



STATE FUND	FY 2004	FY 2005	APPROPRIATION FROM FUTURE YEARS
			administrative fee per prescription plus investment earnings to Ohio's Best Rx Administration Fund annually thereafter
<b>Ohio's Best Rx Administration Fund (Fund 5AA)</b>			
Revenues	- 0 -	Transfer of up to approximately \$370,000 to \$936,000 (5% of rebate payments) plus up to approximately \$5.0 million from administrative fee per prescription plus investment earnings from Ohio's Best Rx Program Fund	Transfer of up to approximately \$3.0 million to \$3.4 million (5% of rebate payments) plus up to approximately \$7.9 million from administrative fee per prescription plus investment earnings from Ohio's Best Rx Program Fund in FY 2006; Transfer of up to approximately \$3.4 million (5% of rebate payments) plus up to approximately \$7.9 million from administrative fee per prescription plus investment earnings from Ohio's Best Rx Program Fund annually thereafter
Expenditures	-0-	Approximately \$5.4 million to \$5.9 million (\$5.0 million in appropriation authority)	Approximately \$10.9 million to \$11.1 million in FY 2006; Approximately \$11.1 million annually thereafter
<b>Victims of Crime/Reparations Fund (Fund 402)</b>			
Revenues	-0-	Potential negligible gain from locally collected state court cost revenues	Potential negligible gain from locally collected state court cost revenues
Expenditures	-0-	-0-	-0-

Note: The state fiscal year is July 1 through June 30. For example, FY 2004 is July 1, 2003 – June 30, 2004.

- Rebates are to be collected from participating manufacturers on a quarterly basis or in accordance with a schedule established by the Department of Job and Family Services (ODJFS) in rules. Assuming the program begins after July 1, 2004 (FY 2005) and rebates are collected on a quarterly basis, the first rebate revenue will not be received until two quarters following the submission of the first claims. Therefore, there will be no revenue in the Ohio's Best Rx Program Fund to pay participating terminal distributors that can be transferred to the Ohio's Best Rx Administration Fund (Fund 5AA) to pay start-up costs until around December 2004. Thus, initial start-up costs for the program will need to be paid using General Revenue Fund moneys.
- The bill appropriates \$10.0 million in FY 2004 to pay for at least the initial costs of the contract with the Ohio's Best Rx Program Administrator and to reimburse participating terminal distributors. Of that amount, ODJFS may not spend more than \$450,000 in FY 2004 and not more than \$750,000 in FY 2005 for the Department's administrative costs. Any unspent GRF appropriations from FY 2004 may be carried over to FY 2005.
- The Legislative Service Commission (LSC) estimates that ODJFS will need to reimburse terminal distributors approximately \$33.7 million in FY 2005. However, because rebate revenue will not be received until approximately two quarters following the submission of claims, the LSC estimates that ODJFS will receive approximately \$7.0 million to \$17.8 million in rebate revenue from manufacturers in FY 2005. The ODJFS will have to use a portion of the \$10.0 million appropriation to pay the Ohio's Best Rx Program Administrator, but the amount is unknown at this time. In addition, the ODJFS estimates it will need approximately \$371,000 in FY 2004 and \$742,000 in FY 2005 to pay the Department's administrative costs of the program. Assuming up to \$8.8 million of the appropriation contained in the bill is available in FY 2005, ODJFS could need to request approximately \$7.1 million to \$17.9 million in additional GRF funding due to rebate timing.

Under the bill, if the appropriation is insufficient to fully cover start-up costs, the Director of ODJFS shall, in consultation with the Director of the Office of Budget and Management, submit a letter to the Governor, President of the Senate, Speaker of the House of Representatives, and the Minority Leaders of the Senate and House of Representatives. The Director of ODJFS must obtain the approval of the Controlling Board for any supplemental appropriation, if required. The amount approved by the Controlling Board is hereby appropriated. The bill states that the use of state funds for start-up costs shall in no way obligate the state to fund further program costs, as the program is a discount program, not an entitlement program.

The LSC estimates that ODJFS will need to reimburse terminal distributors approximately \$63.7 million in FY 2006. The LSC estimates that ODJFS will receive approximately \$58.6 million to \$63.7 million. If rebate revenue is insufficient due to the timing issue surrounding the receipt of rebates to pay the administrative costs of the program, additional funding of up to \$5.2 million would be needed in FY 2006.

Annually thereafter, rebate revenue received from manufacturers each year will be sufficient to reimburse participating terminal distributors.

- The bill creates the Ohio's Best Rx Program Fund in the custody of the Treasurer of State, but not part of the state treasury. The fund shall consist of the following: (1) rebate payments made by participating manufacturers, (2) administrative fees, and (3) the funds investment earnings. The ODJFS is to use moneys in the fund to make payments to participating terminal distributors and the Ohio's Best Rx Program Administrator. The bill also creates the Ohio's Best Rx Administration Fund in the state treasury. The Treasurer of State is to transfer from the Ohio's Best Rx Program Fund to the Ohio's Best Rx Administration Fund amounts equal to the following: (1) amounts resulting from application of the rebate administration percentage, (2) the amount of administrative fees charged Ohio's Best Rx participants, if any, and (3) the amount of investment earnings credited to the Ohio's Best Rx Program Fund. The Treasurer of State is to make the transfers in accordance with a schedule developed by the Director of Job and Family Services.

The LSC estimates that the Ohio's Best Rx Program Fund will receive approximately \$12.4 million to \$23.7 million in revenue in FY 2005 (approximately \$7.4 million to \$18.7 million in rebate payments from manufacturers and up to \$5.0 million from administrative fee per prescription), approximately \$69.5 million to \$75.0 million in FY 2006, and approximately \$75.0 million annually thereafter.

