

State of Arkansas  
89th General Assembly  
Regular Session, 2013

# A Bill

HOUSE BILL 1720

By: Representatives Williams, Vines

## For An Act To Be Entitled

AN ACT TO REPEAL OBSOLETE LAWS CONCERNING PUBLIC  
HEALTH IN TITLE 19 AND TITLE 20 OF THE ARKANSAS CODE;  
AND FOR OTHER PURPOSES.

## Subtitle

AN ACT TO REPEAL OBSOLETE LAWS CONCERNING  
PUBLIC HEALTH IN TITLE 20 OF THE ARKANSAS  
CODE.

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

SECTION 1. Arkansas Code § 19-6-805, creating a fund for a program that was never implemented, is repealed.

~~19-6-805. Arkansas Rx Program Fund.~~

~~The Arkansas Rx Program Fund shall consist of Arkansas Rx Program fees, rebates, and penalties as set out in § 20-76-504, and any other revenues as may be authorized by law, there to be used by the Department of Human Services to reimburse retail pharmacies for rebates, contracted services, including pharmacy processing fees, administrative and associated computer costs, and other reasonable program costs, as set out in § 20-76-501 et seq.~~

SECTION 2. Arkansas Code § 20-47-302, concerning a task force that expired in 2001, is repealed.

~~20-47-302. Task force.~~

~~(a) Residential care facilities and the State of Arkansas face special problems when caring for the mentally ill. The chairs of the House Interim Committees on Public Health, Welfare, and Labor and the Senate Interim~~



~~Committee on Public Health, Welfare, and Labor shall establish a task force with equal representation from residential care facilities, community mental health centers, advocates for the mentally ill, and the Division of Mental Health and the Division of Medical Services. The task force shall also include at least one (1) member each from the Senate and House Committees on Public Health, Welfare, and Labor.~~

~~(b) The task force shall present a proposal at the 2001 legislative session for establishment and maintenance of a residential program designed to address the unique needs of the mentally ill. The task force's recommendations shall include adequate safeguards for residents, reimbursement for residential care facilities, and financing opportunities that will encourage and enable residential care facilities to build smaller, more home-like settings for the care of the mentally ill.~~

SECTION 3. Arkansas Code § 20-58-101, concerning a law made obsolete by the general use of refrigeration in grocery stores, is repealed.

~~20-58-101. Marking of cold-storage eggs.~~

~~(a) Any person, firm, or corporation retailing cold-storage eggs to the public shall mark the eggs in a sufficient manner so that the buyers of the eggs may have knowledge of their being cold-storage eggs by that mark.~~

~~(b) Any person, firm, or corporation or the agents or employees of any person, firm, or corporation violating this section shall be guilty of a violation and upon conviction shall be fined in any sum not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).~~

SECTION 4. Arkansas Code § 20-59-102, concerning a transfer of property that was completed in the 1970s, is repealed.

~~20-59-102. Division of Sanitarian Services—Ownership of Little Rock Milk Program assets.~~

~~The Division of Sanitarian Services may accept ownership of any or all office equipment, laboratory equipment, automobiles, and fund balances as may be made available from the Little Rock Milk Program.~~

SECTION 5. Arkansas Code Title 20, Chapter 76, Subchapter 5, concerning a program that was never implemented, is repealed.

~~20-76-501. Findings.~~

~~The General Assembly finds that:~~

- ~~(1) Affordability is critical in providing access to prescription drugs for Arkansas residents;~~
- ~~(2) The state should take steps to:
 
  - ~~(A) Make prescription drugs more affordable for qualified Arkansas residents; and~~
  - ~~(B) Integrate the program as part of any statewide program for the uninsured;~~~~
- ~~(3) The state should not:
 
  - ~~(A) Discourage employers from offering or paying for prescription drug benefits for their employees; or~~
  - ~~(B) Replace employer-sponsored prescription drug benefit plans that provide benefits comparable to those made available to qualified Arkansas residents under this subchapter; and~~~~
- ~~(4) A statewide drug price reduction program will increase the overall health of Arkansas residents by promoting healthy communities and protecting the public health and welfare.~~

~~20-76-502. Definitions.~~

~~As used in this subchapter:~~

- ~~(1) "Average wholesale price" means the wholesale price charged on a specific drug that is assigned by the drug manufacturer and is listed in a nationally recognized drug pricing file;~~
- ~~(2) "Covered drugs" means drugs that are on the Arkansas Rx Program preferred drug list;~~
- ~~(3) "Director" means the Director of the Department of Human Services or his or her designee;~~
- ~~(4) "Labeler" means a person or entity that:
 
