

# **Rules & Regulations Governing the Prescription Drug Program for the Uninsured**

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## **Section I. Introduction.**

### **100. Preface**

These rules and regulations have been promulgated to ensure that basic information about the prescription drug discount program for uninsured residents of Rhode Island and eligibility to participate in this program is readily available to qualified Cardholders.

Pursuant to the provisions of the Administrative Procedures Act, R.I.G.L. § 42-35-3, the following were given consideration in arriving at the regulations: (a) alternative approaches to the regulations; (b) duplication or overlap with other state regulations; and significant economic impact. No alternative approach was identified; nor any duplication or overlap.

### **200. Program Authority**

The Prescription Drug Program for the Uninsured is authorized by, and these regulations are promulgated under, the authority of Title 42 of the General Laws of Rhode Island, Chapter 66.2.1-1, R.I.G.L. § 42-66.2.1-1 *et seq.*, “Rhode Island Prescription Drug Discount Program for the Uninsured”.

### **300. Nondiscrimination and Civil Rights Policy**

Each agency that provides prescription drug discount services to uninsured Rhode Island residents shall be responsible for maintaining a policy of nondiscrimination in the provision of services to participants and in the employment of staff without regard to race, color, creed, national origin, sex, sexual orientation, age, handicapping condition or degree of handicap, in accordance with Title VI of the Civil Rights Act of 1964; the Rhode Island Executive Order No. 92-2, dated January 23, 1992 and entitled “Compliance with the Americans with Disabilities Act”; the United States Executive Order No. 11246 entitled “Equal Employment Opportunity”; United States Department of Labor Regulations; Title V of the Rehabilitation Act of 1973, as amended; the 1990 Americans With Disabilities Act; R.I.G.L. § 42-87, which states that “Discrimination” includes those acts prohibited on the basis of race by 42 U.S.C. #1981, 1983 and those on the basis of handicap by 29 U.S.C. #794 and those on the basis of disability by U.S.C. #12100 *et seq.* and U.S.C. #12101 *et seq.*, and those on the basis of handicap by R.I.G.L. § 28-5; and the Rhode Island Fair Employment Practices Act.

### **400. Compliance with All Laws, Codes, Rules and Regulations**

Each agency that provides prescription drug discount services to uninsured Rhode Island residents shall be responsible for complying with all local, state, and federal laws, codes, rules and regulations that apply to the program.

### **500. Severability**

If any provision of the rules and regulations herein or the application thereof to any program or circumstances shall be held invalid, such invalidity shall not affect the provision or application of

the rules and regulations which can be given effect, and to this end the provisions of the rules and regulations are declared to be severable.

## **600. Definitions**

For the purpose of these Rules & Regulations, the following words and phrases shall mean:

1. “Annual enrollment fee” means a fee sufficient to cover all expenses related to the management of the discount program and shall not exceed thirty dollars (\$30) per year.
2. “Cardholder” means eligible persons who apply for the Program, are determined to be eligible and are issued a discount card by the Program Contractor.
3. “Department” means the Rhode Island Department of Elderly Affairs.
4. “Director” means the Director of the Department of Elderly Affairs.
5. “Open formulary” means there is no limitation to the drugs that will be discounted. All medications will be eligible for the discount.
6. “Participating pharmacy” means any pharmacy licensed in the State of Rhode Island which has a written agreement with the Program Contractor agreeing to the conditions and requirements of participation in the Prescription Drug Discount Program for the Uninsured.
7. “Pharmacy dispensing fees” are fees to cover dispensing of the drugs by participating pharmacies. These fees shall be uniformly established in advance and paid directly to the pharmacy by the Program Cardholders.
8. “Program” means the Prescription Drug Discount Program for the Uninsured.
9. “Program Contractor” means Pharmacare Management Services, Inc., an agency based in Lincoln, RI, with which the Department has contracted to implement and manage the Program.
10. “Resident” means any resident of the State of Rhode Island who fulfills the residency requirements set forth in R.I.G.L. § 17-1-3.1 entitled “Residence for voting purposes” A person’s residence for voting purposes is his/her fixed and established domicile. The determinant of one’s domicile is that person’s factual physical presence in the voting district on a regular basis incorporating an intention to reside for an indefinite period. The domicile is the place to which, upon temporary absence, he/she has the intention of returning. Once acquired, this domicile continues until another such domicile is established. A person can have only one (1) domicile.

