

**REPORT OF THE
DEPARTMENT FOR THE AGING**

**Pharmaceutical Assistance Programs
and Discount Purchasing Cards**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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COMMONWEALTH of VIRGINIA

Department for the Aging

Jay W. DeBoer, J.D., Commissioner

October 29, 2004

Memorandum

To: The Honorable Mark Warner
Governor of Virginia

Through: The Honorable Jane H. Woods
Secretary of Health and Human Resources

From: Jay W. DeBoer, JD
Commissioner for the Aging

Handwritten signature of Jay W. DeBoer in blue ink.

Robert B. Stroube, MD, MPH
Commissioner of Health

Handwritten signature of Robert B. Stroube in blue ink.

Subject: HB 1202 Final Report

Enclosed please find a copy of the Commonwealth's report regarding pharmaceutical assistance programs and discount purchasing cards as required by HB 1202, a bill of the 2004 General Assembly of Virginia.

This legislation required the Commissioner of Health and Commissioner for the Aging to evaluate current applications for pharmaceutical assistance programs and discount purchasing cards and assess the feasibility of developing a single application that addresses all pertinent questions. Research was conducted over the course of the year.

Given the impending changes in the federal Medicare program and work already initiated by the Pharmaceutical Research and Manufacturers of America to simplify the application process it is not feasible to attempt to create a standardized form for the myriad of pharmaceutical assistance programs available to low income Virginians. The bill also requires the Virginia Department of Health and Virginia Department for the Aging to better share information and enhance coordination as it relates to each agency's efforts to assist individuals in obtaining low cost or free medication. Those initiatives have been completed.

If you have any questions regarding the information contained in this report, please do not hesitate to contact either agency.



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Virginia department
for the Aging

Report on Pharmaceutical Assistance Programs and Discount Cards As Required in House Bill 1202

The 2004 Session of the Virginia General Assembly

**Report Prepared by the Virginia Department of Health
and the Virginia Department for the Aging**

Presented October 31, 2004

Preface

HB 1202 from the 2004 session of the Virginia General Assembly (Patron: Cline) requires the Commissioner of Health and the Commissioner of the Department for the Aging to develop a strategy, in coordination with the Virginia Area Agencies on Aging and other private and nonprofit organizations, for disseminating information to the public concerning the availability of pharmaceutical assistance programs and for training senior citizen volunteers to assist in completing applications for such programs and discount purchasing cards. The bill also requires the Commissioners to disseminate, with such funds as may be made available, information to the public relating to recent congressional actions concerning pharmaceutical benefits to be provided under the Medicare program and how such benefits may help senior citizens with the costs of pharmaceutical benefits. In addition, the two Commissioners will encourage pharmaceutical manufacturers to include application forms for pharmaceutical discount purchasing card programs on their respective websites in a format capable of being downloaded and printed by consumers.

The Commissioners have concluded that trying to cover all data that may be required to obtain eligibility for any and all pharmaceutical assistance program or pharmaceutical discount purchasing cards effectively negates the likelihood that Virginia could design a single, concise application form that is logically formatted and written in clear and easily comprehensible language. Further, attempts to integrate all of these formats are likely to encounter resistance by the pharmaceutical industry. An application designed to accomplish the former would be too complex and too cumbersome in order to accomplish the latter.

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Executive Summary

The Virginia Department of Health (VDH) and the Virginia Department for the Aging (VDA) have been requested to explore the feasibility of developing a unitary application form that would be accepted by all current non-Medicare-approved pharmaceutical discount cards. Following discussions with relevant entities, the Commissioners of Health and of Aging are of the opinion that the life expectancy of flat-fee pharmaceutical manufacturer-specific cards is very limited. **Considering all known factors, it is the conclusion of VDH and VDA that the remaining free-standing cards will cease to exist upon the initiation of Medicare Part D in 2006.**

Actually trying to cover all data that may be required to obtain eligibility for any and all pharmaceutical assistance program or pharmaceutical discount purchasing cards effectively negates the likelihood that Virginia could design a single, concise application form that is logically formatted and written in clear and easily comprehensible language. Further attempts to integrate all of these formats are likely to encounter resistance by the pharmaceutical industry. An application designed to accomplish the former would be too complex and too cumbersome in order to accomplish the latter.

VDH and VDA further observe that the design of the current transitional Medicare drug benefit for low income seniors has provided an incentive to switch to Medicare-approved prescription drug cards for many who formerly might have pursued free-standing discount cards. For individuals having incomes no greater than 135 percent of federal poverty to obtain the full \$600 “free drug” transitional benefit offered in 2004 and 2005, one must have a Medicare approved discount card, and must have no other prescription drug assistance.

