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## 2004 State Pharmaceutical and Medicare Coordination Legislation

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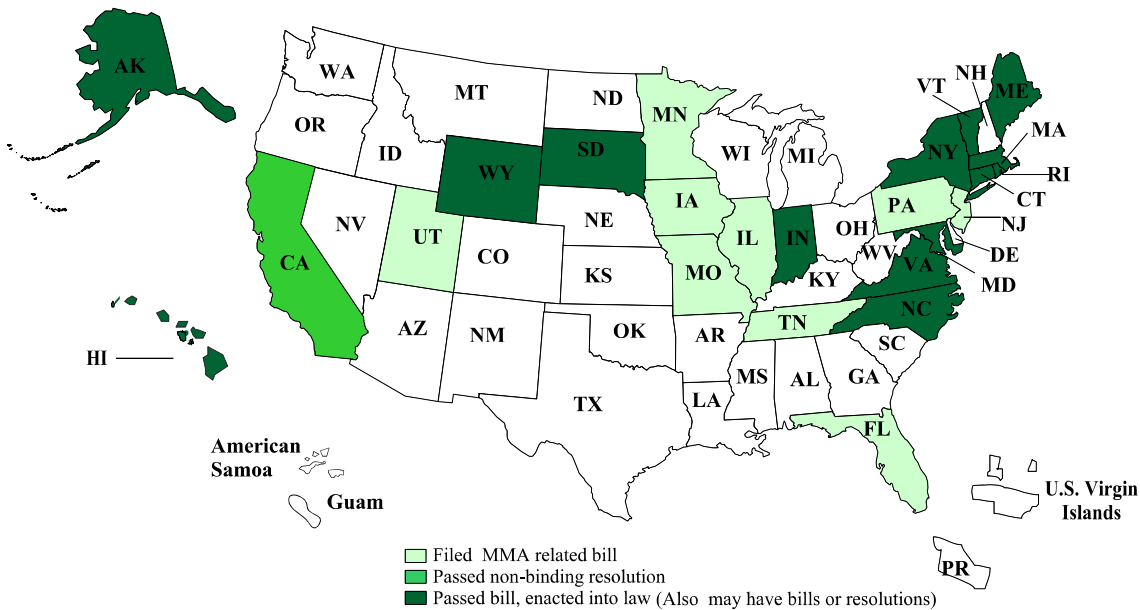
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As of the end of December 2004, at least 24 states had considered 62 bills and resolutions intended to modify or adjust state pharmaceutical assistance efforts, in response to the federal Medicare Prescription Drug Improvement, and Modernization Act of 2003 (P.L.108-173). Bills were filed in **Alaska, California, Connecticut, Hawaii, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, Rhode Island, South Dakota, Tennessee, Utah, Vermont, Virginia and Wyoming**. Non-binding resolutions to the U.S. Congress were filed in **California, Florida, Minnesota, Pennsylvania and Rhode Island**.

**Signed Laws in 14 states:** Of these filed bills, laws were signed in: **Alaska, Connecticut, Hawaii, Indiana, Maine, Maryland, Massachusetts (2), New York, North Carolina, Rhode Island (2), South Dakota, Vermont, Virginia (2) and Wyoming**. Non-binding resolutions were adopted in **California and Rhode Island**.

**2005 Activity:** see the latest companion NCSL Report, *2005 State Pharmaceutical and Medicare Coordination Legislation*, updated December 2005.

2004 Medicare Pharmaceuticals Law: State Adjustment Bills & Laws



Compiled by NCSL; data updated January 1, 2005. For details on legislative status and multiple measures, see report text. Map reflects legislative actions only, and does not include state executive initiatives.

