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SENATE BILL 5026

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State of Washington

57th Legislature

2001 Regular Session

By Senators Franklin, Thibaudeau, Kohl-Welles, Winsley, Regala and Costa

Read first time 01/08/2001. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the aggregate purchasing prescription drug  
2 discount program; amending RCW 41.05.011; reenacting and amending RCW  
3 41.05.011; adding new sections to chapter 41.05 RCW; creating new  
4 sections; providing an effective date; and providing an expiration  
5 date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds that prescription  
8 drugs play an increasingly significant role in maintaining and  
9 improving the health of Washington residents. But the cost of these  
10 drugs is placing a growing strain on state health care programs. For  
11 those people not covered by these programs, or otherwise uninsured, the  
12 high costs may limit their access to medications altogether. However,  
13 by maximizing its purchasing power and taking better advantage of its  
14 position as a major buyer of prescription drugs, the state should be  
15 able to reduce the price it pays for such drugs across all state  
16 programs, and offer some relief to others in need who lack prescription  
17 drug coverage. To further this purpose, there is created the aggregate  
18 purchasing prescription drug discount program.

1       **Sec. 2.** RCW 41.05.011 and 2000 c 230 s 3 are each amended to read  
2 as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section shall apply throughout this chapter.

5       (1) "Administrator" means the administrator of the authority.

6       (2) "State purchased health care" or "health care" means medical  
7 and health care, pharmaceuticals, and medical equipment purchased with  
8 state and federal funds by the department of social and health  
9 services, the department of health, the basic health plan, the state  
10 health care authority, the department of labor and industries, the  
11 department of corrections, the department of veterans affairs, and  
12 local school districts.

13       (3) "Authority" means the Washington state health care authority.

14       (4) "Insuring entity" means an insurer as defined in chapter 48.01  
15 RCW, a health care service contractor as defined in chapter 48.44 RCW,  
16 or a health maintenance organization as defined in chapter 48.46 RCW.

17       (5) "Flexible benefit plan" means a benefit plan that allows  
18 employees to choose the level of health care coverage provided and the  
19 amount of employee contributions from among a range of choices offered  
20 by the authority.

21       (6) "Employee" includes all full-time and career seasonal employees  
22 of the state, whether or not covered by civil service; elected and  
23 appointed officials of the executive branch of government, including  
24 full-time members of boards, commissions, or committees; and includes  
25 any or all part-time and temporary employees under the terms and  
26 conditions established under this chapter by the authority; justices of  
27 the supreme court and judges of the court of appeals and the superior  
28 courts; and members of the state legislature or of the legislative  
29 authority of any county, city, or town who are elected to office after  
30 February 20, 1970. "Employee" also includes: (a) Employees of a  
31 county, municipality, or other political subdivision of the state if  
32 the legislative authority of the county, municipality, or other  
33 political subdivision of the state seeks and receives the approval of  
34 the authority to provide any of its insurance programs by contract with  
35 the authority, as provided in RCW 41.04.205; (b) employees of employee  
36 organizations representing state civil service employees, at the option  
37 of each such employee organization, and, effective October 1, 1995,  
38 employees of employee organizations currently pooled with employees of  
39 school districts for the purpose of purchasing insurance benefits, at

1 the option of each such employee organization; and (c) employees of a  
2 school district if the authority agrees to provide any of the school  
3 districts' insurance programs by contract with the authority as  
4 provided in RCW 28A.400.350.

5 (7) "Board" means the public employees' benefits board established  
6 under RCW 41.05.055.

7 (8) "Retired or disabled school employee" means:

8 (a) Persons who separated from employment with a school district or  
9 educational service district and are receiving a retirement allowance  
10 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

11 (b) Persons who separate from employment with a school district or  
12 educational service district on or after October 1, 1993, and  
13 immediately upon separation receive a retirement allowance under  
14 chapter 41.32, 41.35, or 41.40 RCW;

15 (c) Persons who separate from employment with a school district or  
16 educational service district due to a total and permanent disability,  
17 and are eligible to receive a deferred retirement allowance under  
18 chapter 41.32, 41.35, or 41.40 RCW.

19 (9) "Benefits contribution plan" means a premium only contribution  
20 plan, a medical flexible spending arrangement, or a cafeteria plan  
21 whereby state and public employees may agree to a contribution to  
22 benefit costs which will allow the employee to participate in benefits  
23 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the  
24 internal revenue code.