However, VDA and VDH believe that programs offering low cost and no cost prescription assistance to persons having incomes near poverty levels, whether from individual pharmaceutical companies such as Merck, or through the auspices of the *Pharmaceutical Research and Manufacturers Association (PhRMA)*, will continue regardless of changes in the Medicare drug benefit. Not limited to those over 65, these programs require the participation of pharmacies and/or physicians, have widely diverse applications and eligibility requirements, and are considered extremely difficult for average consumers to navigate.

A software system entitled *Pharmacy Connection*, owned and distributed by the *Virginia Health Care Foundation*, a public-private partnership established with the assistance and participation of the Virginia General Assembly, permits an applicant to apply for low-cost and no-cost prescription assistance from all available programs simultaneously. While use of Pharmacy Connection is labor-intensive, the resulting value of pharmaceuticals delivered to Virginians has been truly impressive. **Based upon the potential of savings and volume of drugs that can be accessed efficiently, VDH and VDA recommend strongly that additional Pharmacy Connection access sites be established throughout Virginia.**

Overview - Prescription Assistance Programs in Virginia

The 2001 session of the General Assembly passed House Joint Resolution 810 which created the *Joint Commission on Prescription Drug Assistance*. The Commission was charged with studying and developing ways to provide prescription drug assistance to needy senior citizens and to coordinate state and federal programs already providing some form of assistance. The Commission reported to the 2002 session of the General Assembly that it was premature to issue a report and asked for an extension until November of 2002. House Document #32, the required report from HJR 810, was issued in 2003. Pending this report, and the passage of some type of federal prescription assistance program by Congress, Virginia has one localized program to help low-income Virginians receive low-cost or no-cost medication: the Pharmacy Connection Program.

Virginia currently offers prescription drug benefits to low-income elderly and disabled residents through the state's Medicaid program. The Commonwealth provides coverage to categorically needy residents receiving Supplemental Security Income (SSI) payments with incomes up to \$6,889 (\$9,243), 74% of the Federal Poverty Level (FPL).¹ Virginia also offers Medicaid coverage through a medically needy program for individuals with incomes up to \$4,376, 47% FPL (\$5,246, 42% FPL), subject to medical spend down. Medicaid beneficiaries in Virginia are subject to a preferred drug list (PDL), prior authorization (PA) requirements, supply limits, and co-pays.

The following analysis of the Medicare Modernization Act's impact on Virginia and its residents assumes that the structure of the state's benefits on April 1, 2004 stays the same or changes only as planned at this time (per any changes noted in this brief).

Major Provisions of the Medicare Modernization Act

The federal government recently established prescription drug assistance for Medicare beneficiaries through the Medicare Modernization Act (MMA) of 2003. MMA will alter state Medicaid and senior assistance programs from both a fiscal and administrative perspective. Key provisions of the new drug benefit affecting the state and low-income beneficiaries include the following:

- Dual eligibles will receive drugs through the Medicare drug benefit upon full implementation of the MMA in 2006. States lose responsibility of duals' drug costs.
- Beneficiaries with incomes under \$13,965 (\$18,735), 150% FPL, who also meet an assets test, will receive low-income subsidies for their prescription drug costs. Duals under \$9,310 (\$12,490), 100% FPL, will pay co-pays of \$1 for generics and \$3 for brand name drugs; non-duals under \$12,569 (\$16,862), 135% FPL, and duals above 100% FPL regardless of income and assets will pay co-pays of

¹ Throughout this document, income limits are reported as \$single (\$couple) based on the 2004 Federal Poverty Level.

\$2/\$5; beneficiaries between 135% and 150% FPL will pay a monthly premium (determined on a sliding scale), \$50 deductible, and 15% cost-sharing for all costs up to the catastrophic spending level. Co-pays will increase for duals under 100% FPL by CPI; other co-pays increase by growth in Part D.