The LSC estimates the ODJFS will disburse from the Ohio's Best Rx Fund approximately \$7.0 million to \$17.8 million in rebates in FY 2005, approximately \$58.6 million to \$63.7 million in FY 2006, and approximately \$63.7 million annually thereafter to reimburse participating terminal distributors.

The LSC estimates that the Treasurer of State will transfer up to approximately \$370,000 to \$936,000 (5% of rebate payments) and up to approximately \$5.0 million in administrative fee revenue plus any investment earnings from the Ohio's Best Rx Program Fund to the Ohio's Best Rx Administration Fund in FY 2005. In addition, the Treasurer of State will transfer up to approximately \$3.0 million to \$3.4 million (5% of rebate payments) and up to approximately \$7.9 million in administrative fee revenue plus any investment earnings to Ohio's Best Rx Administration Fund in FY 2006. Lastly, the Treasurer of State will transfer up to approximately \$3.4 million (5% of rebate payments) and up to approximately \$7.9 million in administrative fee revenue plus any investment earnings to Ohio's Best Rx Administration Fund annually thereafter.

The ODJFS shall use money in the Ohio's Best Rx Administration Fund to pay the administrative costs of the Ohio's Best Rx Program, including, but not limited to, costs associated with contracted services, staff, outreach activities, computers and network services, and the Ohio's Best Rx Program Council.

- Under the bill, knowingly making a false statement on the Ohio's Best Rx Program application form is considered falsification, a misdemeanor of the first degree. If someone is convicted under this provision, the state may gain some locally collected state court cost revenues for the General Revenue Fund and the Victims of Crime/Reparations Fund (Fund 402). However, the amount of locally collected state court cost revenues that those two state funds may gain annually is likely to be negligible, as the number of cases are expected to be few. It is also important to note that collecting court costs and fines from offenders who have little or no income can be problematic.

### *Local Fiscal Highlights*

LOCAL GOVERNMENT	FY 2004	FY 2005	FUTURE YEARS
<b>Counties and Municipalities</b>			
Revenues	Potential minimal gain	Potential minimal gain	Potential minimal gain
Expenditures	Potential minimal increase	Potential minimal increase	Potential minimal increase

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- Under the bill, knowingly making a false statement on the Ohio's Best Rx program application form is considered falsification, a misdemeanor of the first degree. A misdemeanor of the first degree carries a maximum fine of \$1,000 and a maximum jail sentence of six months. Misdemeanor cases are heard in county courts or county municipal courts. It is possible that some individuals will be prosecuted and sanctioned under the bill. However, the LSC assumes that the number of criminal cases would be few, if any. If someone is convicted, the state, counties, and municipalities may gain court cost and fine revenues. Counties may incur incarceration costs if the individual is sentenced to serve jail time. As the number of cases will likely be few, the amount of court cost and fine revenues will be minimal. Incarceration costs are also likely to be minimal. It is important to note that collecting court costs and fines from offenders who have little or no income can be problematic.

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### *Detailed Fiscal Analysis*

#### *Provisions of the Bill*

The bill establishes in the Department of Job and Family Services (ODJFS) the Ohio's Best Rx program. The bill requires ODJFS to

contract with a person to be the Ohio's Best Rx Program Administrator through a competitive process specified in the bill. This Program Administrator is to perform, with certain exceptions, any duty the bill gives the Department that the Department specifies in the contract, offer a mail order system, and charge an Ohio's Best Rx Program participant for each drug included in the program an amount not exceeding the Ohio's Best Rx Program price plus the administrative fee, if any. According to a spokesperson for ODJFS, the Department plans to contract with a pharmacy benefit manager (PBM) to administer most aspects of the program proposed in the bill. The Department will manage the contract and monitor the contractor's work.

### **Covered Drug**

The bill requires that a drug must be covered by the Ohio's Best Rx Program if the drug is covered by a state health benefit plan or state retirement system or is covered by a rebate agreement with ODJFS. However, the bill also allows ODJFS to exclude a drug from the program if a state health benefit plan or state retirement system receives a rebate from the manufacturer, but the drug is not covered by a rebate agreement with ODJFS.

### **Eligibility**

In order to be eligible to participate in the program, an individual must meet the following requirements:

- be a resident of the state;
- family income does not exceed 250% of the federal poverty guidelines (FPG), or is 60 years of age or older;
- does not have outpatient prescription drug coverage paid for in whole or in part by a third-party payer, the Medicaid program, the children's health insurance program, the disability medical assistance program, or another health plan or pharmacy assistance program that uses state or federal funds to pay part or all of the cost of the individual's outpatient prescription drugs, other than the Golden Buckeye Prescription Drug Savings program.

### **Application Process**

Individuals, or the parent, spouse, guardian, or custodian of an individual seeking to participate in the Ohio's Best Rx program, are to apply or reapply annually. The individual, or the parent, spouse, guardian, or custodian is to include with the application documentation specified in rules to be adopted by ODJFS. The application form must contain information about the Medicaid program, including general eligibility requirements, application procedures, and benefits. This provision may have the effect of increasing the number of individuals applying for, and enrolling in, the Medicaid program if the application form is the manner in which an individual learns of their potential eligibility. The state would pay approximately 40% of the costs of providing Medicaid services, while the federal government would pay the other 60%.

According to a spokesperson for ODJFS, the Department will most likely use a one-page application form. Applicants will be required to provide evidence that they meet eligibility requirements, for example, by providing pay stubs for a recent four-week period, last year's income tax returns, or a copy of a letter from the Social Security Administration. An Ohio address will be accepted as proof of residency. It is undecided at this time whether postage to send the application and documentation will be provided under the program or will be paid by the applicant.