25 (10) "Salary" means a state employee's monthly salary or wages.

26 (11) "Participant" means an individual who fulfills the eligibility  
27 and enrollment requirements under the benefits contribution plan.

28 (12) "Plan year" means the time period established by the  
29 authority.

30 (13) "Separated employees" means persons who separate from  
31 employment with an employer as defined in:

32 (a) RCW 41.32.010(11) on or after July 1, 1996; or

33 (b) RCW 41.35.010 on or after September 1, 2000;

34 and who are at least age fifty-five and have at least ten years of  
35 service under the teachers' retirement system plan 3 as defined in RCW  
36 41.32.010(40) or the Washington school employees' retirement system  
37 plan 3 as defined in RCW 41.35.010.

38 (14) "Prescription drug program" means a program administered by a  
39 state agency pursuant to which prescription drugs are purchased or

1 reimbursement for the purchase of prescription drugs is provided, or  
2 any state agency making such a purchase or reimbursement.

3 (15) "Wholesaler" means a corporation, individual, or other entity  
4 that buys drugs or devices for resale and distributes the drugs or  
5 devices to corporations, individuals, or entities other than consumers.

6 (16) "Manufacturer" means anyone who is engaged in manufacturing,  
7 preparing, propagating, compounding, processing, packaging,  
8 repackaging, or labeling a drug. However, a pharmacist compounding  
9 drugs to be dispensed from the pharmacy in which the drugs are  
10 compounded pursuant to prescriptions for individual patients is not a  
11 manufacturer.

12 (17) "Supplier" means a wholesaler or manufacturer.

13 **Sec. 3.** RCW 41.05.011 and 2000 c 247 s 604 and 2000 c 230 s 3 are  
14 each reenacted and amended to read as follows:

15 Unless the context clearly requires otherwise, the definitions in  
16 this section shall apply throughout this chapter.

17 (1) "Administrator" means the administrator of the authority.

18 (2) "State purchased health care" or "health care" means medical  
19 and health care, pharmaceuticals, and medical equipment purchased with  
20 state and federal funds by the department of social and health  
21 services, the department of health, the basic health plan, the state  
22 health care authority, the department of labor and industries, the  
23 department of corrections, the department of veterans affairs, and  
24 local school districts.

25 (3) "Authority" means the Washington state health care authority.

26 (4) "Insuring entity" means an insurer as defined in chapter 48.01  
27 RCW, a health care service contractor as defined in chapter 48.44 RCW,  
28 or a health maintenance organization as defined in chapter 48.46 RCW.

29 (5) "Flexible benefit plan" means a benefit plan that allows  
30 employees to choose the level of health care coverage provided and the  
31 amount of employee contributions from among a range of choices offered  
32 by the authority.

33 (6) "Employee" includes all full-time and career seasonal employees  
34 of the state, whether or not covered by civil service; elected and  
35 appointed officials of the executive branch of government, including  
36 full-time members of boards, commissions, or committees; and includes  
37 any or all part-time and temporary employees under the terms and  
38 conditions established under this chapter by the authority; justices of

1 the supreme court and judges of the court of appeals and the superior  
2 courts; and members of the state legislature or of the legislative  
3 authority of any county, city, or town who are elected to office after  
4 February 20, 1970. "Employee" also includes: (a) Employees of a  
5 county, municipality, or other political subdivision of the state if  
6 the legislative authority of the county, municipality, or other  
7 political subdivision of the state seeks and receives the approval of  
8 the authority to provide any of its insurance programs by contract with  
9 the authority, as provided in RCW 41.04.205; (b) employees of employee  
10 organizations representing state civil service employees, at the option  
11 of each such employee organization, and, effective October 1, 1995,  
12 employees of employee organizations currently pooled with employees of  
13 school districts for the purpose of purchasing insurance benefits, at  
14 the option of each such employee organization; and (c) employees of a  
15 school district if the authority agrees to provide any of the school  
16 districts' insurance programs by contract with the authority as  
17 provided in RCW 28A.400.350.

18 (7) "Board" means the public employees' benefits board established  
19 under RCW 41.05.055.