This list is an excerpt of NCSL's "2004 Prescription Drug State Legislation" report. That larger list also includes bill affecting state subsidy and state discount programs, not necessarily included on this excerpt report. For example, major new laws signed in the District of Columbia and West Virginia are not listed below because they do not make direct reference to Medicare. The reports are a work-in-progress, subject to regular additions and updates. (Report code = MMA)

State / Bill # / Sponsor / Description / Summary status
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**AK** [HB 374](#) & [SB 259](#) Governor

Creates two pharmaceutical assistance programs. 1) \$120-per-month cash assistance option or a new \$1,600-per-year prescription drug plan that would end when the Medicare benefit goes into effect January 2006. Eligibility requirements would include age 65 and older with incomes of less than \$15,134 a year and liquid assets of less than \$4,000. Couple maximum combined income of \$20,439 and liquid assets of up to \$6,000. 2) An optional reimbursement benefit of \$1,000 a year would be available for those up to 150 percent of the federal poverty level, or \$16,815 a year for a single person and \$22,710 for a couple.

(*HB 374 Passed House 2/4/04; Passed Senate 2/19/04; **signed by governor** as Act 3, 3/5/04*)

**CA** [SJR 25](#) Sen. Ortiz; [AJR 62](#) Assemblymember Ridley

Non-binding resolutions, requesting the U.S. Congress and the President to enact revisions to the Medicare Prescription Drug Act of 2003, including: index increases in beneficiaries' premiums, deductibles, and cost sharing limits to increases in Social Security benefits; give authority to negotiate the prices of drugs under the Act; to "direct the Secretary to work with states on establishing workable systems" to safely import drugs from Canada; to allow states to receive matching funds if they choose to maintain the existing level of drug coverage for beneficiaries who are dually eligible for Medicare and Medicaid, and other provisions.

(*AJR 62 **adopted by Assembly** 45y-26n 4/22/04; **adopted by Senate** 22y-12n, 7/1/04; as Resolution Chapter 112, 7/8/04*)

(*SJR 62 **adopted by Senate** 3/30/04; **adopted by Assembly** 47y-28n, 8/18/04*)

**CT** [S.B. 8](#) Rep. Bruce Zalaski

Requires that beneficiaries in the ConnPACE" state Rx subsidy program with incomes up to 135 percent of federal poverty (\$12,569 annually), and eligible for Medicare, "shall obtain annually" and enroll in a state-endorsed Medicare discount card, with the state authorized to automatically enroll qualified people. The law also includes a Canadian Rx purchasing investigation including waiving the copayment charge for such drugs.

(*Filed 2/4/04; passed Senate and House, **signed by governor** as Act 04-10, 4/28/041*)

**CT** [SB 609](#) Appropriations Committee

Would seek to maximize federal funding for which the state is eligible under new provisions of federal law related to Medicare, Medicaid, DSH payments and employer-sponsored retirement plans providing prescription benefits.

(*Filed 3/11/04; **did not pass** by end of regular session 5/5/04*)

**FL** [HB 541](#) Rep. Justice

Non-binding memorial, would urge the Congress of the United States to support the Medicare Prescription Drug Savings Act of 2003 to allow direct negotiation of prescription drug prices with pharmaceutical companies.

(*Filed 1/20/04; **died** in committee 4/30/04*)

**HI** [HB 2005](#) Rep. Say

Changes the name of the state discount program to Hawaii Rx plus; adds new definitions of "covered drugs", "participating retail pharmacy", and "qualified resident"; establishes requirements to determine qualified residents; requires Department of Human Services to conduct ongoing quality assurance activities; clarifies consequences applicable to nonparticipating manufacturers. (Program will be operational July 1, 2004)

(*Filed 1/23/04; passed House 3/2/04; passed Senate 4/13; **signed by governor** as Act 190, 7/9/04*)

**HI** [HB 2460](#) Rep. Say; [SB 2935](#) Sen. Bunda

Would amend the Hawaii Rx program based on the U.S. Supreme Court's ruling on the Maine Rx program on which Hawaii Rx is modeled, to: (1) address the concerns of the Centers for Medicare and Medicaid Services to protect access of Medicaid clients to the prescription drugs they need; (2) prevent loss of prescription of drug benefits to employees covered by employer-sponsored drug benefit plans; (3) address the concerns of pharmacies and drug manufacturers; (4) conform the rebate process to chapters 91 and 92; and (5) rename the program as Hawaii Rx Plus.

