

LEGISLATIVE HISTORY CHECKLIST
 Compiled by the NJ State Law Library

"Pharmaceutical Rebate Act" --
 PAAD program"

NJSA: 30:4D-35.2

LAWS OF: 1993 **CHAPTER:** 97

BILL NO: A2192

SPONSOR(S) Singer and others

DATE INTRODUCED: January 14, 1993

COMMITTEE: **ASSEMBLY:** Senior Citizens
SENATE: Health and Human Services

AMENDED DURING PASSAGE: Yes Amendments during passage
 First reprint enacted denoted by superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** February 18, 1993
SENATE: March 23, 1993

DATE OF APPROVAL: March 29, 1993

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: No

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBG:pp

[FIRST REPRINT]
ASSEMBLY, No. 2192

STATE OF NEW JERSEY

INTRODUCED JANUARY 14, 1993

By Assemblymen SINGER, DORIA and Romano

1 AN ACT concerning rebates from pharmaceutical manufacturers
2 ¹[and],¹ amending P.L.1992, c.83 ¹and repealing section 5 of
3 P.L.1992, c.83¹.
4

5 BE IT ENACTED *by the Senate and General Assembly of the*
6 *State of New Jersey:*

7 1. Section 2 of P.L.1992, c.83 (C.30:4D-35.2) is amended to
8 read as follows:

9 2. a. The "Pharmaceutical Assistance to the Aged and
10 Disabled" program established pursuant to P.L.1975, c.194
11 (C.30:4D-20 et seq.) shall limit the coverage of pharmaceutical
12 products to manufacturers who agree to provide rebates to the
13 State.

14 b. Except for those manufacturers whose pharmaceutical
15 products are not covered under the program pursuant to this
16 section, the program shall not restrict access to manufacturers'
17 pharmaceutical products by means of prior authorization
18 requirements or any other restricting mechanism.

19 c. The Commissioner of Human Services shall contract with
20 manufacturers of pharmaceutical products to provide rebates for
21 pharmaceutical products covered under the "Pharmaceutical
22 Assistance to the Aged and Disabled" program on the same basis
23 as is required pursuant to [section 1927 of the federal Social
24 Security Act (42 U.S.C.§1396r-8)] 42 U.S.C.§1396r-8 ¹[(c)(1), (3)
25 and (4)] , except that 42 U.S.C.§1396r-8(c)(2) shall not apply to
26 the provisions of this act¹.

27 d. The rebate agreements entered into pursuant to this act
28 shall take effect on July 1, 1992 and shall be retroactive to that
29 date if entered into after July 1, 1992.

30 (1) A manufacturer of pharmaceutical products who is
31 participating in the "Pharmaceutical Assistance to the Aged and
32 Disabled" program on the effective date of ¹[this act] P.L.1992,
33 c.83 (C.30:4D-35.1 et seq.) or begins participating during the
34 period between the effective date of P.L.1992, c.83 and the date
35 that the Commissioner of Human Services issues the initial
36 rebate agreement for signature,¹ shall enter into a rebate
37 agreement with the ¹[Commissioner of Human Services within 60
38 days of the effective date of this act] commissioner within 30
39 days after the date the commissioner issues the initial rebate
40 agreement for signature¹ to continue its participation in the
41 program pursuant to the provisions of ¹[this act] P.L.1992, c.83¹.
42 A participating manufacturer who does not enter into a rebate

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in the
above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ASC committee amendments adopted February 1, 1993.

1 agreement shall not be eligible to participate in the
2 "Pharmaceutical Assistance to the Aged and Disabled" program
3 after the ¹[90th day after the effective date of this act] 60th day
4 after the date the commissioner issues the initial rebate
5 agreement for signature¹.

6 (2) Notwithstanding the provisions of paragraph (1) of this
7 subsection to the contrary, if a manufacturer of pharmaceutical
8 products who was participating in the "Pharmaceutical
9 Assistance to the Aged and Disabled" program on the effective
10 date of ¹[this act] P.L.1992, c.83 or began participating during
11 the period between the effective date of P.L.1992, c.83 and the
12 date the commissioner issues the initial rebate agreement for
13 signature, and¹ enters into a rebate agreement with the
14 commissioner after the ¹[60th day after the effective date of this
15 act] 30th day after the commissioner issues the initial rebate
16 agreement for signature¹ and prior to July 1, ¹[1993] 1994¹, the
17 manufacturer shall be required to pay the rebate for any
18 pharmaceutical products purchased by the program on or after
19 July 1, 1992 ¹, or the date the manufacturer began participating
20 in the program, whichever date is later,¹ through the ¹[90-day
21 period that the manufacturer had been a participant in the
22 program. The rebate agreement shall take effect on either
23 January 1 or July 1 of the year in which the rebate agreement is
24 entered into] 60-day period after the date the commissioner
25 issued the initial rebate agreement for signature. Coverage of
26 the manufacturer's pharmaceutical products by the program shall
27 resume 30 days after the manufacturer enters into a rebate
28 agreement¹.