Under the bill, knowingly making a false statement on the Ohio's Best Rx program application form is considered falsification, a misdemeanor of the first degree. A misdemeanor of the first degree carries a maximum fine of \$1,000 and a maximum jail sentence of six months. Misdemeanor cases are heard in county courts or county municipal courts.

### **Enrollment**

The bill requires the Department to issue program enrollment cards to or on behalf of individuals who are determined eligible to participate. One enrollment card may cover each member of a family determined eligible to participate. The card is valid only during the period each individual covered by the card is eligible to participate. The card is to be presented at the terminal distributor<sup>[1]</sup> each time a drug is purchased under the program.

### **Department of Administrative Services and State Retirement Systems**

The Department of Administrative Services (DAS) and each state retirement system must submit to ODJFS certain information specified in the bill regarding each state health benefit plan they offer. Under the bill, DAS and each state retirement system is to submit the formula used to determine the per unit price for each drug covered by the plan and dispensed through means other than a mail order system, the per unit price for those drugs, or, if the formula and the per unit price are available for submission, both the formula and the per unit price.

In addition, DAS and each state retirement system must submit to ODJFS the per unit rebates for each drug covered by a state health benefit plan and dispensed through a mail order system or means other than a mail order system

### **Ohio Department of Job and Family Services**

The ODJFS is to do all of the following for each drug included in the Ohio's Best Rx Program. The ODJFS is to compute the weighted average of the per unit price. In addition, ODJFS, once each year, is to compute the weighted average of the per unit rebate, adjusting for a rebate administration percentage if applicable. The ODJFS is then to subtract the adjusted weighted average of the per unit rebate from the

weighted average of the per unit price to determine the Ohio's Best Rx Program price.

### **Terminal Distributors**

A terminal distributor of dangerous drugs may enter into an agreement with ODJFS to participate in the program for purposes of dispensing drugs. The bill allows the participating terminal distributor to deliver drugs to Ohio's Best Rx Program participants by mail.

The bill specifies what terminal distributors are to charge program participants for drugs. The amount the terminal distributor is to charge an Ohio's Best Rx Program participant for each drug is the lesser of (1) the sum of the Ohio's Best Rx Program price, the professional fee and the administrative fee as specified in the bill or (2) the terminal distributor's usual and customary charge.

The bill allows the participating terminal distributor and the Ohio's Best Rx Program Administrator to add to the Ohio's Best Rx Program price a professional fee in an amount not to exceed \$3. ODJFS may adopt a rule increasing the maximum amount of the professional fee for a drug. However, it may not increase the maximum amount of the professional fee until the Medicaid dispensing fee for that drug exceeds that amount. The ODJFS shall review the amount of the professional fee once a year or, at its discretion, at more frequent intervals.

In order to receive payment for each sale of a drug, the terminal distributor must submit a claim to ODJFS not later than 30 days after the drug is dispensed. Under the bill, ODJFS or the Ohio's Best Rx Program Administrator may not charge a participating terminal distributor for the submission or processing of a claim. Therefore, submission or processing of a claim will be paid by ODJFS as part of the program administration costs. The ODJFS must pay a complete and timely claim not later than two weeks after the claim is received. The ODJFS is to reimburse the terminal distributor for the applicable rebate amount for the particular drug multiplied by the number of units of the drug dispensed minus any administrative fee, if one was charged.

### **Drug Manufacturer and Terminal Distributor Participation**

A drug manufacturer may enter into an agreement with ODJFS under which the manufacturer agrees to make rebate payments to ODJFS under the Ohio's Best Rx program with respect to one or more of the manufacturer's drugs. The bill requires that the per unit rebate be in an amount equal to the greater of the following: (1) the weighted average of the per unit rebates for the drug or (2) a per unit amount specified by the manufacturer. If ODJFS does not have the information necessary to compute the weighted average of per unit rebates for the drug, the rebate shall be the per unit amount specified by the manufacturer. A drug manufacturer that enters into such an agreement with ODJFS is required to make rebate payments to the Department on a quarterly basis or in accordance with a schedule established by ODJFS in rules. If a drug manufacturer does not agree to enter into an agreement with ODJFS with respect to a drug it manufactures, ODJFS is required to ask DAS and each state retirement system to determine whether the drug should be placed, for the following plan year, on a state health benefit plan's prior authorization list. In addition, ODJFS is to make the information regarding drug manufacturer participation available to physicians, pharmacists, and other health professionals.

### **Confidentiality**

The bill identifies information related to the Ohio's Best Rx program that is to be confidential.

### **Ohio's Best Rx Program Fund**

The bill creates the Ohio's Best Rx Program Fund in the custody of the Treasurer of State, but not part of the state treasury. The fund shall consist of the following: (1) rebate payments made by participating manufacturers, (2) administrative fees, and (3) the fund's investment earnings. ODJFS is to use moneys in the fund to make payments to participating terminal distributors and the Ohio's Best Rx Program Administrator.

### **Ohio's Best Rx Administration Fund**

The bill creates the Ohio's Best Rx Administration Fund in the state treasury. The Treasurer of State shall transfer from the Ohio's Best Rx Program Fund to the Ohio's Best Rx Administration Fund amounts equal to the following: (1) amounts resulting from application of the rebate administration percentage; (2) the amount of administrative fees charged Ohio's Best Rx participants, if any; (3) the amount of investment earnings credited to the Ohio's Best Rx Program Fund. The Treasurer of State is to make the transfers in accordance with a schedule developed by the Director of Job and Family Services. The ODJFS shall use money in the Ohio's Best Rx Administration Fund to pay the administrative costs of the Ohio's Best Rx Program, including, but not limited to, costs associated with contracted services, staff, outreach activities, computers and network services, and the Ohio's Best Rx Program Council.

