

March 15, 2005

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative (File No. SA2005RF0065), known as the California State Pharmacy Assistance Program or Cal Rx.

Background

Pharmacy Assistance Programs. California and a number of other states have established pharmacy assistance programs to help consumers purchase prescription drugs at reduced prices. Current California law, for example, requires retail pharmacies to sell prescription drugs to persons enrolled in the federal Medicare Program at a discount. The program assists elderly and disabled health care consumers.

Initiative Proposal

This initiative proposal would establish a new state program aimed at reducing the costs that certain low- and moderate-income residents of the state would have to pay for prescription drugs purchased at pharmacies. Major components of the proposal are outlined below.

Discount Card Program. Under the Cal Rx program, which would be administered by the Department of Health Services (DHS), eligible consumers would be able to apply for and subsequently obtain a card which, when presented at a pharmacy, would qualify them for discounts on their drug purchases. Participation in Cal Rx would be open to California residents in a family with an income up to 300 percent of the federal poverty level—up to roughly \$28,000 a year for an individual or \$56,500 for a family of four. The new drug discount program would be available mainly for persons who do not have other forms of health insurance coverage through either private health

insurance or enrollment in certain other state health programs. Medicare enrollees could participate in the program in some circumstances.

Participants would enroll in Cal Rx by paying a \$15 annual fee to pharmacies. The DHS would review applications and mail the cards to eligible participants.

Two types of discounts would result in lower prices for eligible consumers. Pharmacies that voluntarily chose to participate in the program would agree to sell prescription drugs at an agreed-upon discount negotiated in advance with the state. In addition, the state would receive rebates from drug makers that would be passed through to the consumers who bought them.

Coordination With Private Assistance Programs. The initiative directs DHS to implement agreements with drug discount programs operated by drug makers and other private groups so that Cal Rx discount cards would automatically provide consumers with access to the best discount available to them for a particular drug purchase.

Outreach Efforts. The measure directs DHS to conduct an outreach program to inform state residents of their opportunity to participate in the Cal Rx program, to the extent that funding for this purpose is available.

Fiscal Effect

State Costs for Administration and Outreach Activities. The DHS, either directly or through contracts with vendors, would incur significant start-up costs as well as ongoing costs to implement Cal Rx. This would include administrative costs associated with establishing the new program, including any necessary new information technology systems that would be needed for its operation; operation of an Internet Web site and a call center to receive applications; processing of applications for drug discount cards; negotiation and collection of rebates from drug manufacturers; processing of prescription drug claims and payments of rebates; and coordinating Cal Rx with other private drug discount programs. The state would also incur costs for the proposed outreach program.

In the aggregate, these administrative and outreach costs would probably amount to the millions to low tens of millions of dollars annually. The exact fiscal effect would depend primarily on the extent of the outreach activities that were undertaken under this measure with state funds and the number of consumers who chose to participate in the pharmacy assistance program.

These costs would be borne primarily by the state General Fund. The cost of outreach activities could be offset, under the terms of the measure, by any private

donations received by the state for this purpose. The amount of donations that the state would receive on an ongoing basis for outreach activities is unknown.

One-Time Costs for "Float." This initiative would require that drug manufacturers pay rebates to the state on at least a quarterly basis. However, the initiative also requires that the state reimburse pharmacies for rebates within two weeks after a claim has been filed by a pharmacy because of a consumer's drug purchase. In other words, the state will, in many cases, be obligated to pay out rebates to pharmacies before it actually collects the rebate funds from a drug maker. Moreover, any disputes that will likely arise over the actual amounts owed for rebates could further slow payments of rebate funds from drug makers to the state.

This funding gap between the time the rebate money comes to the state and when the state has to pay pharmacies is referred to as float costs. The amount of the largely one-time cost of the float is unknown, but could amount to the low tens of millions of dollars, depending on the level of participation in Cal Rx. These costs could be partly offset, under the terms of the measure, by any rebate funds that were collected in advance through agreements for this purpose with drug manufacturers. The amount of funding that the state would receive through such advance payments is unknown. Any float costs that were incurred in excess of these advance rebate payments would be borne by the state General Fund.

Potential Savings on State and County Health Program Costs. The pharmacy assistance program established under this initiative could provide some fiscal benefits to the state and to counties by reducing costs for health programs.

Absent the discounts available under such a pharmacy assistance program, some poorer uninsured individuals might forego the purchase of their prescribed drugs. Such individuals might eventually become disabled or require hospitalization as a result of their untreated medical conditions and thus add to Medi-Cal Program costs. Other individuals might "spend down" their financial assets on expensive drug purchases absent such discounts and become eligible for Medi-Cal. The exact fiscal benefit to the Medi-Cal Program from a pharmacy assistance program is unknown, but could be significant if the program enrolled a large number of consumers.

Similarly, the availability of such a pharmacy assistance program could also reduce costs for county indigent care by decreasing out-of-pocket drug expenses for poor persons who require medications, thereby making them less likely to rely on county hospitals or clinics for assistance. The extent of these potential savings is unknown.

Summary

- One-time and ongoing state costs, potentially in the millions to low tens of millions of dollars annually, for administration and outreach activities to implement the new drug discount program. A significant share of these costs would probably be borne by the state General Fund.
- A largely one-time state cost, potentially in the low tens of millions of dollars, to cover the funding gap between the time when drug rebates are collected by the state and when the state pays funds to pharmacies for drug discounts provided to consumers. Any such costs not covered through advance rebate payments from drug manufacturers would be borne by the state General Fund.
- Unknown savings on state and county health program costs due to the availability of drug discounts.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Tom Campbell
Director of Finance