(*Filed 1/26/0; **died** at end of regular session 5/5/04*)

**HI** [HR 54](#) & [HCR 81](#) Rep. Say

Non-binding resolutions, would urge members of Congress to "to promote the repeal of the Medicare Modernization Act and work to enact legislation that will ensure universal access to a single-payer uniform health insurance program with subsidies for needy seniors and establish a prescription drug plan as part of the traditional Medicare program designed to lower the cost of prescription drugs for everyone through bulk purchasing" or to work for reform of high premiums and restricted asset tests.

*(HR 54 adopted by House 4/13/04; HCR 81 passed House; did not pass Senate 5/5/04)*

**HI** [SR 24](#) & [SCR 56](#) Sen. Menor

Non-binding resolutions, would urge the president and congress to repeal the ban against federal negotiating of price reductions for prescription drugs.

*(SR 24- Filed 3/15/04; adopted by Senate 4/8/04; sent to Congress 4/30/04)*

*(SCR56 adopted by Senate and House 4/29/04; sent to Congress 5/10/04)*

**IL** [HB 6851](#) Rep. Coulson

Would provide that, in the event that the current state pharmacy assistance programs cease to provide benefits and the federal government creates a Medicare prescription drug benefit, the Department shall develop a new supplemental coverage program to help cover out-of-pocket expenses "including premiums, deductibles, co-payments and any other expenses required by enrollees" in the Medicare prescription drug benefit program. Provides guidelines for coverage under, and eligibility for, the program.

*(Filed and sent to committee 2/9/04; did not pass by end of session 12/04)*

**IN** [H 1251](#) Rep. Becker

Establishes the Indiana Prescription Drug Advisory Committee, which is required to "make program design recommendations" to coordinate the Indiana drug subsidy program with the federal Medicare law... to ensure that the program does not duplicate benefits." The committee must report before July 1, 2004 for program changes related to Medicare discount program, and September 1 2004 for changes related to the part D subsidy program.

*(Passed House and Senate; signed by governor 3/17/04)*

**IA** [HF 2554](#) & [SF 2229](#) Rep. Heaton, Sen. Johnson

Would establish a prescription drug assistance clearinghouse for patient information. It requires manufacturers doing business with the state to report the details of their patient assistance programs. Requests approval for federal funding, with a conditional appropriation of \$250,000 if federal funds are not acquired by Oct. 1, 2004.

*(Passed House 4/4/04 and Senate 4/13/04; vetoed by governor as unnecessary duplication of federal effort 5/14/04)*

**ME** [LD 1828](#) Rep. Brannigan

FY05 budget requires a Medicare beneficiary to use the Medicare drug discount card before using a state sponsored discount program for a pharmaceutical purchase.

*(Filed 1/20/04; passed House and Senate on 1/30/04; signed by governor as Chapter 513 on 1/30/04)*

**MD** [HB1023](#) & [SB 614](#) Delegate Rosenberg, Sen. Hollinger

Would prohibit the state from modifying prescription coverage in the State Employee Health Program as a result of the federal Medicare Act without approval of the General Assembly.

*(SB 614 passed Senate, 3/25/04; passed House 4/6/04; signed by governor as Chapter 296, 5/11/04)*

**MA** [H 4712](#) & [H 4714](#) Lt. Governor Healy

Provides for a voluntary automatic enrollment of current Prescription Advantage beneficiaries into a state-approved and Medicare-approved pharmaceutical discount card, allowing use of the \$600 federal transitional assistance benefit.

*(Filed 5/10/04; passed House and Senate 5/11/04; signed by governor as Chapter 96 of 2004, 5/12/04)*

**MA** [H 4600](#) & [S 2400](#) Senate Ways & Means Committee

FY05 Budget would require departments to analyze the federal Medicare Prescription Drug Act of 2003, and submit recommendations to legislative Committees by September 1, 2004 on needed changes in state Rx benefits. Also includes a clearinghouse function to explain "the additional benefits that would be available to an eligible person under Prescription Advantage but not available under Medicare Part D (in Line-item 9110-1455). A separate section would require broader open enrollment and bar copayment increases (Sec. 273) Would state that the program "shall encourage, but not require Prescription Advantage members to utilize the \$600 low-income transitional assistance benefit toward prescription drug purchases, but not reduce a person's prescription drug benefit under Prescription Advantage and no individual shall be required to use the Medicare Discount Drug Card."