  - ~~(A) Receives prescription drugs from a manufacturer or wholesaler and repackages those drugs for later retail sale; and~~
  - ~~(B) Has a labeler code from the federal Food and Drug Administration under 21 C.F.R. § 207.20, as in effect January 1, 2005;~~~~
- ~~(5)(A) "Participating retail pharmacy" means a participant in the Arkansas Rx Program that is:
 
  - ~~(i) A retail pharmacy located in this state; or~~
  - ~~(ii) Another business licensed to dispense~~~~

~~prescription drugs in this state.~~

~~(B) "Participating retail pharmacy" does not mean a mail-order pharmacy;~~

~~(6) "Preferred drug list" means a list of:~~

~~(A) Drugs listed as preferred drugs by the Arkansas Medicaid Evidence Based Preferred Prescription Drug Program for which a rebate is in effect under the Arkansas Rx Program; and~~

~~(B) Drugs that are within pharmaceutical classifications having no listed preferred drug under the Arkansas Medicaid Evidence Based Preferred Prescription Drug Program for which a rebate is in effect under the Arkansas Rx Program; and~~

~~(7) "Qualified resident" means a resident of the state who:~~

~~(A) Is not otherwise enrolled in or covered by any prescription drug benefit or insurance plan, including Medicaid and Medicare Part D;~~

~~(B) Is enrolled in the program; and~~

~~(C)(i) Is sixty-five (65) years of age or older; or~~

~~(ii) Has a family income equal to or less than three hundred fifty percent (350%) of the federal poverty level.~~

~~20-76-503. Arkansas Rx Program—Established.~~

~~(a) Subject to the available funding, the Arkansas Rx Program is established to reduce prescription drug prices and to improve the quality of health care for residents of the state.~~

~~(b)(1) Subject to the available funding, the Department of Human Services shall administer the program.~~

~~(2) The department shall use manufacturer rebates and pharmacy discounts to reduce prescription drug prices.~~

~~(c) The department shall promulgate rules to implement the provisions of this chapter.~~

~~(d) The department shall seek any waivers of federal law, rule, or regulation necessary to implement the provisions of this subchapter.~~

~~20-76-504. Rebate agreement.~~

~~(a) Every drug manufacturer or labeler that sells prescription drugs in this state through any publicly supported pharmaceutical assistance~~

~~program shall enter into a rebate agreement with the Department of Human Services for participation in the Arkansas Rx Program.~~

~~(b) The rebate agreement shall require the manufacturer or labeler to make rebate payments to the state each calendar quarter or according to a schedule established by the department.~~

~~(c)(1) A penalty of ten percent (10%) of the total rebate amount shall be assessed for any rebate not paid by the manufacturer or labeler in accordance with subsection (b) of this section or pursuant to terms established by the Director of the Department of Human Services.~~

~~(2) An additional penalty of five percent (5%) of the total delinquent amount shall be assessed each quarter that delinquent rebates remain unpaid to the state.~~

~~(d) The director or his or her designee may file suit in Pulaski County Circuit Court to enforce rebate agreements and to collect delinquent rebates and penalties.~~

~~20-76-505. Rebate amount.~~

~~(a) The Director of the Department of Human Services shall negotiate the amount of the rebate required from a manufacturer or labeler in accordance with this section.~~

~~(b) The director shall take into consideration:~~

~~(1) The rebate calculated under the Medicaid rebate program under 42 U.S.C. § 1396r-8;~~

~~(2) The average wholesale price of prescription drugs; and~~

~~(3) Any other available information on prescription drug prices and price discounts.~~

~~(c) The director shall use his or her best efforts to obtain an initial rebate amount equal to or greater than the rebate calculated under the Medicaid rebate program under 42 U.S.C. § 1396r-8.~~

~~(d) To assist with the rebate program under this subchapter, the director shall use his or her best efforts to obtain a rebate equal to or greater than the amount of price reduction for prescription drugs provided to the United States Government.~~

~~20-76-506. Discounted prices for qualified residents.~~

~~Each participating retail pharmacy shall sell covered drugs to~~

~~qualified residents at the ordinary and customary retail price less any applicable rebate established under this subchapter.~~

~~20-76-507.—Operation of program.~~

~~(a)—Participating retail pharmacies shall disclose to qualified residents the amount of savings provided as a result of the Arkansas Rx Program.~~

~~(b)—The Department of Human Services may not impose transaction charges under the program on participating retail pharmacies that submit claims or receive payments under the program.~~

