



Legislation Text

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By Council Members Baez, The Speaker (Council Member Miller), Rivera, Clarke, Dilan, Fidler, Foster, Gentile, Gioia, Katz, Koppell, Martinez, McMahan, Monserrate, Nelson, Quinn, Recchia, Seabrook, Stewart, Yassky, Gerson, Gennaro, Jackson, Liu, Vann, Gonzalez, Avella, Weprin, Perkins, and the Public Advocate (Ms. Gotbaum)

A Local Law to amend the administrative code of the city of New York, in relation to requiring the department of health and mental hygiene to develop a prescription drug discount card program.

Be it enacted by the Council as follows:

Section 1. Legislative findings and intent. National spending for prescription drugs has continued to rise dramatically over the last decade. It is estimated that Americans spent more than \$180 billion on prescription drugs in 2003, and that such spending could reach as much as \$250 billion by 2006. According to a recent report from the Association of Chain Drug Stores, brand-name retail drug prices jumped nearly \$10 per prescription between 2002 and 2003.

The rising cost of prescription drugs has become particularly problematic as the number of uninsured individuals has continued to increase. According to a 2004 report by Families USA, approximately 81.8 million people - including one out of three of those under the age of 65 - were without health insurance in the United States for all or part of 2002 and 2003. In New York State, the proportion of individuals without insurance is even higher than the national average, with more than one out of three people under the age of 65 without health insurance for all or part of 2002 and 2003. In New York City, it is estimated that 1.8 million people had no health insurance in 2002, and two-thirds of the uninsured were employed. According to the New York City Community Health Survey, during 2003, an estimated 908,000 people chose not to fill one or more prescriptions because of cost.

Accordingly, the New York City Council finds that a New York City prescription drug discount card program should be made available to all New York City residents regardless of age, income, immigration status or health insurance coverage status, and without any barriers, such as a fee for the card or a registration process, to participation in the program.

It is the intent of the Council that the discounts under such program will pass to the beneficiary - the consumer - at the point of sale. Based on the experience of prescription drug discount cards in other jurisdictions, the Council expects that consumers will receive a substantial discount on prescription drugs under the New York City program. For example, under the Nassau County prescription drug card program, users of the NassauRx card benefited from drug prices that were up to 40% lower than the lowest

commonly available retail price. Furthermore, it is also the intent of the Council that a New York City prescription drug discount card be used for purchases at pharmacies, through mail order and over the Internet. It is not the intent of the Council that the New York City prescription drug discount card be used in conjunction with any other discount prescription drug card during the same transaction or that this chapter be construed to require prescription drug manufacturers to participate in such program or to negotiate with any administrator regarding such program.

§2. Title 17 of the administrative code of the city of New York is hereby amended by adding a new chapter 10 to read as follows:

CHAPTER 10

PRESCRIPTION DRUG DISCOUNT CARD ACT

§17-1001 Short title.

§17-1002 Definitions.

§17-1003 Prescription drug discount card program.

§17-1004 Report.

§17-1005 Implementation.

§17-1006 Rules.

§17-1001 Short title. This chapter shall be known and may be cited as the “Prescription Drug Discount Card Act.”

§17-1002 Definitions. When used in this chapter, the term “rebate” shall mean a refund of a certain portion of the wholesale price of a drug based on a negotiated agreement between a drug manufacturer and any administrator of the prescription drug discount card program created pursuant to this chapter.

§17-1003 Prescription drug discount card program. a. The department shall develop a prescription drug discount card program which shall be made available to all New York city residents, regardless of age, income, immigration status or health insurance coverage status, for the purpose of providing all New York city residents with a prescription drug discount card which may be used to buy prescription drugs at reduced prices at participating pharmacies. Such prescription drug discount card program shall enable each user of such program to purchase at a reduced price from a pharmacy that participates in the program any prescription drug that is eligible for a discount through such program. The prescription drug discount card program shall allow users to purchase a drug at the lower of either the drug price available through the prescription drug discount card program or the pharmacy’s customary and usual price. Any prescription drug discount card issued pursuant to this section may not be utilized in conjunction with another type of prescription drug discount card for the same transaction.

b. Nothing in this chapter shall be construed to provide any governmental entity other than the department with access to any individually identifiable information regarding users of the prescription drug discount card program established pursuant to this

section. The department shall keep confidential all information concerning the identity of users of the program and the drugs that such users purchase through the program. The department may use such information solely to conduct epidemiological and health planning studies and to provide general information to users about the drugs such users are taking, the conditions for which such users are taking the drugs and other services of the department or the city of New York related to such conditions.

c. No administrator of the prescription drug discount card program shall provide the prescription drug discount card developed pursuant to this section to any resident of the city of New York unless such administrator ensures that a portion of any rebate payments received from drug manufacturers is distributed to users of such program, including pharmacies participating in the program.

d. Any duly licensed pharmacy willing to comply with the terms and conditions of the prescription drug discount card program shall be permitted to participate in the program.

§17-1004 Report. Not later than sixty days after the end of each twelve-month period during which the prescription drug discount card program has been in operation, the department shall provide the city council with a report regarding such program. Such report shall provide information regarding the operation of such program during the reporting period, including, but not limited to (i) the number of prescription drug discount card holders who used the prescription drug discount card at least once, (ii) the total cost savings to all card holders generated by the program, (iii) the average cost savings to a card holder per prescription, (iv) the source and method of cost savings under the program, (v) the major drug categories that are not discounted under the program and an explanation as to why such drugs are not listed, (vi) the drugs for which rebates are offered under the program, listed according to major drug category, (vii) the number of pharmacies participating in the program, and (viii) to the extent available, any costs incurred by pharmacies to participate in the program.

§17-1005 Implementation. The department may enter into contracts or agreements with third parties to implement the provisions of this chapter, including, but not limited to, developing and/or administering the prescription drug discount card program established pursuant to section 17-1003 of this chapter and collecting information required by section 17-1004 of this chapter.

§17-1006 Rules. The department may promulgate such rules as may be necessary to implement the provisions of this chapter.

§3. This local law shall take effect one hundred and twenty days after its enactment into law.