*(Reported by committee, 5/12/04; did not pass in final budget 6/20/04)*

**MA** [H 4850](#) Conference Committee

FY05 budget provides \$5 million in new funding to reduce the copayment amounts in the Prescription Advantage state insurance subsidy program.

*(Passed House and Senate, 6/20/04; [signed by governor](#) 6/26/04)*

**MN [HF 1681](#)**

Supplemental budget for health would change eligibility for the MN Prescription Drug Program, by adding a requirement that dual-eligible residents as of July 1, 2004 also must apply for a Medicare-endorsed discount card if eligible; drugs covered by the low-income transitional assistance portion will not be covered by the state program. Enrollees in the Medicare drug discount card plan must obtain prescription drugs at a pharmacy enrolled as a provider for both the Medicare drug discount plan and the state prescription drug program.

*(Filed; passed House 4/2/04; [did not pass](#) by end of regular session 6/04)*

**MN [HF 1976](#) & [SF 1602](#)** Rep. Wilkin, Sen. LeClair

Would provide for partial conformity with Health Savings Accounts (HSAs). Allows individuals with high-deductible health plan coverage a state income tax deduction of \$2,250 for individuals and \$4,500 for individuals with family coverage.

*(Filed and sent to committee 2/9/04; [did not pass](#) by end of regular session 6/04)*

**MN [HF 2742](#) & [SF 2612](#)** Rep. Larson, Sen. Metzen

Would change eligibility in the state prescription drug discount program (defined in section 256L.09) by excluding a person enrolled in Medicare, or who has employer sponsored Rx coverage.

*(Filed 3/3/04; [did not pass](#) by end of regular session)*

**MN [HF 3180](#) & [SF 3036](#)** Rep. Wilkin, Sen. Berglin

Would memorialize the Center for Medicaid and Medicare Services to designate the state of Minnesota as a single-state region under the Medicare Modernization Act.

*(Filed 4/19/04; [SF 3036 passed Senate](#); [did not pass House](#) by end of session)*

**MO [SB 1371](#)** Sen. Kinder

Would provide state coordination of benefits for the Medicare Prescription Drug, Improvement & Modernization Act of 2003. The state "shall pay seventy-five percent of the 2006 standard drug benefit coverage gap" of \$2850 for eligible individuals whose income is within one hundred fifty to two hundred percent of FPL.

*(Filed 3/1/04; [passed Senate](#) 4/1/04; [did not pass House](#) by end of regular session 5/14/04)*

**MO [HB 1641](#)** Rep. Page

Would create "gap" prescription drug coverage for seniors to fill the gap created due to the enactment of the Medicare Prescription Drug, Improvement and Modernization Act of 2003.

*(Filed 3/9/04; [did not pass](#) by end of regular session 5/14/04)*

**NJ [A 1593](#) & [A 2315](#)** Assemblymembers Burzichelli, VanDrew

Would enact the "New Jersey Fair Market Drug Pricing Act" and establish the New Jersey Rx Card Program to reduce prescription drug prices. Would use voluntary negotiations with drug companies for supplemental rebates. Residents eligible would include Medicare enrollees and others under age 65 with income up to 300 percent of federal poverty, who do not have other state or private pharmaceutical coverage.

*(Filed 2/9/04; [A 1593 amended, reported from committee](#) 6/14/0; [carried over to 2005 session\\*](#))*

**NJ [A 2376](#) & [A 2377](#)** Assemblymembers Gibson, Azzolina

Would establish "Medicare Rx Savings Fund" and specify use of savings to the state. Would require federal transition funds received by the state under the Medicare prescription drug program to be used for purposes specified in federal law, promoting "the effective coordination of enrollment, coverage and payment between the Medicare program and N.J. state prescription drug programs.

*(Filed and sent to committee 2/24/04; [carried over to 2005 session\\*](#))*

**NJ [A 2607](#)** Assemblymember Payne

Would require the NJ Medicaid program to pay recipients' Medicare prescription drug copayments.