### **Administrative Fee**

Under the bill, the ODJFS shall determine the amount of an administrative fee that participating terminal distributors and the Ohio's Best Rx Program Administrator are to charge Ohio's Best Rx Program participants. The administrative fee, if any, shall only be applied if needed to cover the administrative costs of the Ohio's Best Rx Program not covered by the application of the rebate administration percentage plus the investment earnings of the Ohio's Best Rx Program Fund. The administrative fee shall not exceed \$1 per transaction.

### **Rebate Administration Percentage**

At least once a year or, at the discretion of ODJFS, at more frequent intervals, the Department shall determine the rebate administration percentage, if any. The rebate administration percentage, if any, shall only be applied if needed to cover the administrative costs of the Ohio's Best Rx Program not covered by the administrative fee plus the investment earnings of the Ohio's Best Rx Program Fund. The rebate administration percentage shall not exceed 5%.

### **Rules**

The ODJFS is to adopt certain rules to implement Ohio's Best Rx Program as outlined in the bill. The ODJFS may adopt rules in accordance with Chapter 119. of the Revised Code to make adjustments to the program that the Department considers appropriate to conform the program to, or coordinate it with, any federally funded prescription drug program.

### **Additional Duties for the ODJFS**

The bill requires the ODJFS to do all of the following not later than April 1, 2005:

- create a list of the 25 drugs most often dispensed to program participants, using data from the most recent six-month period;
- determine, on a date selected by the ODJFS, the average amount that participating terminal distributors charge participants for each drug included on the list of the 25 drugs most often dispensed to program participants;
- determine, on the same date selected by the ODJFS, the average usual and customary charge of participating terminal distributors for each drug on the list of the 25 drugs most often dispensed to program participants;
- determine the average percentage savings to program participants for each of the drugs.

The bill requires the ODJFS to employ an ombudsperson to assist terminal distributors with grievances regarding the Ohio's Best Rx Program.

### **Ohio's Best Rx Program Council**

The bill creates the Ohio's Best Rx Program Council, which will consist of 13 members as specified in the bill. The Council is to advise the ODJFS on the program. The Council may initiate studies to determine whether there are more effective ways to administer the program and provide the ODJFS with suggestions for improvements. Members are to serve without compensation and are not to be reimbursed for any expenses associated with their duties on the Council. As stated earlier, the bill requires the ODJFS to use moneys in the Ohio's Best Rx Program Fund to pay for any administrative costs of the Council.

### **Appropriations**

The bill appropriates \$10,000,000 in fiscal year (FY) 2004 in appropriation item 600-440, Ohio's Best Rx Start-Up Costs, to be used by ODJFS to pay for the administrative and operational expenses for the creation and operation of the Ohio's Best Rx Program, including costs associated with the duties assigned by the Department to the Ohio's Best Rx Program Administrator and making payments to participating terminal distributors until sufficient cash exists to make payments from the Ohio's Best Rx Program Fund and the Ohio's Best Rx Administration Fund. Not more than \$450,000 in FY 2004 and not more than \$750,000 in FY 2005 of this appropriation may be used by the Department for administrative and operational costs, excluding outreach, that are not associated with the Ohio's Best Rx Program Administrator or the payments to participating terminal distributors.

If the Director of ODJFS estimates that the appropriation is insufficient to fully cover start-up costs, the Director shall, in consultation with the Director of the Office of Budget and Management, submit a letter to the Governor, President of the Senate, Speaker of the House of Representatives, and the Minority Leaders of the Senate and House of Representatives. The letter shall declare the additional appropriation authority estimated to be needed and shall show a breakdown of how the additional appropriation authority will be used. The Director of ODJFS must obtain the approval of the Controlling Board for any supplemental appropriation, if required. The amount approved by the Controlling Board is hereby appropriated. The bill states that the use of state funds for start-up costs shall in no way obligate the state to fund further program costs, as the program is a discount program, not an entitlement program. Any unspent appropriations from FY 2004 may be carried over to FY 2005.

The bill also appropriates \$5,000,000 in both FY 2004 and FY 2005 in appropriation item 600-673, Ohio's Best Rx Administration, to be used on an ongoing basis to cover expenses associated with the Ohio's Best Rx Program. If receipts to the fund exceed the appropriated amounts, the Director of ODJFS may request that the Director of Budget and Management increase the appropriation authority of this fund. Upon approval from the Director of Budget and Management, the additional amounts are hereby appropriated.

### **Fiscal Impact**

To estimate the fiscal impact of the Ohio's Best Rx Program, the LSC has had to make many assumptions. These assumptions are stated below. Any change to these assumptions could greatly impact the estimates.

- There are approximately 1.4 million Ohioans who could qualify for Ohio's Best Rx Program.
- Each participant who is age 60 or older would have 24.29 prescriptions filled each year; each participant who is under age 60 would have 3.28 prescriptions filled each year.
- The average price per prescription in Ohio would be \$50.37.

- The take-up rate for the program starts at 5% and grows up to 50% over the first year of the program
- The rebates percentage is 18%.

The following is a detailed description of how each of the estimates was produced.

**Revenue Estimate**

**Potential Participants**

To estimate the number of potential participants in Ohio’s Best Rx Program, the LSC researched the number of Ohioans without any health care insurance who are age 60 and older or with incomes at or below 250% of the FPG and the number of Ohioans with health care insurance who are age 60 and older or with incomes at or below 250% of the FPG, but whose health insurance does not include prescription drug coverage. According to the Department of Development’s Office of Strategic Research, there are 748,000 Ohioans whose family incomes are below 250% of FPG and who are not covered by any type of health insurance plan and about 64,000 Ohioans who are age 60 or older without any type of health insurance. This information is contained in Table 1 below.

