

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 2322

SPONSOR: Senator Peaden

SUBJECT: Assistance in Obtaining Prescription Drugs

DATE: March 23, 2003

REVISED: 03/25/03 _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wilson</u>	<u>Wilson</u>	<u>HC</u>	<u>Fav/4 amendments</u>
2.	_____	_____	<u>AHS</u>	_____
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill creates the Sunshine for Seniors Program, to assist seniors in accessing drug manufacturers' pharmaceutical assistance programs that provide low-income individuals with prescription drugs free or at reduced prices. The Department of Elderly Affairs will be responsible for implementing and overseeing the program.

This bill creates section 430.83, Florida Statutes.

II. Present Situation:

The costs of outpatient prescription drugs, which are not covered by Medicare, represent a substantial out-of-pocket burden for many elderly persons. This lack is often cited as a major shortcoming of the Medicare program, the federal health insurance program for older and disabled Americans. There is a direct correlation between advancing age and the number of prescription drugs taken. Although Americans over 65 make up only 12 percent of the population, they take 25 percent of all prescribed drugs sold in the United States.

As a direct result of high out-of-pocket costs of drugs, many people do not ask doctors for the prescriptions they need, do not fill the prescriptions they are given, use lower doses of drugs than those prescribed and take their drugs less often than they should. The higher a person's out-of-pocket costs for drugs, the more likely they are to be noncompliant. This compromises the effectiveness of controlling the progression of chronic disease, resulting in greater use of hospital emergency rooms or other urgent care.

Approximately 65 percent of non-institutionalized Medicare beneficiaries have some form of prescription drug coverage; however, the level of this coverage varies. Most of these individuals

with prescription drug coverage receive their drug coverage through private supplemental insurance, either through employer-sponsored plans or individually purchased private policies. Some Medicare beneficiaries with prescription drug coverage are members of Medicare HMOs. The scope and availability of Medicare HMO prescription drug coverage varies widely within and across market areas. Approximately 10 percent of Florida Medicare beneficiaries have coverage through the Medicaid program.

In an effort to alleviate the high out-of-pocket costs of prescription drugs for the elderly, the pharmaceutical industry has created pharmaceutical assistance programs that provide discounts on the purchase of prescription drugs. There are many such programs, each having its own unique features, eligibility requirements and application forms.

The Pharmaceutical Research and Manufacturers of America (PhRMA) represents the country's leading research-based pharmaceutical and biotechnology companies. PhRMA reports that in 2002, its members provided free prescription medicines to more than 5.5 million patients in the United States. The PhRMA interactive website <http://www.helpingpatients.org> is designed to help individuals find patient assistance programs from 48 of its member companies.

Together Rx is a prescription savings program for eligible Medicare enrollees on more than 150 widely prescribed medicines. Multiple pharmaceutical companies (Novartis, Abbott Laboratories, AstraZeneca, Aventis, Ortho-McNeil, Bristol-Myers Squibb Company, GlaxoSmithKline, and Janssen Pharmaceutica Products, L.P.) participate in Together Rx. Pfizer has a program called Share Card and Eli Lilly and Company has a program called LillyAnswers.

Even though many prescription drug manufacturers have programs that assist low-income seniors with the cost of their drugs, many consumers are not aware that these programs exist or they are unable to figure out how to access the prescription assistance.

III. Effect of Proposed Changes:

The bill creates the Sunshine for Seniors Program, to assist seniors in accessing drug manufacturers' pharmaceutical assistance programs that provide low-income individuals with prescription drugs free or at reduced prices.

The bill is called "The Sunshine for Seniors Act." The bill defines the terms "application assistance organization," "eligible individual," and "manufacturers' pharmaceutical assistance program." Legislative findings are provided regarding pharmaceutical manufacturers' charitable programs to aid low-income seniors with the cost of prescription drugs and the lack of awareness and need for assistance in completing applications for such programs on the part of many seniors. It is the intent of the Legislature that the Department of Elderly Affairs, in consultation with the Agency for Health Care Administration, implement the Sunshine for Seniors Program to help seniors in accessing manufacturers' pharmaceutical assistance programs. Implementation of the program is subject to the availability of funding and any limitations or directions provided for by the General Appropriations Act or chapter 216, F.S.