*(Filed 3/15/04; [reported favorably from committee](#) 6/3/04; [carried over to 2005 session\\*](#))*

**NJ [SCR. 48](#) & [ACR 122](#)** Senator Singer, Assemblymember Thompson

Would propose constitutional amendment requiring federal funds received by the state under the Medicare prescription drug program be used to expand Pharmaceutical Assistance for the Aged and Disabled (PAAD) and Senior Gold Prescription Discount Program.

*(Filed 1/26/04; [carried over to 2005 session\\*](#))*

**NY [A 9535](#) & [S 5683](#)** Assemblymember Lavelle

Would provide that a beneficiary of an insurance policy which provides coverage for prescription drugs shall not be disqualified from receiving such insurance benefits where such beneficiary also receives benefits under a federal Medicare prescription insurance plan.

*(Filed and sent to committee 2/20/04; did not pass by end of session 12/04)*

**NY** [A 11067](#) & [S 7226](#) Rules Committee, Finance Committee

FY04-05 emergency budget bill authorizes optional automatic enrollment in endorsed Medicare Rx discount cards, for NY residents enrolled in the EPIC Rx subsidy program, including waiving of any sign-up fees. The state program is authorized to endorse one or more Medicare Rx discount card sponsors that agree to "effective coordination" of benefits with the state.

*(Filed 5/3/04, passed Assembly and Senate and signed by governor as Chapter 49, 5/3/04)*

**NC** [H 1414](#) Appropriations Chairmen

Provides for voluntary automatic enrollment in a Medicare-endorsed discount card for current and future participants in the state's Senior Care PDA program with income up to 135 percent of federal poverty, including an option of individuals to decline; also clarifies that the state is the payor of last resort.

*(Passed House and Senate; signed by governor 7/20/04)*

**PA** [SR 207](#) Sen. Orie

Non-binding resolution, would request the U.S. Congress to designate the PACE program as the enroller of Medicare and Medicaid recipients of the drug benefit under the Medicare Prescription Drug Improvement and Modernization Act of 2003.

*(Filed 3/9/04; favorable committee report 3/16/04; did not pass by end of session 12/04)*

**RI** [H 7416](#) Rep. Constantino

Would establish the 10-member Special Legislative Committee to Reconcile the Provisions of the Pharmaceutical Assistance Program with the Medicare Prescription Drug and Modernization Act of 2003. The purpose of the commission is to study the effect of the new federal act on the Rhode Island Pharmaceutical Assistance for the Elderly Program, and make recommendations to ensure the maximum possible coverage and benefit to eligible consumers.

*(Filed 1/29/04; passed House 4/22/04; passed Senate 6/23/04; became law without governor's signature 7/1/04)*

**RI** [H 7630](#) Rep. Constantino

For those qualified for the state Pharmaceutical Assistance to the Elderly (subsidy) program, requires the state to pay the eligible percentage of the cost of prescriptions for qualified drugs for which no payment or reimbursement is made by the federal government, including Medicare. The state program continues its sliding scale copayments of 40 percent, 70 percent and 85 percent (up to \$35,000 annual income for an individual.)

*(Filed 2/10/04; passed House 6/24/04; passed Senate 6/26/04; became law without governor's signature 7/7/04)*

**RI** [H 8272](#) & [S 3015](#) Rep. Giannini, Sen. Goodwin

Non-binding resolutions, would urge the United States Congress to revise provisions of the Medicare Prescription Drug Act of 2003, including eliminating the prohibition on the federal government negotiating lower prices for drugs, narrowing the gap in the "doughnut hole" and liberalizing the restrictive asset test.

*(H 8272 passed House 6/22/04;*

*S. 3015 Joint resolution passed Senate 4/22/04; passed House; final action certified 6/24/04)*

**SD** [HB 1312](#) Governor

Would authorize the discontinuance of the senior prescription drug program (discount plan enacted in 2003) within 120 days following the issuance of the Medicare prescription drug discount card.

*(Filed 1/28/04; passed House 2/12/04, passed Senate 2/24/04; signed by governor 3/9/04)*

**TN** [HB 3374](#) Rep. Shepard & [SB 3014](#) Sen. Herron

Would require the Department of Health to initiate an outreach program to provide low-income and TennCare eligible residents information, education and assistance relative to obtaining prescription drugs at discounted cost, similar to program established in commission on aging to provide such assistance to Medicare-eligible Tennesseans.