29 (3) A manufacturer of pharmaceutical products who was not
30 participating in the "Pharmaceutical Assistance to the Aged and
31 Disabled" program on the ¹[effective date of this act] date the
32 commissioner issued the initial rebate agreement for signature to
33 manufacturers of pharmaceutical products who are participating
34 in the program,¹ may enter into a rebate agreement with the
35 commissioner and become a participating manufacturer. The
36 rebate agreement shall take effect on ¹[either January 1 or
37 July 1 of the year in which the rebate agreement is entered into]
38 the 30th day after the manufacturer enters into the rebate
39 agreement¹.

40 e. A manufacturer of pharmaceutical products which
41 participates in the "Pharmaceutical Assistance to the Aged and
42 Disabled" program pursuant to ¹[this act] P.L.1992, c.83¹ shall
43 provide to the Commissioner of Human Services such information
44 as he may request to carry out the purposes of ¹[this act]
45 P.L.1992, c.83¹.

46 f. Any rebate agreement entered into between the Department
47 of Human Services and a manufacturer of pharmaceutical
48 products prior to the effective date of ¹[this act] P.L.1992, c.83¹
49 shall remain in effect and be considered a rebate agreement in
50 compliance with ¹[this act] P.L.1992, c.83¹ until the date of
51 expiration of the agreement or March 31, 1993, whichever date
52 occurs sooner, or until either party terminates the agreement.
53 (cf: P.L.1992, c.83, s.2)

54 2. Section 6 of P.L.1992, c.83 is amended to read as follows:

1 6. This act shall take effect immediately and shall expire on
2 June 30, [1993] 1994.

3 (cf: P.L.1992, c.83, s.6)

4 ¹3. Section 5 of P.L.1992, c.83 (C.30:4D-35.5) is repealed.¹

5 ¹[3.] 4.¹ This act shall take effect immediately.

6

7

8

9

10 Extends PAAD pharmaceutical rebate program one year and
11 specifies applicable federal law.

1 to pay the rebate for any pharmaceutical products purchased by
2 the program on or after July 1, 1992 through the 90-day period
3 that the manufacturer had been a participant in the program.
4 The rebate agreement shall take effect on either January 1 or
5 July 1 of the year in which the rebate agreement is entered into.

6 (3) A manufacturer of pharmaceutical products who was not
7 participating in the "Pharmaceutical Assistance to the Aged and
8 Disabled" program on the effective date of this act may enter
9 into a rebate agreement with the commissioner and become a
10 participating manufacturer. The rebate agreement shall take
11 effect on either January 1 or July 1 of the year in which the
12 rebate agreement is entered into.

13 e. A manufacturer of pharmaceutical products which
14 participates in the "Pharmaceutical Assistance to the Aged and
15 Disabled" program pursuant to this act shall provide to the
16 Commissioner of Human Services such information as he may
17 request to carry out the purposes of this act.

18 f. Any rebate agreement entered into between the Department
19 of Human Services and a manufacturer of pharmaceutical
20 products prior to the effective date of this act shall remain in
21 effect and be considered a rebate agreement in compliance with
22 this act until the date of expiration of the agreement or
23 March 31, 1993, whichever date occurs sooner, or until either
24 party terminates the agreement.

25 (cf: P.L.1992, c.83, s.2)

26 2. Section 6 of P.L.1992, c.83 is amended to read as follows:

27 6. This act shall take effect immediately and shall expire on
28 June 30, [1993] 1994.

29 (cf: P.L.1992, c.83, s.6)

30 3. This act shall take effect immediately.

31 STATEMENT

32
33
34 This bill extends the "Pharmaceutical Rebate Act" one year
35 and provides that the act shall expire on June 30, 1994. The bill
36 also clarifies which sections of the federal rebate law
37 (42 U.S.C.§1396r-8) would apply to the rebate program in this
38 State.

39 Specifically, the bill ensures that rebates for single source and
40 innovator multiple source drugs will be based on the basic rebate,
41 as that term is defined in the federal rebate law. The bill
42 eliminates the requirement that the "Pharmaceutical Rebate
43 Act" include an additional rebate, known as the "consumer price
44 index penalty." Elimination of this additional rebate requirement
45 will not have any effect on the revenues which were anticipated
46 when the "Pharmaceutical Rebate Act" was enacted in August
47 1992.