	<b>Number of Ohioans</b>	<b>Prescriptions per individual</b>	<b>Total number of prescriptions per year</b>
<b>Total potential participants</b>	<b>1,429,627</b>		<b>15,878,875</b>
<b>Uninsured (age 60 &amp; older) or (income below 250%)</b>	<b>774,000</b>		<b>3,884,933</b>
Uninsured (age 60 & older)	64,000	24.29	1,554,564
Uninsured (age 60 & younger) and (income <= 250%)	710,000	3.28	2,330,369
<b>Insured w/o Rx (age 60 &amp; older) or (income below 250%)</b>	<b>655,627</b>		<b>11,993,941</b>
Insured w/o Rx (age 60 & older) *	468,493	24.29	11,379,730
Insured w/o Rx (age 60 & younger) and (income <=250%) **	187,134	3.28	614,212

\* There are 1,881,499 Ohioans who are insured and age 60 & older [source: Office of Strategic Research, Department of Development (DOD)]. It is assumed that 24.9% of this group does not have Rx coverage. [Source: Table 2.4 Ohio Family Health Survey, 1998, Ohio Department of Health (DOH).]

\*\* There are about 3,300,415 (11,256 + 3,289,159 = 3,300,415) Ohioans who are insured and with family income below 250% [source: Office of Strategic Research, DOD]. It is assumed that: (1) 7.1% of this population (3,300,415) has no drug coverage [source: Table 2.4 Ohio Family Health Survey, 1998, DOH] and (2) 81% of this population (3,300,415) are under age 60 [source: Office of Strategic Research, DOD].

It should be noted that this estimate of the number of participants may understate the true number, because it does not incorporate any “crowd out” effect that could result from the bill. The bill could provide a disincentive for employers to offer, or continue to offer and pay for prescription drug benefits for their employees. It is possible that the Ohio’s Best Rx Program could replace some of the employer-sponsored prescription benefit plans, and result in Ohio residents’ switching from employer-sponsored prescription benefit plans to the Ohio’s Best Rx Program. However, under the bill, a person whose family income does not exceed 250% of the FPG would not be eligible for the program if the person had outpatient prescription drug coverage during any of the four months preceding the month of application for the program. This “look back” provision may reduce the crowd out effect if it creates a disincentive for employers to drop employer-sponsored prescription benefit plans. Without a survey or study among employers, the LSC is unable to provide an estimate of the magnitude of a potential crowd out effect.

**Number of Prescriptions**

Prescription drug utilization varies by age group. As stated earlier, the LSC assumes that each participant who is age 60 or older would have 24.29 prescriptions filled each year. Furthermore, each participant who is under age 60 would have 3.28 prescriptions filled each year.

To arrive at the number of prescriptions filled each year for a participant who is age 60 or older, the LSC assumes that the prescription drug utilization for such a participant would be the same as a Medicare beneficiary (age 65 and older) who is without drug coverage. According to the Kaiser Family Foundation (source: Prescription Drug Trends – Chartbook Update), the average number of prescriptions obtained by Medicare beneficiaries without drug coverage in 1998 was 16.7. However, the number of prescriptions dispensed each year has been growing. Therefore, the LSC adjusted this number upward to 24.29, using the same source of information, to reflect this growth for 1999 through 2004.

To arrive at the number of prescriptions filled each year for a participant who is under age 60, the LSC assumes that the prescription drug utilization for such a participant would be the same as the non-Medicare population without drug coverage. According to the United States Department of Health and Human Services Report to the President on Prescription Drug Coverage, Spending, Utilization, and Prices (April 2000), the average number of prescriptions obtained by the non-Medicare population without drug coverage in 1996 was 2.02. The LSC adjusted this number upward to 3.28, using data from the Kaiser Family Foundation (source: Prescription Drug Trends – Chartbook Update), to reflect this growth from 1997 to 2004.

To estimate the total number of prescriptions filled per year through Ohio’s Best Rx Program, the LSC multiplied the number of Ohioans in each participant category by the estimated average number of prescriptions filled for each participant category. The LSC then summed the number

of prescriptions filled for all categories to obtain an estimated total number of prescriptions filled through Ohio's Best Rx Program for one year (15,878,875 prescriptions filled).

### **Prescription Drug Spending**

At the request of the Pharmaceutical Research and Manufacturers of America (PhRMA), Muse & Associates, a health policy and strategic planning consulting firm based in Washington D.C., generated a cost estimate for Ohio's Best Rx Program. The LSC used several assumptions from Muse & Associates' estimate to complete the LSC's estimate of costs. Those assumptions are stated below.

To estimate total annual prescription drug spending for Ohio's Best Rx Program, the LSC multiplied the estimated total number of prescriptions filled through Ohio's Best Rx Program for one year (15,878,875) by the average price per prescription in Ohio for 2002 (\$50.37, according to the Kaiser Family Foundation). The LSC estimates the total annual prescription drug spending through Ohio's Best Rx Program would be \$799,818,911 if 100% of eligibles were to participate in the program. According to the Muse & Associates, the Centers for Medicare and Medicaid (CMS) reports that 86.4% of drug spending is for brand name and 13.6% of drug spending is for generics. Applying these percentages to the estimated total annual prescription drug spending for Ohio's Best Rx Program of \$799,818,911, the LSC estimates that \$691,043,539 will be spent on brand name drugs and \$108,775,372 will be spent on generic drugs.

