

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 400

Introduced by Johnson, 37

Read first time January 16, 2007

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to the Medical Assistance Act; to amend section
2 68-901, Revised Statutes Cumulative Supplement, 2006; to
3 define terms; to require an audit of medicaid drug rebate
4 payments and a report; to harmonize provisions; and to
5 repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 68-901, Revised Statutes Cumulative
2 Supplement, 2006, is amended to read:

3 68-901 Sections 68-901 to 68-949 and section 2 of this
4 act shall be known and may be cited as the Medical Assistance Act.

5 Sec. 2. (1) For purposes of this section:

6 (a) Average manufacturer price has the same meaning as
7 set forth in section 1927(k)(1) of the Social Security Act, 42
8 U.S.C. 1396r-8, as such section existed on the effective date of
9 this act;

10 (b) Best price has the same meaning as set forth in
11 section 1927(c)(1) of the Social Security Act, 42 U.S.C. 1396r-8,
12 as such section existed on the effective date of this act;

13 (c) Generic drug means a non-innovator drug product that
14 has secured approval by the federal Food and Drug Administration
15 under 505(b)(2) of the Federal Food, Drug, and Cosmetic Act, 21
16 U.S.C. 355, as such section existed on the effective date of this
17 act, and is comparable to an innovator drug product, as identified
18 in the list of approved drug products with therapeutic equivalence
19 evaluations of the administration, in dosage form, strength,
20 route of administration, quality, performance characteristics, and
21 intended use;

22 (d) Medicaid drug rebate means the rebate paid by a
23 manufacturer to a state pursuant to section 1927(c) of the Social
24 Security Act, 42 U.S.C. 1396r-8, as such section existed on the
25 effective date of this act, and the rebate agreement;

1 (e) Rebate agreement means the agreement between a
2 manufacturer and the United States Secretary for Health and Human
3 Services as set forth in the federal Omnibus Budget Reconciliation
4 Act of 1990; and

5 (f) Rebate payment means the quarterly payment with
6 respect to a manufacturer's covered outpatient drugs by the
7 manufacturer to the department calculated in accordance with
8 section 1927 of the Social Security Act, 42 U.S.C. 1396r-8, as
9 such section existed on the effective date of this act, and the
10 rebate agreement. Rebate payment includes the eleven percent rebate
11 based on the average manufacturer price by manufacturers of generic
12 drugs and the rebate based on the greater of fifteen and one-tenths
13 percent of either the average manufacturer price or the best
14 price by brand-name manufacturers of any product reimbursed under
15 medicaid.

16 (2) The department shall audit medicaid drug rebate
17 payments owed to the state as a result of the sale of generic
18 drugs and reference-listed drugs under medicaid to ensure timely
19 and accurate payments by all manufacturers. Manufacturers shall
20 cooperate with the department to accomplish the audit. The
21 department shall use generally accepted government auditing
22 standards and shall submit a report to the committee by July 1,
23 2008.

24 Sec. 3. Original section 68-901, Revised Statutes
25 Cumulative Supplement, 2006, is repealed.