20 (8) "Retired or disabled school employee" means:

21 (a) Persons who separated from employment with a school district or  
22 educational service district and are receiving a retirement allowance  
23 under chapter 41.32 or 41.40 RCW as of September 30, 1993;

24 (b) Persons who separate from employment with a school district or  
25 educational service district on or after October 1, 1993, and  
26 immediately upon separation receive a retirement allowance under  
27 chapter 41.32, 41.35, or 41.40 RCW;

28 (c) Persons who separate from employment with a school district or  
29 educational service district due to a total and permanent disability,  
30 and are eligible to receive a deferred retirement allowance under  
31 chapter 41.32, 41.35, or 41.40 RCW.

32 (9) "Benefits contribution plan" means a premium only contribution  
33 plan, a medical flexible spending arrangement, or a cafeteria plan  
34 whereby state and public employees may agree to a contribution to  
35 benefit costs which will allow the employee to participate in benefits  
36 offered pursuant to 26 U.S.C. Sec. 125 or other sections of the  
37 internal revenue code.

38 (10) "Salary" means a state employee's monthly salary or wages.

1 (11) "Participant" means an individual who fulfills the eligibility  
2 and enrollment requirements under the benefits contribution plan.

3 (12) "Plan year" means the time period established by the  
4 authority.

5 (13) "Separated employees" means persons who separate from  
6 employment with an employer as defined in:

7 (a) RCW 41.32.010(11) on or after July 1, 1996; or

8 (b) RCW 41.35.010 on or after September 1, 2000; or

9 (c) RCW 41.40.010 on or after March 1, 2002;

10 and who are at least age fifty-five and have at least ten years of  
11 service under the teachers' retirement system plan 3 as defined in RCW  
12 41.32.010(40), the Washington school employees' retirement system plan  
13 3 as defined in RCW 41.35.010, or the public employees' retirement  
14 system plan 3 as defined in RCW 41.40.010.

15 (14) "Prescription drug program" means a program administered by a  
16 state agency pursuant to which prescription drugs are purchased or  
17 reimbursement for the purchase of prescription drugs is provided, or  
18 any state agency making such a purchase or reimbursement.

19 (15) "Wholesaler" means a corporation, individual, or other entity  
20 that buys drugs or devices for resale and distributes the drugs or  
21 devices to corporations, individuals, or entities other than consumers.

22 (16) "Manufacturer" means anyone who is engaged in manufacturing,  
23 preparing, propagating, compounding, processing, packaging,  
24 repackaging, or labeling a drug. However, a pharmacist compounding  
25 drugs to be dispensed from the pharmacy in which the drugs are  
26 compounded pursuant to prescriptions for individual patients is not a  
27 manufacturer.

28 (17) "Supplier" means a wholesaler or manufacturer.

29 NEW SECTION. Sec. 4. A new section is added to chapter 41.05 RCW  
30 to read as follows:

31 No later than July 1, 2002, the health care authority shall  
32 implement a program to aggregate the purchase of prescription drugs  
33 from suppliers for prescription drug programs in this state, to be  
34 known as the "aggregate purchasing prescription drug discount program."  
35 The authority may contract with an outside manager to administer this  
36 program, which shall include the following components:

37 (1) Price discounts on prescription drugs negotiated by the health  
38 care authority or manager with prescription drug suppliers. After July

1 2, 2002, neither the aggregate purchasing prescription drug discount  
2 program nor any prescription drug program in this state shall purchase,  
3 or provide reimbursement for, prescription drugs from a supplier that  
4 has not reached a discount agreement with the aggregate purchasing  
5 prescription drug discount program.

6 (2) A means to make the negotiated price discounts available to any  
7 person who is:

8 (a) A resident of the state of Washington;

9 (b) Ineligible for medicaid prescription benefits;

10 (c) Ineligible for, or not receiving, or both, a prescription drug  
11 benefit under a medicare supplemental policy or any other third-party  
12 payer prescription benefit; and

13 (d)(i) At least fifty-five years old; or

14 (ii) Between the ages of nineteen and fifty-four who is otherwise  
15 eligible for benefits under Title II of the social security act  
16 (federal old-age, survivors, and disability insurance benefits).

17 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.05 RCW  
18 to read as follows:

19 The health care authority may adopt rules to implement this act.

20 NEW SECTION. **Sec. 6.** By January 1, 2002, the administrator of the  
21 health care authority shall submit to the governor and the legislature  
22 a progress report regarding the implementation of the aggregate  
23 purchasing prescription drug discount program.

24 NEW SECTION. **Sec. 7.** Section 2 of this act expires March 1, 2002.

25 NEW SECTION. **Sec. 8.** Section 3 of this act takes effect March 1,  
26 2002.

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