### **Rebates**

Rebate revenue will depend on the number of drugs for which manufacturers will be willing to offer rebates under the program and the number of prescriptions filled for rebated drugs (i.e., brand name drugs versus generics). According to Muse & Associates' analysis of Ohio's Best Rx Program, on average, rebates under the program will be equal to 18% of drug spending. However, according to Muse & Associates, only half of generic drugs will have rebates. Based on these assumptions, the LSC estimates that total annual rebates to be received will be \$134,177,621.

### **Participant and Manufacturer Take-up Rates**

The participant take-up rate for the program is likely to start low and grow over time. Moreover, it will never reach 100%. However, the manufacturer take-up rate is likely to start high and grow quickly to full participation.

The LSC assumes that the participant take-up rate will begin at 5% in the first month of the program and will increase by 5% each following month until it levels off at 50% in the tenth month of the program. According to Muse & Associates, if applicants are required to provide documentation when submitting an application to participate in the program, the maximum participation rate is likely not to exceed 50%. As stated earlier, according to the ODJFS, documentation of income will be required for some applicants.

The LSC assumes that the manufacturer take-up rate will begin at 50% for the first four months of the program, 75% for the next four months of the program, and 100% beginning in the ninth month of the program.

To compute the total estimated rebates by month, the LSC multiplied the estimated average monthly rebates by the participant take-up rate and the manufacturer take-up rate. (See Table 2 on the following two pages.)

### **Rebate Revenue from Manufacturers**

The bill requires manufacturers to make rebate payments to the Department on a quarterly basis or in accordance with a schedule established by the ODJFS in rules. In addition, the terminal distributor must submit a claim to ODJFS not later than 30 days after a drug is dispensed. Therefore, the ODJFS is unlikely to submit rebate claims to manufacturers any earlier than 30 days following the end of each quarter. Furthermore, according to the ODJFS, manufacturers will probably be given 30 to 60 days to make rebate payments to the state. Therefore, in all probability the earliest that the state could receive any rebate revenue will be five to six months after the start of the program. A similar timeframe will apply to future rebate revenue. Assuming a six-month lag, the LSC estimates that the state would receive approximately \$7.0 million in rebate revenue in the first year of the program. However, if a five-month lag is assumed, an estimated \$10.8 million in additional revenue could be realized in the first year of the program.

### **Rebate Reimbursement to Terminal Distributors**

Under the bill, the ODJFS is required to reimburse terminal distributors at least 95% of rebates that have been passed on to the participants. Reimbursement is to be made within two weeks of claim submission. To compute the monthly estimated rebates to be paid, the LSC multiplied total monthly rebates by 95%.

**Table 2**

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Estimated average monthly rebate amount	\$11,181,468
Estimated average monthly scripts	1,323,240

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**monthly                      quarterly**

program month	participant take-up rate	manufacturer take-up rate	monthly rebates	rebates to be paid to terminal distributors (95% of rebates)	rebates received from manufacturer (95% of rebates)	variance	quarterly rebates received from manufacturer (5% of rebates)	monthly revenue from \$1 per script administrative fee	total monthly revenue received for administration
1	5%	50%	\$279,537	\$265,560	\$0	(\$265,560)	\$0	66,162	\$66,162
2	10%	50%	\$559,073	\$531,120	\$0	(\$531,120)	\$0	132,324	\$132,324
3	15%	50%	\$838,610	\$796,680	\$0	(\$796,680)	\$0	198,486	\$198,486
4	20%	50%	\$1,118,147	\$1,062,239	\$0	(\$1,062,239)	\$0	264,648	\$264,648
5	25%	75%	\$2,096,525	\$1,991,699	\$0	(\$1,991,699)	\$0	330,810	\$330,810
6	30%	75%	\$2,515,830	\$2,390,039	\$1,593,359	(\$796,680)	\$83,861	396,972	\$480,833
7	35%	75%	\$2,935,135	\$2,788,379	\$0	(\$2,788,379)	\$0	463,134	\$463,134
8	40%	75%	\$3,354,441	\$3,186,718	\$0	(\$3,186,718)	\$0	529,296	\$529,296
9	45%	100%	\$5,031,661	\$4,780,078	\$0	(\$4,780,078)	\$0	595,458	\$595,458
10	50%	100%	\$5,590,734	\$5,311,197	\$5,443,977	\$132,780	\$286,525	661,620	\$948,145
11	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
12	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
			\$35,501,162	\$33,726,104	\$7,037,337	(\$26,688,767)	\$370,386	4,962,148	\$5,332,534

If third rebate payment is received one month early from manufacturers, then (\$15,933,592)

Table 2 (Continued)

program month	participant take-up rate	manufacturer take-up rate	monthly rebates	monthly rebates to be paid to terminal distributors (95% of rebates)	quarterly rebates received from manufacturer (95% of rebates)	variance	quarterly rebates received from manufacturer (5% of rebates)	monthly revenue from \$1 per script administrative fee	total monthly revenue received for administration
13	50%	100%	\$5,590,734	\$5,311,197	\$10,755,175	\$5,443,977	\$566,062	661,620	\$1,227,682
14	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
15	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
16	50%	100%	\$5,590,734	\$5,311,197	\$15,933,592	\$10,622,395	\$838,610	661,620	\$1,500,230
17	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
18	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
19	50%	100%	\$5,590,734	\$5,311,197	\$15,933,592	\$10,622,395	\$838,610	661,620	\$1,500,230
20	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
21	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
22	50%	100%	\$5,590,734	\$5,311,197	\$15,933,592	\$10,622,395	\$838,610	661,620	\$1,500,230
23	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
24	50%	100%	\$5,590,734	\$5,311,197	\$0	(\$5,311,197)	\$0	661,620	\$661,620
			\$67,088,810	\$63,734,370	\$58,555,952	(\$5,178,418)	\$3,081,892	7,939,437	11,021,329