*(Filed and sent to committee 2/5/04; did not pass by end of regular session 5/21/04)*

**UT** [HB 267](#) Rep. Hogue

Would create the Utah Pharmaceutical Insurance Program within the Department of Health, to serve residents age 19 and over with household income no more than 200% of federal poverty level. Enrollment would require a \$100 annual premium, and copayments ranging from \$15 to 30% of the cost of the prescription, with a limit of four per month. Would include an option for premium assistance for a Medicare prescription drug plan.

*(Filed and sent to committee 2/12/04; died in House 3/3/04)*

**VT [H. 768](#)**

The FY05 budget requires the executive department to report on the financial impact of the new federal Medicare drug benefit; the department of aging and disabilities is required to convene a drug benefit working group to minimize confusion regarding drug discount cards. Also creates the Healthy Vermonters Plus program, extending prescription drug discounts to persons under 65 with income between 300 and 350 percent of federal poverty, or with Rx expenses at least 15 percent of total income, but not eligible for the existing Healthy Vermonters program.

*(Passed House and Senate 5/20/04; **signed by governor** as Act 122, 6/10/04)*

**VT [S. 288](#)** Sen. Leddy

Would require the state to convene a working group to "develop and implement a plan which at a minimum shall include outreach, education, and assistance to minimize confusion and duplication of coverage expected to be caused by the introduction of the new, federally mandated Medicare discount cards" to Medicare beneficiaries, especially those who also are eligible for Medicaid, VHAP-Rx, VScript, VScript Expanded, or Healthy Vermonters.

*(Passed Senate 3/17/04; did not pass by end of regular session 5/20/04)*

**VT [H. 493](#)** Rep. Koch

Would amend provisions of the Healthy Vermonters pharmacy discount plan; also would assist Medicare beneficiaries with paying drug costs not covered under the federal Medicare drug benefit. Other sections would regulate pharmacy benefit managers; require the disclosure of retail prescription drug prices and exempt certain mental health drugs from the prior authorization process.

*(Filed 12/26/03; did not pass by end of regular session 5/20/04)*

**VA [SB 158](#)** Sen. Potts

Requires the Commissioners of Health and the Department for the Aging to disseminate, with available funds, information to the public on congressional actions relating to pharmaceutical benefits to be provided under the Medicare program and how such benefits may help senior citizens with the costs of pharmaceutical benefits. including training of senior volunteers.

*(Passed Senate and House; **signed by governor** as Chapter 73, 3/12/04)*

**VA [HB 1202](#)** Del. Cline

Requires the Commissioner of Health and the Commissioner of the Department for the Aging to develop a single application form for Virginians to use to seek eligibility for various pharmaceutical assistance programs and pharmaceutical discount purchasing cards. Also requires state agencies to "coordinate the dissemination of information to the public regarding any pharmaceutical discount purchasing card programs while maintaining a neutral posture regarding such programs," as well as other Medicare law-related benefit information.

*(Filed and sent to committee 1/14/04; passed House and Senate; **signed by governor** as Chapter 318, 3/31/04)*

**VA [HB 197](#)** Delegate Purky

Would establish the Virginia Insurance Plan for Seniors (VIPS), providing up to \$80 per month to eligible enrollees, defined as dual-eligible Medicare people age 65 and over. Prescription drugs would be limited to all products with a rebate equal to the Medicaid rebate. Enrollees would pay a 10 percent copayment.

*(Filed and sent to committee 1/14/04; did not pass House 1/22/04)*

**WY [HB 1](#)** Appropriations Comm.

The FY05-06 state budget requires "those individuals who are eligible for the Medicare prescription drug card and for whom the card is cost effective," to use the subsidy provided with the card as a condition of participation in the state prescription drug assistance program.

*(Filed, passed House and Senate; **signed by governor** as Chapter 95, 3/04)*

NOTE: For updates on bill status and live links, see NCSL's complete 2004 report at <http://www.ncsl.org/programs/health/drugdisc04.htm>