

As Introduced

**132nd General Assembly
Regular Session
2017-2018**

S. B. No. 215

Senator Skindell

A BILL

To enact sections 3962.01, 3962.02, 3962.03, 1
3962.04, 3962.05, 3962.06, 3962.07, 3962.08, 2
3962.09, 3962.10, 3962.11, 3962.12, 3962.13, 3
3962.14, 3962.15, 3962.16, 3962.17, and 3962.18 4
of the Revised Code to create the Ohio 5
Pharmaceutical Assistance Program in the 6
Department of Insurance to provide assistance 7
with the cost of prescription drugs for certain 8
seniors, the disabled, veterans, and certain 9
persons who are covered under a Bronze Health 10
Plan sold in the Health Insurance Marketplace 11
established by federal law. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3962.01, 3962.02, 3962.03, 13
3962.04, 3962.05, 3962.06, 3962.07, 3962.08, 3962.09, 3962.10, 14
3962.11, 3962.12, 3962.13, 3962.14, 3962.15, 3962.16, 3962.17, 15
and 3962.18 of the Revised Code be enacted to read as follows: 16

Sec. 3962.01. As used in this chapter: 17

(A) "Disabled" means an individual who is at least 18
eighteen years of age but less than sixty-five years of age and 19

is receiving social security disability insurance payments under 20
Title II of the "Social Security Act of 1935," 42 U.S.C. 401, as 21
amended, or supplemental security income payments under Title 22
XVI of the "Social Security Act of 1935," 42 U.S.C. 1383, as 23
amended. 24

(B) "Federal poverty guidelines" means the poverty 25
guidelines as revised annually by the United States department 26
of health and human services in accordance with section 673(2) 27
of the "Omnibus Budget Reconciliation Act of 1981," 42 U.S.C. 28
9902, as amended, for a family size equal to the size of the 29
family of the individual whose income is being determined. 30

(C) "Medicare part D plan" has the same meaning as in 42 31
C.F.R. 423.4. 32

(D) "Part D drug" has the same meaning as in 42 C.F.R. 33
423.100. 34

(E) "Participating terminal distributor" means a terminal 35
distributor of dangerous drugs that has entered into an 36
agreement with the superintendent of insurance under division 37
(A) or (B) of section 3962.08 of the Revised Code. 38

(F) "Prescription drug" means any drug to which the 39
following applies: 40

(1) Under the "Food, Drug, and Cosmetic Act," 21 U.S.C. 41
301, as amended, the drug is required to bear a label containing 42
the legend "Caution: Federal law prohibits dispensing without 43
prescription," "Caution: Federal law restricts this drug to use 44
by or on the order of a licensed veterinarian," or any similar 45
restrictive statement, or the drug may be dispensed only upon a 46
prescription. 47

(2) Under Chapter 3715. or 3719. of the Revised Code, the 48

drug may be dispensed only upon a prescription. 49

(G) "Terminal distributor of dangerous drugs" has the same meaning as in section 4729.01 of the Revised Code. 50
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(H) "Veteran" has the same meaning as in section 5903.01 of the Revised Code. 52
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Sec. 3962.02. There is hereby created in the department of insurance the Ohio pharmaceutical assistance program. The program shall consist of three components: 54
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(A) The "Ohio supreme Rx savings component," through which all of the following are the case: 57
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(1) Eligible beneficiaries of medicare part D plans may purchase part D drugs by paying reduced copayments for such drugs. 59
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(2) The disabled may purchase prescription drugs by paying reduced copayments for such drugs. 62
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(3) Medicare part D plan monthly premiums are paid for by the program on behalf of eligible beneficiaries of those plans. 64
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(B) The "Ohio veterans' Rx savings component," through which eligible veterans are subject to an annual out-of-pocket limit of four hundred dollars for the prescription drugs that they purchase; 66
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(C) The "Ohio bronze Rx savings component," through which certain individuals who receive a bronze level of care, as described in section 1302(d)(1)(A) of the "Patient Protection and Affordable Care Act," 42 U.S.C. 18022(d)(1)(A), are subject to an annual deductible of four hundred dollars for the prescription drugs that they purchase. 70
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Sec. 3962.03. (A) To be eligible for the Ohio supreme Rx savings component of the Ohio pharmaceutical assistance program, an individual must meet all of the following requirements at the time of application for the component: 76
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(1) The individual is a resident of this state. 80