- Non-dual beneficiaries must also meet an assets test requirement: for the <135% FPL subsidy, beneficiaries may not have assets above \$6,000 (\$9,000). To be eligible for the 135-150% FPL subsidy, beneficiaries may not have assets above \$10,000 (\$20,000). These assets test amounts increase annually by CPI.
- Dual eligibles will receive one of the two subsidies available to those with incomes <135% FPL regardless of income and assets.
- Dual eligibles in nursing homes will have no cost sharing.
- In 2006, Part D prescription drug coverage for beneficiaries above 150% FPL will have (approximately) a \$420 annual premium, a \$250 deductible, and 25% co-pay up to \$2,250, 100% co-pay up to \$5,100 (commonly referred to as the “donut hole” or “coverage gap”) and 5% co-pay thereafter.
- States can use state-only funds to improve the benefit for beneficiaries (e.g., to “wraparound” the coverage lapse and other beneficiary co-payments). They cannot use Medicaid funds for this purpose.
- States will continue to pay a decreasing portion of costs for duals’ drug coverage through a mechanism referred to as the “clawback” formula.
- A discount card will be available for all Medicare beneficiaries, except those covered under Medicaid, from June 2004 until December 2005. Enrollees with incomes at or below 135% FPL will be eligible for up to \$600 through the transitional assistance program (TAP) in both 2004 and 2005. TAP enrollees will pay co-pays of 5% (if income is under 100% FPL) or 10% (if income is between 100-135% FPL) until the subsidy is exhausted.
- Regulations scheduled for release in summer 2004 will address whether a state can sponsor a Part D plan (PDP), how exactly states can “wraparound” Part D benefits, and other outstanding questions related to state options.

Strategy for Disseminating Information about Pharmaceutical Assistance Programs

Prescription Assistance Programs

In determining the best approach to increase access to and usage of prescription assistance programs, the Commissioner of Health and the Commissioner for the Aging researched a variety of prescription assistance program websites. During the 2004 General Assembly Session, research was conducted regarding the Virginia Health Care Foundation’s The Pharmacy Connection project, Volunteers in Health Care & RxAssist (see below), and PhRMA (the Pharmaceutical Research and Manufacturers Association).

The Pharmacy Connection

The Virginia Healthcare Foundation has developed a special software (Pharmacy Connection) which assists physicians & their staffs, free clinics, community health centers, and other similar organizations to process large volumes of prescription assistance program applications for their patients. Most organizations which use Pharmacy Connection provide application services to their own patients. Information can be accessed at www.vhcf.org or (804) 828-5804.

Volunteers in Health Care & RxAssist

The Robert Wood Johnson Foundation supported the development of *Volunteers in Health Care* as a resource center for health care providers that serve low-income and underserved or underinsured Americans. Volunteers in Health Care provides information and technical assistance on a variety of health topics including access to low-cost or free medications. While Volunteers in Health Care does not work with individual patients, they encourage innovation and best practice by health care providers in meeting the needs of the uninsured and underserved. One aspect of technical assistance provided includes a step-by-step guide to find affordable or free medications. The source lists www.rxassist.org, www.helpingpatients.org, www.benefitscheckup.org, and www.medicare.gov as electronic resources where individuals can begin to access free or low-cost medications. Information is also provided on how to obtain help in filling out pharmaceutical assistance program applications. Finally, Volunteers in Health Care provides a listing by state of drug assistance programs including the populations served and contact information. The reference indicates that Virginia does not have a statewide drug assistance program. Virginia is one of eight states that, unfortunately, does not provide this service to its citizens.

PhRMA

At the time of this report, electronic information was available regarding medications that were covered by prescription assistance programs, and in some cases the actual application form. Staff at PhRMA indicated that they had been unsuccessful in developing a uniform application that every member company would be willing to use. Some of the barriers include: not all pharmaceutical companies are members of PhRMA; not all prescription assistance programs are accessible via the internet; and some prescription assistance program only accept applications that are submitted by a physician.

PhRMA has enhanced the utility of their prescription assistance programs website www.helpingpatients.org. Individuals now have two options to access information regarding prescription assistance programs from 48 companies: 1) using the internet or 2) speaking to a customer service representative telephonically. In both cases, individuals are asked to provide the following information:

- Age;
- State of residence and ZIP code;

- Estimated gross annual household income;
- Number of people living in household;
- Brand name of prescription medicines they are currently taking or have been prescribed; and
- Type of health insurance and /or prescription coverage (if applicable).

The website and/or telephone operator searches the individual prescription assistance programs participating in www.helpingpatients.org to determine if the user is eligible for any drug benefit programs. If so, information is provided about the various prescription assistance programs and how to apply. PhRMA has developed an initial application that can be used as the basis for applying to those prescription assistance programs that have agreed to an electronic application. However, in most cases, patients are required to print out the applications (either filled out based on their electronic submission or to be completed) and submit them to their physician for signature/certification.