48 The "Pharmaceutical Rebate Act" requires all manufacturers
49 of pharmaceutical products, as a condition of participating in the
50 Pharmaceutical Assistance to the Aged and Disabled program, to
51 enter into an agreement with the Commissioner of Human
52 Services to provide a rebate to the State based on the amount of
53 that manufacturer's pharmaceutical products purchased by the
54 State program.

ASSEMBLY SENIOR CITIZENS
AND SOCIAL SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2192

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 25, 1993

The Assembly Senior Citizens and Social Services Committee favorably reports Assembly Bill No. 2192 with committee amendments.

The "Pharmaceutical Rebate Act," P.L.1992, c.83 (C.30:4D-35.1 et seq.) requires all manufacturers of pharmaceutical products, as a condition of participating in the "Pharmaceutical Assistance to the Aged and Disabled" program, to enter into an agreement with the Commissioner of Human Services to provide a rebate to the State based on the amount of that manufacturer's pharmaceutical products purchased by the State program. The law expires on June 30, 1993.

As amended by committee, this bill extends the "Pharmaceutical Rebate Act" one year and provides that the act shall expire on June 30, 1994. The bill also clarifies which sections of the federal rebate law (42 U.S.C.§1396r-8) would apply to the rebate program in this State.

The amendments specifically eliminate the additional rebate, known as the "consumer price index penalty," that pharmaceutical manufacturers would have been required to pay if the annual increase in the cost of their products exceeded the increase in the consumer price index for that year. (This additional rebate is a provision under the federal rebate law and was incorporated into the State program by reference of the entire federal rebate law.) When the "Pharmaceutical Rebate Act" was enacted in August, 1992, however, the revenue estimates for the bill did not include any amounts that the State would realize on account of this additional rebate. Therefore, elimination of this additional rebate requirement will not have any effect on anticipated revenues for the rebate program.

The amendments also make various technical changes to the 1992 law to clarify the dates by which pharmaceutical manufacturers shall enter into agreements with the Commissioner of Human Services to participate in the rebate program. The amendments also repeal section 5 of the 1992 law which required the Commissioner of Human Services to report to the Legislature and the Governor on the effects of, and recommendations for improvements to, the program. Necessary changes in the program are incorporated in the amendments to this bill.

SENATE HEALTH AND HUMAN SERVICES COMMITTEE

STATEMENT TO

[FIRST REPRINT]

ASSEMBLY, No. 2192

STATE OF NEW JERSEY

DATED: MARCH 18, 1993

The Senate Health and Human Services Committee favorably reports Assembly Bill No. 2192 [1R].

This bill extends the "Pharmaceutical Rebate Act," P.L.1992, c.83 (C.30:4D-35.1 et seq.), one year and provides that the law shall expire on June 30, 1994. The bill also clarifies which sections of the federal rebate law (42 U.S.C.§1396r-8) would apply to the rebate program in this State.

The "Pharmaceutical Rebate Act" requires all manufacturers of pharmaceutical products, as a condition of participating in the Pharmaceutical Assistance to the Aged and Disabled program, to enter into an agreement with the Commissioner of Human Services to provide a rebate to the State based on the amount of that manufacturer's pharmaceutical products purchased by the State program. The law expires on June 30, 1993.

Specifically, the bill eliminates the additional rebate, known as the "consumer price index penalty," that pharmaceutical manufacturers would have been required to pay if the annual increase in the cost of their products exceeded the increase in the consumer price index for that year. (This additional rebate is a provision under the federal rebate law and was incorporated into the State program by reference of the entire federal rebate law.) When the "Pharmaceutical Rebate Act" was enacted in August 1992, however, the revenue estimates for the bill did not include any amounts that the State would realize on account of this additional rebate. Therefore, elimination of this additional rebate requirement will not have any effect on anticipated revenues for the rebate program.

The bill also makes various technical amendments to the 1992 law to clarify the dates by which pharmaceutical manufacturers shall enter into agreements with the Commissioner of Human Services to participate in the rebate program. The bill also repeals section 5 of the 1992 law which required the Commissioner of Human Services to report to the Legislature and the Governor on the effects of, and recommendations for improvements to, the program. Necessary changes in the program are incorporated in this bill.

This bill is identical to Senate Bill No. 1512 (Bassano/Codey), which the committee also reported favorably on this date.