(2) The individual is sixty-five years of age or older or disabled. 81
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(3) The individual has family income, as determined pursuant to the procedure established under rules adopted under section 3962.15 of the Revised Code, that does not exceed three hundred per cent of the federal poverty guidelines. 83
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(4) The individual is not insured under a policy of insurance that provides full or partial coverage for prescription drugs once a deductible is satisfied, except for either of the following: 87
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(a) A medicare prescription drug discount card endorsed by the United States secretary of health and human services in accordance with section 1860D-31 of the "Social Security Act of 1935," 42 U.S.C. 1395w-141, as amended; 91
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(b) A medicare part D plan. 95

(B) To be eligible for the Ohio veterans' Rx savings component of the Ohio pharmaceutical assistance program, an individual must meet all of the following requirements at the time of application for the component: 96
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(1) The individual is a resident of this state. 100

(2) The individual is a veteran. 101

(3) The individual is enrolled in health care benefits 102

provided by the United States department of veterans affairs. 103

(C) To be eligible for the Ohio bronze Rx savings 104
component of the Ohio pharmaceutical assistance program, an 105
individual must meet both of the following requirements at the 106
time of application for the component: 107

(1) The individual is receiving a bronze level of care, as 108
described in section 1302(d)(1)(A) of the "Patient Protection 109
and Affordable Care Act," 42 U.S.C. 18022(d)(1)(A). 110

(2) The individual has family income that does not exceed 111
three hundred per cent of the federal poverty guidelines. 112

Sec. 3962.04. Application for participation in any 113
component of the Ohio pharmaceutical assistance program shall be 114
made in accordance with rules adopted by the superintendent of 115
insurance under section 3962.15 of the Revised Code. An 116
individual's guardian or custodian may apply on behalf of the 117
individual. 118

When submitting an application, the applicant shall 119
include the information and documentation specified in the 120
superintendent's rules as necessary to verify eligibility for 121
the relevant component of the program. The application may be 122
submitted on a paper form prescribed and supplied by the 123
superintendent or pursuant to any other application method the 124
superintendent makes available, including methods that permit an 125
individual to apply by telephone or electronically. An applicant 126
shall attest that the information and documentation the 127
applicant submits with an application is accurate to the best 128
knowledge and belief of the applicant. 129

The superintendent shall inform each applicant on the 130
application that knowingly making a false statement in an 131

application is falsification under section 2921.13 of the 132
Revised Code, a misdemeanor of the first degree. 133

Sec. 3962.05. On receipt of applications, the department 134
of insurance shall make eligibility determinations for each 135
component of the Ohio pharmaceutical assistance program. An 136
applicant or the applicant's guardian or custodian may appeal an 137
unfavorable determination. Eligibility determinations and 138
appeals shall be conducted in accordance with procedures 139
established in rules adopted under section 3962.15 of the 140
Revised Code. 141

Sec. 3962.06. The department of insurance shall issue Ohio 142
pharmaceutical assistance program cards to or on behalf of 143
individuals determined eligible to participate. A card shall 144
indicate the program component in which the individual is 145
enrolled. 146

The department shall determine the information to be 147
included on the card, including an identification number, and 148
shall determine the card's size and format. If the department 149
establishes an application method that permits individuals to 150
apply electronically, the department may issue the enrollment 151
card by sending the applicant an electronic version of the card 152
in a printable format. 153

Sec. 3962.07. (A) Each time a drug is purchased under the 154
Ohio pharmaceutical assistance program, the participating 155
terminal distributor shall confirm whether the individual for 156
whom the drug is dispensed is enrolled in the program. The 157
department of insurance shall establish the methods to be used 158
in confirming enrollment through the department, including 159
confirmation by telephone, through the internet, or by any other 160
electronic means. 161

(B) Purchasing a drug under the program by using an 162
enrollment card or any other method shall serve as an 163
attestation by the participant for whom the drug is dispensed 164
that the participant meets the applicable eligibility 165
requirements specified in section 3962.03 of the Revised Code. 166

Sec. 3962.08. (A) Any terminal distributor of dangerous 167
drugs that accepts all medicare prescription drug discount cards 168
that are endorsed by the United States secretary of health and 169
human services in accordance with section 1860D-31 of the 170
"Social Security Act of 1935," 42 U.S.C. 1395w-141, as amended, 171
and is designated by the superintendent of insurance for use in 172
conjunction with the Ohio supreme Rx savings component of the 173
Ohio pharmaceutical assistance program may enter into an 174
agreement with the superintendent to dispense drugs to that 175
component's participants. 176

