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Mid-Year Report on State Prescription Drug Discount, Bulk Purchasing, and Price Limitation Legislation for 2003

(July 7, 2003)

For 2003, most state legislatures continue to have a substantial interest in or focus on prescription drug access and costs. This year, state budget shortfalls collide with goals of improved coverage or access through state programs.

Medical and economic reports released in recent months confirm the continued rapid growth in spending and use of prescription drugs. The Congressional Budget Office states that 17 percent of the elderly will have more than \$4,000 in drug expenses this year. **(1)** A survey released in February cites a 16.9 percent increase in 2002, and 14.5 percent increase in 2003, in overall private market transactions. **(2)** Some state-sponsored programs, such as Massachusetts, reported the increase in expenditures has been 30 percent or higher for a single year.

At the start of 2003, 26 states already had laws providing for state subsidies for certain people, while some 16 states had discount or bulk purchasing programs.

For the 2003 sessions, 49 states have more than 270 bills filed to create, expand or substantially change state pharmaceutical programs and policies. In a separate tally, another 34 bills would affect pharmaceutical marketing or advertising. In addition, 25 states considered non-binding resolutions urging the U.S. Congress to take action. In broad terms, the legislation examined in this report includes one or more of the following purposes:

- To use state funds to assist or subsidize the cost of pharmaceuticals for elders, low-income residents or others. These include authorizations for waivers seeking federal matching funds.
- To achieve new discounts or reduced prices for eligible residents, through state law, or by combining "bulk" purchases among programs, agencies or states.
- To achieve cost savings to the state and/or eligible state residents, by changing pharmaceutical purchasing policies. These proposals include plans related to use of generic products, prioritized or preferred drug lists, cost-sharing, state-only rebate programs, state coordination of free or discount programs, and other measures related to marketing, labeling, long-distance sales and charitable reuse programs.

This report reflects bills filed or considered early in the 2003 sessions. The list is a work-in-progress, with new material added on a regular basis. Since bills still are being filed, withdrawn and changed, consider the legislation listed as examples rather than an exhaustive listing of every measure filed.

Laws Signed:

So far this year, substantive state pharmaceutical laws have been enacted in Connecticut, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Nebraska, New Mexico, Montana, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington and Wyoming. In addition, non-binding resolutions have passed in Maine, Montana and Vermont.

Medicaid-only:

health-politics.com is tracking Medicaid-only pharmaceutical policy changes separately. Recent Medicaid state laws and regulations are contained in a separate report,

2003 LEGISLATION BY TYPE

Prescription Drug Bill Subject	Code	States with 2003 legislation (Bold = passed)

Multi-state or agency bulk purchase	Bulk	CT, IL, IA, ME, MA , MI, NV, NJ, NY, NC, OH, OR, RI, SC, WA
Clearinghouse information	CL	FL, MD , MN, MT, NV, NJ, ND , OK, OR, VA, WA, WY
Discount program & price-related policy	D	AL, CO, CT , DE, FL, GA, IL , IA, KS, KY, LA, MA, ME, MD , MA, MI, MN, MS, MO, MT , NJ, NY, NC, OH, OR, RI, SC, SD , TN, TX , VT, VA, WA , WV
Discount program, similar to Maine Rx	-	CO, FL, GA, IL , IN, MA, ME , MI, MN, MS, MO, NJ, NY, OH, RI, TN, TX, VT, WV
Regulate labels & packaging on retail pharmaceuticals	Lab	ME , MA NV, NJ, NY, OR
Marketing & advertising	Mkt	CA, CT, HI, ID, IL, IN, KY, ME , MD, MA, MI, NV, NJ, NM , NY, ND, OR, VT, WA
Medicaid (<u>partial list; see notes</u>)	M	AL, CA, CT , HI, IN, IA , KS, KY, LA, ME, MD, MA , MN, MO, MT, NV, NJ, NY, NC, OH , OR, PA, RI, TN, TX, UT , VT, VA, WA , WV, WI, WY .
Pharmacy Plus Waivers	P+	CA, HI, KY, LA, MN, MT , NV, NM , NC, OK, WA, WV, WY
Regulation of pharmaceutical benefit managers	PBM	AL, AR, CO, CT, FL, HI, LA, ME , MS, NM, PA, VT, WA, WY
Preferred Drug List (<u>partial list; see notes</u>)	PDL	CO, IL , IN, IA , KS, ME , MD, MA, MN, MO, NJ, NY, OH , OR, SD, TN, TX, UT, VA, WA , WV, WY

Reuse or recycling of pharmaceuticals	Re	AL, CO, IN, KY, MS, NE , NV, OK , TX, VT, WI
Subsidy	S	CO, CT , IN, IA, KS , LA, MD , MA , MI, MN, MS, MO, MT , NV, NH, NJ, NM , NY, NC, OK, OR, PA, TN , VT, VA , WA, WV, WI, WY
Other Rx policy	-	AL, CT, IN, KS , KY, ME, MD, MA, NE, NV, NJ, OR , VA, WY

Note that individual bills often have different approaches, and may modify an existing program, mandate an evaluation, or permit agency action, rather than simply establish a new policy. Many states have more than one bill on a single topic. In some states special sessions can reconsider bills not passed in a regular session; in about 25 states rules allow for carry-over or continuation to 2004.

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Footnotes:

(1) Congressional Budget Office, as cited in "Medicare Drug Benefit Plan Is Proposed," New York Times, April 2, 2003

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(2) "Mercer's National Survey of Employer-Sponsored Health Plans," by Chris Watts, Denver, February 20, 2003

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