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Health and Human Services Agency Pharmacy Assistance Proposal

LEGISLATIVE ANALYST'S OFFICE

Presented To:

Senate Health and Human Services Committee





Major Issues to Consider in Evaluating The Administration's Proposal

- **Magnitude of Drug Discounts.** At this point, it is still not clear whether the administration will be able to secure voluntary rebates from drug manufacturers. If, like other states, the state were not successful in such an effort, the discounts achieved for consumers may not be much greater than those available under existing public and private drug purchase discount programs.
- **Access to Drug Discounts.** The administration proposal would probably result in greater access to drug discounts for middle-income and low-income families and children not now eligible for various existing programs, which focus mainly on the elderly and disabled. As a result, the enrollment rates could be low for persons eligible for the administration program, and they may not use the discount cards frequently, because their need for pharmaceuticals is generally less.
- **Rebate Mechanism.** The administration proposal does not specify the mechanism that would be used to capture and recover rebates from drug manufacturers and pass along the savings to the consumers purchasing them. Tracking and recovering rebates could be a challenging task.
- **Potential for Litigation.** Other states have frequently faced legal challenges from the drug manufacturing industry over pharmacy assistance proposals. The Legislature may wish to consult with legal counsel to ensure that any bill it drafts minimizes this litigation risk.
- **Other Pharmacy Assistance Models.** Before acting on the administration proposal for pharmacy assistance, the Legislature may wish to compare it with alternative models for providing such help, such as tying drug assistance directly to the Medi-Cal Program to compel the payment of rebates by drug manufacturers. It could compare the relative savings to consumers, the cost to the state and administrative complexity, and other factors.



Major Issues to Consider in Evaluating The Administration's Proposal *(Continued)*

- ***Existing State Discount Laws.*** The Legislature may wish to consider how the administration proposal for a new program fits with the state's existing laws to provide discounted drugs to consumers. A 1999 measure, SB 393, requires retail pharmacies to sell pharmaceuticals at a discount to Medicare beneficiaries, while a 2001 measure, SB 696 (which was never implemented) was intended to further reduce prices through obtaining drug manufacturer rebates.
- ***New Medicare Drug Benefit.*** The Legislature may wish to consider how the proposed new state program would fit with the recently enacted federal Medicare drug benefit. Federal authorities have yet to make critical decisions on how broad its drug coverage will be.
- ***Drafting Issues.*** We have submitted comments on a number of specific aspects of the administration's proposed language, including the application process, the application fee, the timing of the new program, rebate levels, and the proposed appropriations.