(B) Any terminal distributor of dangerous drugs that meets 177
the requirements specified by the superintendent in rules 178
adopted under section 3962.15 of the Revised Code may enter into 179
an agreement with the superintendent to dispense drugs to 180
participants in the Ohio veterans' Rx savings and Ohio bronze Rx 181
savings components of the program. 182

Sec. 3962.09. (A) (1) The amount that a participant of the 183
Ohio supreme Rx savings component of the Ohio pharmaceutical 184
assistance program is to be charged for a quantity of a drug 185
purchased under the component shall, except as provided in 186
division (A) (2) of this section, be equal to the sum of both of 187
the following: 188

(a) The lesser of the following: 189

(i) The total amount of the copayment, coinsurance, and 190

deductible requirements that the participant owes under the 191
participant's medicare part D or other plan; 192

(ii) The Ohio supreme Rx savings component copayment 193
determined under section 3962.16 of the Revised Code; 194

(b) A dispensing fee specified in rules adopted under 195
section 3962.15 of the Revised Code. 196

Any remaining balance due shall be paid by the program. 197

(2) If the participant is in the gap period of the 198
participant's medicare part D plan coverage, the program shall 199
pay the entire cost of the participant's part D drug obtained 200
during that gap period, including the dispensing fee. 201

(B) The program shall pay on behalf of a participant of 202
the Ohio veterans' Rx savings component the first two hundred 203
dollars in copayment, coinsurance, or deductible requirements 204
that the participant incurs each calendar year. 205

(C) The program shall pay on behalf of a participant of 206
the Ohio bronze Rx savings component the first four hundred 207
dollars in copayment, coinsurance, or deductible requirements 208
that the participant incurs each calendar year. 209

(D) The program may require substitution of generic drugs 210
for brand-name drugs, when generic drugs are available, and 211
prior authorization for brand-name drugs. The substitution and 212
prior authorization requirements shall be implemented in 213
accordance with procedures similar to those used by the medicaid 214
program. 215

Sec. 3962.10. For each prescription drug dispensed under 216
the Ohio pharmaceutical assistance program, a claim shall be 217
submitted to the department of insurance or, if the department 218

entered into a contract with an administrator under section 219
3962.13 of the Revised Code, the administrator. The 220
participating terminal distributor shall submit the claim not 221
later than thirty days after the drug is dispensed. The claim 222
shall be submitted in accordance with the electronic method 223
provided for in rules adopted under section 3962.15 of the 224
Revised Code. 225

Sec. 3962.11. In accordance with the method established in 226
rules adopted under section 3962.15 of the Revised Code, the 227
department of insurance shall make payments under the Ohio 228
pharmaceutical assistance program for complete and timely claims 229
submitted under section 3962.10 of the Revised Code for drugs 230
dispensed to program participants. The payment for a complete 231
and timely claim shall be made by a date that is not later than 232
two weeks after the department receives the claim from the 233
participating terminal distributor. The department may combine 234
claims submitted by a participating terminal distributor to make 235
aggregate payments to the distributor. 236

Sec. 3962.12. The department of insurance shall make 237
payments under the Ohio pharmaceutical assistance program to 238
cover the cost of medicare part D plan monthly premiums for 239
participants of the Ohio supreme Rx savings component who are 240
beneficiaries of those plans. Payments shall be made in 241
accordance with the method established in rules adopted under 242
section 3962.15 of the Revised Code. 243

Sec. 3962.13. (A) The superintendent of insurance may 244
enter into a contract with any person under which the person 245
serves as the administrator of the Ohio pharmaceutical 246
assistance program. Before entering into a contract for a 247
program administrator, the superintendent shall issue a request 248

for proposals from persons seeking to be considered. The 249
superintendent shall develop a process to be used in issuing the 250
request for proposals, receiving responses to the request, and 251
evaluating responses on a competitive basis. In accordance with 252
that procedure, the superintendent shall select the person to be 253
awarded the contract. 254

(B) The superintendent may delegate to the person awarded 255
the contract any duties of the superintendent or the department 256
of insurance specified in this chapter or any other provision of 257
the Revised Code pertaining to the Ohio pharmaceutical 258
assistance program. The terms of the contract shall specify the 259
extent to which the powers and duties are delegated to the 260
program administrator. 261

(C) Wherever the superintendent or department is referred 262
to in this chapter or another provision of the Revised Code 263
relative to a power or duty delegated to the program 264
administrator, both of the following apply: 265