Rebates are to be collected from participating manufacturers on a quarterly basis or in accordance with a schedule established by the ODJFS in rules. Assuming the program begins after July 1, 2004 (FY 2005) and rebates are collected on a quarterly basis, the first rebate revenue will not be received until two quarters following the submission of the first claims. Therefore, there will be no revenue in the Ohio's Best Rx Program Fund to pay participating terminal distributors and that can be transferred to the Ohio's Best Rx Administration Fund (Fund 5AA) to pay start-up costs until around December 2004. Thus, start-up costs for the program will need to be paid using GRF moneys. The bill appropriates \$10.0 million in FY 2004 to pay for the initial portion of the contract with the Ohio's Best Rx Program Administrator and to reimburse participating terminal distributors. Of that amount, the ODJFS may not spend more than \$450,000 in FY 2004 and not more than \$750,000 in FY 2005 for the Department's administrative costs. Any unspent GRF appropriations from FY 2004 may be carried over to FY 2005.

The LSC estimates that ODJFS will need to reimburse terminal distributors approximately \$33.7 million in FY 2005. However, because rebate revenue will not be received until approximately two quarters following the submission of claims, the LSC estimates that ODJFS will receive approximately \$7.0 million to \$17.8 million. The ODJFS will have to use a portion of the \$10.0 million appropriation to pay the Ohio's Best Rx Program Administrator. But, the amount is unknown at this time. In addition, the ODJFS estimates it will need approximately \$371,000 in FY 2004 and \$742,000 in FY 2005 to pay the Department's administrative costs of the program. Assuming up to \$8.8 million of the appropriation contained in the bill is available in FY 2005, ODJFS could need to request approximately \$7.1 million to \$17.9 million in additional GRF funding due to rebate timing.

Under the bill, if the Director of ODJFS estimates that the appropriation is insufficient to fully cover start-up costs, the Director shall, in consultation with the Director of the Office of Budget and Management, submit a letter to the Governor, President of the Senate, Speaker of the House of Representatives, and the Minority Leaders of the Senate and House of Representatives. The letter shall declare the additional

appropriation authority estimated to be needed and shall show a breakdown of how the additional appropriation authority will be used. The Director of ODJFS must obtain the approval of the Controlling Board for any supplemental appropriation, if required. The amount approved by the Controlling Board is hereby appropriated. The bill states that the use of state funds for start-up costs shall in no way obligate the state to fund further program costs, as the program is a discount program, not an entitlement program.

The LSC estimates that ODJFS will need to reimburse terminal distributors approximately \$63.7 million in FY 2006. The LSC estimates that ODJFS will receive approximately \$58.6 million to \$63.7 million. If rebate revenue is insufficient due to the timing issue surrounding the receipt of rebates to pay the administrative costs of the program, additional funding of \$5.2 million would be needed in FY 2006. Annually thereafter, rebate revenue received from manufacturers each year will be sufficient to reimburse participating terminal distributors.

**Up to 5% of Rebates for Administration**

Under the bill, up to 5% of the rebates collected may be used to fund the administration of Ohio's Best Rx Program. The LSC estimates that the state would generate approximately \$1.8 million in rebate revenue to fund administration in the first year of the program. However, because of the timing issue described above, the LSC estimates that the state will receive approximately \$370,000.

**Up to \$1 Administrative Fee**

Under the bill, the ODJFS shall determine the amount of an administrative fee that participating terminal distributors and the Ohio's Best Rx Program Administrator are to charge Ohio's Best Rx Program participants. The administrative fee, if any, shall only be applied if needed to cover the administrative costs of the Ohio's Best Rx Program not covered by the application of the rebate administration percentage plus the investment earnings of the Ohio's Best Rx Program Fund. The administrative fee shall not exceed \$1 per transaction. To estimate the administrative fee revenue by month, the LSC multiplies the estimated average monthly prescriptions by the participant take-up rate. The LSC estimates that the total administrative fee revenue for the program will be approximately \$5.0 million in FY 2005 and \$7.9 million in FY 2006 and annually thereafter.

**Ohio's Best Rx Program Fund and Ohio's Best Rx Administration Fund**

The LSC estimates that the Ohio's Best Rx Program Fund will receive approximately \$12.4 million to \$23.7 million in revenue in FY 2005 (approximately \$7.4 million to \$18.7 million in rebate payments from manufacturers and up to \$5.0 million from administrative fee per prescription), approximately \$69.5 million to \$75.0 million in FY 2006, and approximately \$75.0 million annually thereafter.

The LSC estimates the ODJFS will disburse from the Ohio's Best Rx Program Fund approximately \$7.0 million to \$17.8 million in rebates in FY 2005, approximately \$58.6 million to \$63.7 million in FY 2006, and approximately \$63.7 million annually thereafter to reimburse participating terminal distributors.

Furthermore, the LSC estimates that the Treasurer of State will transfer up to approximately \$370,000 to \$936,000 (5% of rebate payments) and up to approximately \$5.0 million in administrative fee revenue plus any investment earnings to Ohio's Best Rx Administration Fund in FY 2005. In addition, the Treasurer of State will transfer up to approximately \$3.0 million to \$3.4 million (5% of rebate payments) and up to approximately \$7.9 million in administrative fee revenue plus any investment earnings to Ohio's Best Rx Administration Fund in FY 2006. Lastly, the Treasurer of State will transfer up to approximately \$3.4 million (5% of rebate payments) and up to approximately \$7.9 million in administrative fee revenue plus any investment earnings to Ohio's Best Rx Administration Fund annually thereafter.