## **Section II. Purpose and Services Available**

### **100. Purpose**

The purpose of the Prescription Drug Discount Program for the Uninsured shall be to provide a prescription drug discount program for persons who are residents of Rhode Island between nineteen (19) and sixty-five (65) years of age and have an annual family income at or below two hundred percent (200%) of the federal poverty level, and are uninsured for prescription drugs.

### **200. Services Available and Effective Date of Program**

The Program shall provide eligible persons will a means of purchasing any and all prescription drugs at the lowest possible out of pocket expense.

Applications to participate in the Program shall be taken by the Program Contractor beginning on January 1, 2006.

## **Section III. Contracts for the Management of the Program**

### **100. Contracts**

The Director is authorized to enter into contracts for the provision of services under this program. The Director shall initiate a competitive bid process by the issuance and advertisement of specifications and request for proposals.

Contractors shall meet all applicable licensing and certification requirements. Contracts may include standards for participation above and beyond minimum licensing and certification requirements. Contractors shall be responsible for compliance of all participating pharmacies with R.I.G.L. § 42-66.2.1

The initial terms of contracts shall be for two (2) initial years with three (3) one-year options to extend, not to exceed a total contracting period of five (5) years. All contracted extensions shall be through contract amendments and shall remain the same as the original contract.

### **200. Funding of Contracts**

No state appropriated funds shall be used for the development, implementation and administration of this program. No administrative or other fees shall be charged to the Department.

## **Section IV. Program Eligibility and Financial Participation by Cardholders**

### **100. Program Eligibility**

To be eligible for the Prescription Drug Discount Program for the Uninsured, the applicant must be determined to be a resident of the state of Rhode Island between the ages of nineteen (19) and sixty-five (65) years and to be uninsured for prescription drugs.

Persons eligible shall not include an individual who is eligible, or has been eligible for the four (4) months prior to the application for the drug discount program offered under the provisions of this chapter, for outpatient prescription drug coverage under a health benefits program paid for in whole or in part by an employer, Medicaid, Medicare, or another state or federal health plan or pharmaceutical assistance program that uses state or federal funds to pay part or all of the individual's prescription drug costs.

### **200. Financial Participation by Cardholders**

Cardholders shall pay an annual enrollment fee not to exceed thirty dollars (\$30.00) per year to the entity that has a contract with the Department to implement and manage the Program. Cardholders shall also pay pharmacy dispensing fees directly to the pharmacy. Pharmacy dispensing fees shall be uniformly established in advance.

## **Section V. Application to the Program and Determination of Eligibility**

### **100. How to Apply**

Eligibility shall be determined by the Program Contractor. In order to be eligible for the Prescription Drug Discount Program for the Uninsured, individuals must meet all of the following criteria:

1. Cardholders must be between the ages of 19 and 65 years of age at the time of application.
2. Cardholders must be full time residents of the State of Rhode Island at the time of application. Full time residence shall be determined consistent with Section 17-1-3.1 of the General Laws of RI, "Residence for voting purposes" (refer to definition of full time resident).
3. Cardholders must be determined by the Program Contractor to have an annual family income at or below 200% of the federal poverty level at the time of application. Income levels shall not include those sums of money expended for medical and pharmaceutical expenses that exceed three percent (3%) of applicant's family's annual income or three percent (3%) of applicant's family's ninety (90) day income computed on an annual basis.

The Program Contractor shall accept all applications for the Program, beginning on January 1, 2006. The Program Contractor shall develop and utilize an application form, which shall serve as the primary vehicle for determination of program eligibility. This form may include but not be limited to:

- a. pertinent demographic information
- b. residence
- c. date of birth
- d. social security number
- e. annual income of the applicant's family during the previous calendar year or the previous ninety (90) days, projecting that income on an annual basis
- f. all other data essential for the determination of eligibility and the maintenance of client statistics
- g. certification through signature of the applicant that permission is granted to the Program Contractor any and all information supplied on the application form as well as certification through signature that the applicant will supply to the Program Contractor, upon request, written documentation of all information included on the application form.

