Legislation Details (With Text)

File #:	Int 0075-2002 **Version:** *	**Name:**	Discounted prescription drugs to low-income companies.
Type:	Introduction	**Status:**	Filed
		In control:	Committee on Health
On agenda:	3/13/2002		
Enactment date:		**Enactment #:**	
Title:	A Local Law to amend the administrative code of the city of New York, in relation to requiring that city-funded public hospitals and health facilities contract with only those pharmaceutical companies that offer discounted prescription drugs to low-income medicare beneficiaries who have no alternative outpatient prescription drug coverage.		
Sponsors:	Tracy L. Boyland, Bill De Blasio, Helen D. Foster, Robert Jackson, G. Oliver Koppell, Hiram Monserrate, Joel Rivera, Jose M. Serrano, Kendall Stewart, Alan J. Gerson, Charles Barron, Yvette D. Clarke, Leroy G. Comrie, Jr., Simcha Felder, Allan W. Jennings, Jr., Melinda R. Katz, John C. Liu, Miguel Martinez, Michael C. Nelson, Bill Perkins, Philip Reed, Larry B. Seabrook		
Indexes:			
Attachments:	1. Committee Report, 2. Hearing Transcript		

Date	Ver.	Action By	Action	Result
3/13/2002	*	City Council	Introduced by Council	
3/13/2002	*	City Council	Referred to Comm by Council	
9/9/2002	*	Committee on Health	Laid Over by Committee	
9/9/2002	*	Committee on Health	Hearing Held by Committee	
12/31/2003	*	City Council	Filed (End of Session)	

Int. No. 75

By Council Members Boyland, DeBlasio, Foster, Jackson, Koppell, Monserrate, Rivera, Serrano and Stewart; also Council Members Gerson, Barron, Clarke, Comrie, Felder, Jennings, Katz, Liu, Martinez, Nelson, Perkins, Reed and Seabrook

A Local Law to amend the administrative code of the city of New York, in relation to requiring that city-funded public hospitals and health facilities contract with only those pharmaceutical companies that offer discounted prescription drugs to low-income medicare beneficiaries who have no alternative outpatient prescription drug coverage.

Be it enacted by the Council as follows:

Section 1. Declaration of legislative findings and intent. The Council hereby finds that because the federal medicare program does not include an outpatient prescription drug benefit, senior citizens throughout the city, state, and nation are struggling to afford the medications they need. While some seniors in New York

powered by Legistar™

City are able to access prescription drugs through supplemental insurance coverage - whether medicaid, a "medigap" product, the Elderly Pharmaceutical Insurance Coverage ("EPIC") program, or an employee-sponsored retirement plan - many remain solely reliant on medicare and their own insufficient resources. These senior citizens are left unable to afford the prescription drugs necessary to battle illnesses, treat chronic conditions, and promote continued good health and independence. Their resulting infirmity places a growing burden on the seniors themselves, the family members and community groups who care for them, and the city's larger public health system.

Accordingly, the Council finds that it is in the best interest of New York City to require city-funded public health hospitals and health facilities to contract only with pharmaceutical companies that provide discounted prescription drugs to low-income medicare beneficiaries who have no alternative outpatient prescription drug coverage.

§2. Title 17 of the administrative code of the city of New York is hereby amended by adding a new section 17-183 to read as follows:

§17-183 Prescription drug discount. a. For purposes of this section, the following terms shall have the following meanings:

(1) "Alternative outpatient prescription drug coverage" means any form of supplemental health insurance that entitles a medicare beneficiary to prescription drug coverage, including but not limited to, medicaid, a medigap product, the EPIC program, or an employer-sponsored retirement plan.

(2) "City-funded public hospital or health facility" means any corporation of government, the expenses of which are paid in whole or in part from the city treasury, which provides health and medical services and operates health facilities.

(3) "Contract" means any written agreement, purchase order, or instrument whereby the city is committed to expend or does expend funds in return for work, labor, services, supplies, equipment, materials,

or any combination of the foregoing.

(4) "EPIC" means the Elderly Pharmaceutical Insurance Coverage Program as governed by Article 19-K of the New York state executive law.

(5) "Federal Poverty Level" means the national poverty guidelines established annually by the United States department of health and human services in the federal register.

(6) "Medicare" means the national health insurance plan for senior citizens as governed by Title XVIII of the social security act.

(7) "Medigap" means a commercial health insurance policy that supplements the federal medicare program and complies with all controlling local, state, and federal authorities.

(8) "Pharmaceutical company" means any manufacturer, supplier, distributor, or entity that enters into a contract for the provision of prescription drugs with any city-funded public hospitals and health facilities and any such company's affiliated officers, employees, agents, subcontractors, or subsidiaries.

(9) "Physician" means a physician duly licensed in New York state under Article 131 of the New York state education law.

(10) "Prescription drug" means any pharmaceutical authorized for use in the United States by the food and drug administration.

(11) "Qualified medicare beneficiaries" means any medicare recipient who: a) has a total annual income that does not exceed three hundred percent (300%) of the Federal Poverty Level; and b) does not have any alternative outpatient prescription drug coverage.

b. No city-funded public hospital or health facility shall enter into a contract for the supply of prescription drugs with any pharmaceutical company that does not provide qualified medicare beneficiaries with a discount of at least twenty-five percent (25%) on prescription drugs that have been prescribed by a physician acting in accordance with all applicable federal, state, and local laws and regulations; provided, however, that such condition shall not apply to contracts funded in part by federal or state funds where such

funding precludes the city from attaching such conditions provided herewith, or where applicable law or regulation otherwise precludes the imposition of such condition on such hospitals and health facilities.

c. Each city-funded public hospital or health facility shall provide written notification of the requirements of this section to any pharmaceutical company seeking a contract with such hospital or facility for the provision of prescription drugs.

d. Every contract entered into by or on behalf of any city-funded public hospital or health facility with a pharmaceutical company for the supply of prescription drugs shall contain a provision or provisions detailing the requirements of subdivision b of this section.

e. A pharmaceutical company shall be liable for a civil penalty of not less than five thousand dollars upon a determination that it has been found, through litigation or arbitration, to have made a false claim with respect to its provision, pursuant to this section, of discounted prescription drugs to qualified medicare beneficiaries.

f. This section shall not apply to any contract entered into by any city-funded public hospital or health facility with a pharmaceutical company for the provision of prescription drugs prior to the effective date of the local law that added this section; provided, however, that any renewal, amendment, or modification of such contract occurring on or after such effective date shall be subject to the conditions specified in this section.

g. The commissioner of the department of health shall enforce the requirements of subdivisions b, c, d, and f of this section.

h. If any subsection, section, clause, phrase, or other portion of the local law that added this section is for any reason declared unconstitutional or invalid in whole or in part by any court of competent jurisdiction, such portion shall be deemed severable and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which shall remain in full force and effect.

§3. This local law shall take effect immediately; provided, however, that any rules consistent with this local law and necessary to its implementation may be promulgated prior to such effective date.

powered by Legistar™

DB
LS#109
3/4/02