rx Program to provide prescription drug  
2 assistance to the uninsured.

3           This act would take effect on February 1, 2007.

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