~~(c)—A participating retail pharmacy shall submit claims to the department in order to determine the appropriate rebates.~~

~~(d)—On a biweekly basis, the department shall reimburse a participating retail pharmacy for the applicable rebate provided to qualified residents under § 20-76-506.~~

~~(e)—The department shall conduct ongoing quality assurance activities as needed at the discretion of the Director of Department of Human Services.~~

~~20-76-508.—Release of names of manufacturers and labelers.~~

~~(a)—The names of manufacturers and labelers are public information without regard to whether they enter into rebate agreements under this subchapter.~~

~~(b)—The Department of Human Services shall:~~

~~(1)—Release the names of manufacturers and labelers to health care providers and the public on a regular basis; and~~

~~(2)—Publicize participation by manufacturers and labelers that is of particular benefit to the public.~~

~~20-76-509.—Arkansas Rx Program Fund.~~

~~(a)—There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the “Arkansas Rx Program Fund”.~~

~~(b)(1)—All moneys collected under the Arkansas Rx Program shall be deposited into the State Treasury to the credit of the fund as special revenues.~~

~~(2)—The fund shall also consist of any other revenues as may be~~

authorized by law.

~~(c) The fund shall be used by the Department of Human Services to reimburse:~~

~~(1) Retail pharmacies for rebates provided under this subchapter; and~~

~~(2) The department for contracted services, including pharmacy claims processing fees, administrative and associated computer costs, and other reasonable program costs.~~

~~(d) Surplus funds in the fund shall be used for the benefit of the program.~~

~~20-76-510. Annual summary report.~~

~~The Department of Human Services shall report the enrollment and financial status of the Arkansas Rx Program to the Legislative Council by October 1 each year.~~

~~20-76-511. Obligations of Department of Human Services.~~

~~(a) The Department of Human Services shall:~~

~~(1) Establish simplified procedures for determining eligibility and issuing Arkansas Rx Program enrollment cards to qualified residents; and~~

~~(2) Undertake outreach efforts to:~~

~~(A) Build public awareness of the program; and~~

~~(B) Maximize enrollment of qualified residents.~~

~~(b) The department may adjust the requirements and terms of the program to accommodate any new federally funded prescription drug programs.~~

~~20-76-512. Coordination of programs.~~

~~(a) The Department of Human Services shall administer the Arkansas Rx Program in a manner that is advantageous to the program and to the enrollees in the program.~~

~~(b) In implementing this subchapter, the department may:~~

~~(1) Coordinate other programs of the department with this program; and~~

~~(2) Provide the benefits of this program to enrollees in other programs of the department.~~

~~20-76-513.—Rules.~~

~~The Department of Human Services may promulgate such reasonable rules as may be necessary or beneficial to the Arkansas Rx Program.~~

~~20-76-514.—Implementation.~~

~~The Department of Human Services shall begin offering Arkansas Rx Program drug benefits under this subchapter on February 1, 2006, and shall immediately make all best efforts to:~~

- ~~(1) Enroll eligible participants;~~
- ~~(2) Publicize and promote the program;~~
- ~~(3) Negotiate rebates with manufacturers;~~
- ~~(4) Enroll participating pharmacies; and~~
- ~~(5) Promulgate all rules necessary to administer the program.~~

~~20-76-515.—Fee.~~

~~Participating residents shall pay a fee of twenty-five dollars (\$25.00) annually in order to participate in the Arkansas Rx Program.~~

SECTION 6. Arkansas Code § 20-81-110, concerning a program for the benefit of World War I veterans, is repealed.

~~20-81-110.—Official flower—Poppy.~~

~~(a) The poppy is designated the official flower of World War veterans.~~

~~(b) It shall be unlawful for any person, firm, corporation, association, or organization, except patriotic organizations chartered by authority of a special act of Congress and the auxiliaries of such organizations, to sell artificial poppies other than within a regular established place of business. This exclusive authority is granted on the condition that all profits accruing therefrom shall be expended on disabled veterans of the World War and their dependents.~~

~~(c) Whoever shall violate any provisions of this section shall be fined not less than ten dollars (\$10.00) nor more than fifty dollars (\$50.00).~~

SECTION 7. DO NOT CODIFY. The enactment and adoption of this act shall not repeal, expressly or impliedly, the acts passed at the regular session of the Eighty-Ninth General Assembly. All such acts shall have full

force and effect, and so far as those acts intentionally vary from or conflict with any provision contained in this act, those acts shall have the effect of subsequent acts amending or repealing the appropriate parts of the Arkansas Code of 1987.

**APPROVED: 04/11/2013**