The following documentation shall be accepted as verification of age and residence under the Prescription Drug Discount for the Uninsured Program:

Age: One of the following:

- 1. RI Driver's License;
- 2. Birth Certificate;
- 3. RIPTA I.D. Card;
- 4. DEA I.D. Card;
- 5. Any other official document which indicates date of birth

Residence: One of the following:

- 1. the address furnished to the Registry of Motor Vehicles for the applicant's operator's license;
- 2. the address to which the applicant's motor vehicle is registered;
- 3. the address at which the applicant filed his/her last federal and/or state income tax form(s);
- 4. the address furnished to the companies from which the applicant has obtained retail credit cards;
- 5. the address furnished to the financial institutions where the applicant maintains accounts;
- 6. the address furnished to the tax collector and/or assessor in those communities where the applicant owns taxable real or personal property;
- 7. the address furnished to the insurance companies with which the applicant maintains policies;

8. the address furnished by the applicant to any business, professional, union, or fraternal organizations of which he/she is a member;
9. the address furnished to governmental agencies with which the applicant has contact;
10. the address of a hospital, convalescent home, or like facility at which the applicant has been a patient or resident for the preceding thirty (30) days or longer.

Income                      One of the following for the family of applicant:

1. for previous calendar year family's federal income tax return;
2. W2 forms, pay stubs with year to date total, letter from employer(s) Indicating length of employment and wages for previous calendar year;
3. TDI/Worker's Compensation: an award letter or copies of checks;
4. unemployment benefits: a stamped unemployment book or copy of check;
5. alimony or support: a court decree or other documentation;
6. pension benefits: (Social Security, Veterans Benefits, SSI, etc.) an award letter(s) or, after determining date of initial award, copy of most recent check or written verification from income source;
7. AFDC/GPA: a letter from the Department of Human Services detailing income from the previous calendar year or a listing of such supplied by DHS;
8. interest income: savings statements, passbook, letter from savings Institution (s), W-1099 or W-9 interest form;
9. rental income: rent receipts, lease agreements ;
10. self employment income: all receipts, bills, invoices and other documents establishing income and expenses of operations;
11. any listing or verification from an agency or organization for one of the above shall constitute acceptable documentation of income.

Income Disregard shall include the following:

1. gifts from non-governmental sources;
2. the value of surplus foods;
3. benefits excluded from income by federal or state law, i.e. stipends received by Senior Companions under the Domestic Volunteer Service Act of 1973, as amended;
4. benefits received under the Low Income Energy Assistance Program;
5. other relief in kind supplied by a public or private agency;
6. sums of money expended for medical and pharmaceutical that exceed three percent (3%) of applicant's annual income or, if ninety (90) days income data is used for eligibility purposes, three percent (3%) of applicant's preceding ninety (90) day income computed on annual basis.



The Program Contractor may verify eligibility information in one or more of the following ways:

- a. review and certification of eligibility by trained staff for each application filed with the Program Contractor;
- b. computer cross checks with available data banks; and/or
- c. home-based assessment to obtain documentation for age, residence, income and uninsured status.

## **200. Eligibility Cards.**

The Program Contractor shall design and produce eligibility cards. Each Cardholder must present this card at a participating pharmacy and when using mail order pharmacy services. Each card will include an individual identification number, group number and an expiration date.

An eligibility card may only be used for the person to whom it was issued. Any deliberate attempt to utilize a prescription drug discount program card to obtain discounted drugs for an individual other than the individual to whom the card was issued shall constitute fraud (refer to Section VII).

The Program Contractor shall replace lost or destroyed drug discount cards at a nominal cost to the Cardholder. A replacement card shall be supplied to a Cardholder as soon as possible. Cardholders may be provided with a letter signed by the Program Contractor verifying eligibility until such time as a lost or destroyed card is replaced.

## **300. Determination of Eligibility and Notification to Applicant.**

The Program Contractor shall determine eligibility of each applicant within thirty (30) days of receipt by the Program Contractor of a completed application and assessment.