The ODJFS is required to use money in the Ohio's Best Rx Administration Fund to pay the administrative costs of the Ohio's Best Rx Program, including, but not limited to, costs associated with contracted services, staff, outreach activities, computers and network services, and the Ohio's Best Rx Program Council.

**Administration Costs**

**Department of Administrative Services and State Retirement Systems**

The cost to DAS and the state retirement systems of performing the various tasks required under the bill will likely be minimal.

**Department of Job and Family Services' Costs**

The ODJFS estimates that it will need to hire nine additional staff to perform duties such as: rulemaking, preparing a request for proposal for a contract with a PBM, managing that contract, paying initial rebates to terminal distributors, and computing the total weighted average of the per unit rebates for each covered drug. The ODJFS estimates these costs to be \$370,877 in FY 2004, \$741,749 in FY 2005, and \$757,877 in FY 2006. Contained in the table is the salaries, fringe benefits, \$7,345 per person per year for maintenance, and \$709 per person per year for equipment costs. This estimate does not include any software or computer programming costs as those are as yet unknown. Program implementation will dictate the type and level of complexity and therefore cost of such programming.

Number Of Positions	Title	Salary	FY 2004 Jan - June	FY 2005	FY 2006**
1	Project Manager 2	\$80,434			

		Long 6,136 Fringe* 28,222 Total \$114,792	\$57,396	\$114,792	117,558
2	Human Services Developer 2 (rule writers & program developers, TA)	\$49,670 PAL 4,514 Fringe* 17,664 Total \$71,848	\$71,848	\$143,696	\$147,160
1	Management Analyst Supervisor 2 (rate setter)	\$56,368 Long 4,056 Fringe* 19,698 Total \$80,112	\$40,061	\$80,122	\$82,053
1	AA2	\$38,646 Long 1,747 Fringe* 13,168 Total \$53,561	\$26,781	\$53,561	\$54,852
3	Human Services Specialists 2's (Help Desk staff)	\$40,976 PAL 3,765 Fringe* 14,586 Total \$59,327	\$88,991	\$177,981	\$182,268
1	Attorney 4	\$74,744	\$49,556	\$99,111	\$101,500
Subtotal 9 staff			\$334,633	\$669,263	\$685,391
Maintenance		\$7,345 per person	\$33,053	\$66,105	\$66,105
Equipment		\$709 per person	\$3,191	\$6,381	\$6,381
Total			\$370,877	\$741,749	\$757,877

\* Fringe benefits calculated at 32.6%

\*\* 2.41% increase for return of step increases in FY 2006

### **Ohio's Best Rx Program Administrator Costs**

The LSC has identified the likely costs components of administering the Ohio's Best Rx Program to be (1) outreach, (2) eligibility determination, (3) card issuance, and (4) administrative cost per claim. According to the ODJFS, these are all likely to be duties to be performed by a contracted PBM to serve as the Ohio's Best Rx Program Administrator. The PBM is to be selected through a competitive process based on requests for proposals. The actual cost of administering the Ohio's Best Rx Program cannot be known until a request for proposal (RFP) process is completed and a PBM is selected. The LSC is unable to predict what PBMs will bid for such a contract. However, administration costs will depend on the terms and cost of the contract with the selected PBM, the program participation rate (i.e., percentage of eligible participants that choose to apply and are deemed eligible), the number of claims filed, and the average cost per claim. The LSC is able to provide some cost information regarding (1) the current contract the state has with Express Scripps, Inc. (ESI) to provide prescription drugs for state employees and family members enrolled in the state's self-insured Ohio Med health plan and (2) the Golden Buckeye Prescription Drug Program. That information is provided below. However, it should be noted that ESI negotiates with drug manufacturers to obtain rebates for state employees and keeps at least a portion of the rebates to differ its costs. In contrast, under the Ohio's Best Rx Program, the PBM that is selected will not have to negotiate with manufacturers since the drug prices and rebates will be based on the weighted averages from the health benefit plans offered to state employees and retirees.

### **Eligibility Determination**

Under the terms of the contract between DAS and ESI, if ESI must create or maintain a member eligibility file by manually entering employee data or if the format is inconsistent with ESI's standard requirements, there is a \$1 per member implementation fee.

### **Card Issuance**

According to the Ohio Department of Aging, MemberHealth (the PBM administering the Golden Buckeye Prescription Drug Program) mailed cards contained in an information packet to approximately 2.2 million elderly and disabled Ohioans at a cost of \$0.50 per packet.

### **Claims Administrative Fee**

Under the terms of the contract with ESI, it will charge a sliding claims administrative fee of \$0.38 to \$0.45 per claim depending on the number of participants. The higher the number of participants, the lower the administrative fee.

### **Local Costs**

#### **Falsification**

It is possible that some individuals will be prosecuted and sanctioned under the bill. However, the LSC assumes that the number of criminal cases would be few, if any. If someone is convicted, the state, counties, and municipalities may gain court cost and fine revenues. Counties may incur incarceration costs if the individual is sentenced to serve jail time. As the number of cases will likely be few, the amount of court cost and fine revenues will be minimal. Incarceration costs are also likely to be minimal. The state also may gain some locally collected state court cost revenues for the GRF and the Victims of Crime/Reparations Fund (Fund 402). However, the amount of locally collected state court

cost revenues that those two state funds may gain annually is likely to be negligible, as the number of cases are expected to be few. It is also important to note that collecting court costs and fines from offenders who have little or no income can be problematic.

*LSC fiscal staff: Ivy Chen, Economist*

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[1] A terminal distributor includes pharmacies, hospitals, nursing homes, and laboratories and all other persons who procure dangerous drugs for sale or other distribution by or under the supervision of a pharmacist or licensed health professional authorized to prescribe drugs.