(1) If the superintendent or department has delegated the 266
power or duty in whole to the program administrator, the 267
reference to the superintendent or department is instead a 268
reference to the administrator. 269

(2) If the superintendent or department retains any part 270
of the power or duty that is delegated to the program 271
administrator, the reference to the superintendent or department 272
is a reference to both that party and the administrator. 273

Sec. 3962.14. (A) If the superintendent of insurance 274
determines that the funds available to administer the Ohio 275
pharmaceutical assistance program are not sufficient to cover 276
the program's expenses and liabilities, the superintendent shall 277

establish a waiting list. The superintendent may establish a 278
waiting list for each of the program's components. 279

(B) If the superintendent determines that the funds for 280
the program have been exhausted, operation of the program shall 281
be suspended until the superintendent determines that sufficient 282
funds are available to resume operation of the program. 283

Sec. 3962.15. The superintendent of insurance shall adopt 284
rules in accordance with Chapter 119. of the Revised Code to 285
implement the Ohio pharmaceutical assistance program. The rules 286
shall provide for all of the following: 287

(A) For the purpose of division (A) (3) of section 3962.03 288
of the Revised Code, the procedure for determining family 289
income; 290

(B) For the purpose of section 3962.04 of the Revised 291
Code, a process for applying for the program; 292

(C) For the purpose of section 3962.05 of the Revised 293
Code, procedures for determining eligibility for each component 294
of the program and appealing eligibility determinations that are 295
unfavorable to an applicant; 296

(D) For the purpose of division (B) of section 3962.08 of 297
the Revised Code, the requirements that a terminal distributor 298
of dangerous drugs must meet to dispense drugs to participants 299
in the Ohio veterans' Rx savings and Ohio bronze Rx savings 300
components of the program; 301

(E) For the purpose of division (A) of section 3962.09 of 302
the Revised Code, the dispensing fee that participants of the 303
Ohio supreme Rx savings component must be charged for each 304
prescription drug that is dispensed; 305

(F) For the purpose of section 3962.10 of the Revised Code, the electronic method for submitting claims for the Ohio pharmaceutical assistance program to the department of insurance; 306
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(G) For the purpose of section 3962.11 of the Revised Code, the method the department of insurance must use to make payments to participating terminal distributors; 310
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(H) For the purpose of section 3962.12 of the Revised Code, the method the department of insurance must use to make payments under the program to cover the cost of medicare part D plan monthly premiums for participants of the Ohio supreme Rx savings component who are beneficiaries of those plans; 313
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(I) Any other matter the superintendent determines necessary to implement and administer the program. 318
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Sec. 3962.16. For prescription drug purchases made during the period beginning on the effective date of this section and ending on the thirty-first day of December immediately after that date, the Ohio supreme Rx savings component copayment is sixteen dollars and twenty-five cents. Thereafter, the copayment shall be increased annually on the first day of January by the percentage increase, if any, in the consumer price index over the immediately preceding twelve-month period, rounded to the nearest one-tenth of one per cent. 320
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Sec. 3962.17. Regarding a replacement for a lost, stolen, or destroyed prescription drug, the superintendent of insurance shall pay for the replacement drug under the relevant component of the Ohio pharmaceutical assistance program only if the component participant signs a statement provided by the superintendent attesting that the drug was lost, stolen, or 329
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destroyed and the participant has made a good faith effort to 335
recover the drug. A participant is limited to two replacements 336
of prescription drugs in one calendar year. 337

Sec. 3962.18. (A) If the initiated statute known as "The 338
Ohio Drug Price Relief Act" is approved by the electors in the 339
general election held November 7, 2017, or the general assembly 340
enacts a statute on or after the effective date of this section 341
pertaining to the prices paid for prescription drugs by a state 342
department, state agency, or other state entity, the director of 343
budget and management shall, subject to division (B) of this 344
section, project for each fiscal biennium thereafter the amount 345
of any financial savings to the state that will result from the 346
statute. For each main operating appropriations act, the 347
director shall recommend to the general assembly that 348
appropriations for the Ohio pharmaceutical assistance program be 349
made in an amount that is at least equal to the amount of the 350
projected savings for the applicable fiscal biennium. 351

(B) When determining the amount of projected savings under 352
division (A) of this section, the director shall exclude from 353
that amount any savings the director projects to be realized by 354
any state retirement system, as defined in section 101.90 of the 355
Revised Code, and the bureau of workers' compensation. 356