The Program Contractor shall make written notification to each applicant of eligibility and shall distribute eligibility cards to all eligible persons who apply and are determined to be eligible.

The Program Contractor shall distribute appropriate notice to those applicants who are determined to be not eligible. This notice shall include a description of the process for appeal of this decision (refer to Section VII, Appeal Procedures, of these rules and regulations).

Cardholders whose eligibility has been established as described in Section V shall remain eligible for a period of five (5) years, or until the following, whichever occurs first:

- a. The client moves out of Rhode Island and is no longer a full time resident;
- b. The client is no longer in need of the services of this program;
- c. The Program Contractor conducts a reassessment of eligibility and determines the beneficiary to be ineligible.

## **Section VI. Participating Pharmacies, Mail Order Pharmacy Services and Eligible Drugs**

### **100. Network of Participating Pharmacies.**

The Program Contractor shall identify, establish and work with a network of participating pharmacies for program services for Cardholders. The Program Contractor shall publicize the participating pharmacies to Cardholders and promote the use of the discount card program.

### **200. Mail Order Pharmacy Services.**

The Program Contractor shall provide mail order pharmacy services for Cardholders. The Program Contractor shall publicize the mail order pharmacy services to Cardholders and promote the use of the discount card program.

### **300. Eligible Drugs.**

The Prescription Discount Drug Program is an open formulary. This means that all prescription medications qualify for a discount.

## **Section VII. Fraud and Abuse.**

### **100. Fraud and Abuse.**

The Department shall declare ineligible any person who abuses or misuses the Prescription Discount Drug Program. The Department is empowered to and shall investigate all cases of suspected provider or consumer fraud and abuse, and shall refer all pertinent findings to the Office of the Attorney General.

The Program Contractor and participating pharmacies shall report to the Department any suspected incident of fraud or abuse. Such reports shall be made in writing to the Director or designee.

### **200. Definition of Fraud and Abuse.**

Fraud and abuse shall include but not be limited to:

1. falsification of information on the application for a drug discount card;
2. use or attempted use of a drug discount card by an unauthorized individual;
3. falsification of information by a participating pharmacy;
4. consumer or provider claims for duplicative benefits;
5. any violation or attempt to violate the provisions of R.I.G.L. § 42-66.2.1-1 *et.seq* or these Rules and Regulations.

### **300. Penalties for Being Found Guilty of Fraud and Abuse.**

Individuals attempting fraud or abuse and individuals who aid or abet another in attempting fraud or abuse shall be subject to imprisonment for a term of not more than one (1) year or a fine of not less than five hundred dollars (\$500) or both.

Any participating pharmacy or consumer found guilty of intentionally violating the provisions of these Rules and Regulations shall be subject to immediate termination from this program for a period of not less than one (1) year. Notice of such termination shall be in writing and will not carry with it the right of appeal.

## **Section VIII. Appeals and Grievance Resolution**

### **100. Appeals Procedure.**

Any person whose application for a discount drug card is denied shall have the right to appeal such a decision. The Program Contractor shall design and implement an appeals procedure and notify all applicants of this procedure.

### **200. Grievance Resolution Procedures.**

Any Cardholder is entitled to receive prompt resolution of complaints and grievances and to have inquiries of all types responded to in a timely manner. The Program Contractor shall design and implement procedures for responding to inquiries and resolving complaints. The Program Contractor shall notify all Cardholders of these procedures.

## **Section IX. Reporting Requirements**

### **100. Reporting by the Program Contractor.**

The Program Contractor shall provide the following monthly and annual reports to the Department of Elderly Affairs:

1. Number of eligible persons;
2. Number of utilizers;
3. Total cost savings to all eligible persons generated by the program;
4. Average cost savings per prescription;
5. The top twenty-five (25) drugs prescribed;
6. Number of participating pharmacies and their locations;
7. Client demographics: age, employment status, county of residence, etc.;
8. Customer service statistics: number of calls, number of complaints, abandonment rate, etc.;
9. Eligible person statistics: utilizers, number of prescriptions filled, average cost savings;

10. Dispute resolution activities: number of formal disputes files, number resolved, average time to resolve; and
11. Ad hoc reports as determined by the Department and agreed to by the Program Contractor.