The bill specifies the duties of the Department of Elderly Affairs, which include:

- Promoting, through outreach initiatives, the availability of manufacturers' pharmaceutical assistance programs to eligible individuals (individuals who are 60 years of age or older and who lack adequate pharmaceutical insurance coverage);
- Developing, in cooperation with pharmaceutical manufacturers and consumer advocates, a uniform application form to be completed by seniors wishing to participate in the program;
- Requesting proposals from application assistance organizations to assist eligible individuals with obtaining prescription drugs through manufacturers' pharmaceutical assistance programs;
- Training volunteers to help eligible individuals fill out applications;
- Training volunteers to determine if applicants are eligible for other state programs; and
- Seeking federal funds and waivers to help fund the Sunshine for Seniors Program.

The Department of Elderly Affairs is authorized to build private-sector and public-sector partnerships with various entities to further the program. These community partnerships may also be used to facilitate other pro bono benefits for eligible individuals, including, but not limited to, medical, dental, and prescription services.

The Department of Elderly Affairs is authorized to select and contract with application assistance organizations to assist eligible individuals in obtaining their prescription drugs through the manufacturers' pharmaceutical assistance programs. If the department enters into contracts, it must evaluate the performance of the application assistance organization quarterly. The department must report to the Legislature each year by January 1 regarding the implementation and operation of the Sunshine for Seniors Program.

The bill specifies that the Sunshine for Seniors Program is not an entitlement. If funds are inadequate to provide assistance to all eligible individuals, the department may develop a waiting list, prioritized by application date.

The effective date of the bill is upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Seniors who take advantage of this program should have lower prescription drug costs.

C. Government Sector Impact:

The Department of Elderly Affairs is requesting an appropriation totaling \$226,660 and one additional FTE to implement this program for State Fiscal Year 2003-2004.

Personnel.....	\$ 38,754
1 Program Coordinator	
Salary + FICA	

Travel.....	\$ 10,000
Travel for program staff	

Contracted Services.....	\$135,000
Contracts with 11 Area Agencies on Aging (11 x \$10,000)	
(for volunteer support and local program development)	
Contracts for curriculum and material development (\$25,000)	

Outreach and Publicity.....	\$ 25,000
Statewide awareness campaign	

Printing.....	\$ 10,000
Training & education materials	

General Office Supplies.....	\$ 5,000
------------------------------	----------

Allocated Costs.....	\$ 2,906
7.5% of salary/benefits	

TOTAL APPROPRIATION REQUEST	\$226,660
-----------------------------	-----------

VI. Technical Deficiencies:

The word “manufacturers” should be “manufacturers’ ” on page 1, line 8; page 2, lines 20 and 23; page 3, lines 1 and 14; and page 4, line 2.

On page 3, line 16, the word “available” should be “eligible”.

VII. Related Issues:

One of the duties of the Department of Elderly Affairs is to work cooperatively with pharmaceutical manufacturers and consumer advocates, to develop a uniform application form to be completed by seniors who wish to participate in the Sunshine for Seniors Program. It is not clear whether this uniform application must be used by all pharmaceutical manufacturers in their assistance programs or whether the uniform application is an “intake” form to be used by the Department of Elderly Affairs to collect information that would be common to all the application forms used by pharmaceutical manufacturers’ assistance programs.

Without a separate public records exemption bill being passed, the information contained in the uniform application form will be available to the public.

The Department of Elderly Affairs has indicated that it will implement the Sunshine for Seniors Program through the existing network that the Serving Health Insurance Needs of Elders (SHINE) Program uses. SHINE is part of a national network of State Health Insurance Assistance Programs that are funded through grants from the federal Centers for Medicare and Medicaid Services. Currently there are more than 450 SHINE volunteers throughout the state, who are supported by their local area agencies on aging.

VIII. Amendments:

#1 by Health, Aging, and Long-Term Care:
Title amendment – corrects a scrivener’s error.

#2 by Health, Aging, and Long-Term Care:
Corrects a scrivener’s error.

#3 by Health, Aging, and Long-Term Care:
Replaces a uniform application form for the Sunshine for Seniors Program with a uniform intake form.

#4 by Health, Aging, and Long-Term Care:
Requires the Department of Elderly Affairs to train volunteers to determine if applicants are eligible, rather than available, for other state programs.