Analysis and Recommendations

There are a variety of entities that have worked to simplify the pharmaceutical assistance programs process. In several cases, electronic programs or forms are available that allow individuals to apply to a number of programs simultaneously. PhRMA has already compiled application forms from its membership and assessed the common elements. The www.helpingpatients.org website has added a single concise application form that is used to initiate the process as part of its recent update. Actually trying to cover all data that may be required to obtain eligibility for any and all such pharmaceutical assistance program or pharmaceutical discount purchasing cards effectively negates the likelihood that Virginia could design a single, concise application form that is logically formatted and written in clear and easily comprehensible language. Further attempts to integrate all of these formats are likely to encounter resistance by the pharmaceutical industry. An application designed to accomplish the former would be too complex and too cumbersome in order to accomplish the latter.

VICAP Programs

The United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) operates the State Health Insurance Assistance Program (SHIP), as established by Section 4360 of the Omnibus Budget Reconciliation Act of 1990. Virginia receives funding from this program through the Virginia Department for the Aging (VDA), and with the advice and cooperation of the State Corporation Commission, Bureau of Insurance, operates the *Virginia Insurance Counseling and Assistance Program* (VICAP).

VDA contracts with twenty-one of Virginia's twenty-five area agencies on aging (AAAs) to provide statewide direct services to Medicare beneficiaries. VICAP services include: one-on-one counseling and education; referral; outreach and public education; and a wide range of eligibility, benefits, and claims dispute resolution. VICAP programs

are heavily reliant on volunteer efforts, necessitated by a minimal funding level of approximately \$6,800 per program received from the federal government. No state general funds are expended on VICAP, and the funding level has not allowed AAAs to hire even part-time employees for these programs. VICAP programs, however, have been successful in obtaining the volunteered services of retirees knowledgeable in insurance, pensions, and benefits administration.

This year, the primary focus of the VICAP program has been to provide beneficiaries with accurate and timely information on the provisions of the new Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003. Most of the emphasis has been placed on the Medicare-approved prescription drug discount card provisions of the Act.

Federal Funding for Prescription Assistance Counseling

In contrast to Medicaid, Medicare has no natural state level partner, such as the Department of Medical Assistance Services (DMAS). On a national level, CMS and the Administration on Aging have initiated a cooperative effort to provide outreach and assistance to the public through the SHIP programs administered by State Units on Aging. Accordingly, and subsequent to the 2004 Regular Session of the General Assembly, VDA received supplemental one-time federal grant awards from funds Congress appropriated for the implementation of MMA. The base grant award, plus two supplements have totaled \$395,465 to date in 2004. Of this amount, \$308,126, or about 78%, has been distributed directly to AAAs for program administration. The remainder of the allocation supports VDA administration, computerized data collection newly required of SHIP programs, and training of local VICAP staff and volunteers. VDA staff has also provided training on the MMA to numerous other state and local agencies.

VDA has profited from its new working relationship with CMS, and anticipates additional opportunities for partnership efforts as full implementation of MMA approaches in 2006. Funding received through CMS outreach will enable broader recruitment, coordination and supervision of VICAP volunteers.

The focus on prescription drug programs has been challenging for counselors and beneficiaries alike, but Virginia has undertaken to provide complete and accurate information. The fundamental assignment has been to explain the different, sometimes mutually exclusive, programs to beneficiaries. In Virginia, although there is no state funded drug assistance program for seniors, there are still three groups of programs that may benefit seniors, and about which VICAP programs, local health departments, and other state and local agencies have provided assistance and guidance:

1. Many drug store chains and drug manufacturers offer discounts to seniors -- most in the 10-15% range.

2. Pharmaceutical companies have offered deeper discounts, flat fee prescriptions, or even free medications to seniors who fall within their low-income guidelines (the maximum income will vary from one company to another).
3. And, as of June 2004, there are more than 40 new Medicare-approved prescription drug discount cards and programs offered in Virginia.

Local VICAP counselors have spent thousands of man-hours explaining these options to seniors, and helping them through the selection and enrollment process. It has been estimated that a complete explanation and evaluation of all available options to one senior with multiple prescription needs requires approximately two hours. Fortunately, for the new Medicare-approved card programs, which have received the most media attention in recent months, CMS has issued two standardized applications (one for standard enrollment, and one for enrollment with the \$600/year transitional assistance). All Medicare-approved discount drug card programs accept these applications. However, for programs in the other two groups, drug store chains and drug manufacturers still require program-specific applications. All of these forms seem to be widely available and easily accessed. Many are displayed at community drugstores, all may be requested by phone and mailed to the beneficiary, and all may be located on company websites through the internet. As requested by previous legislation, Virginia provides links to all known pharmaceutical company internet sites offering prescription assistance, and has provided “deep links” directly to applications where possible. VDA reports that cumulative page views on its prescription assistance web site were 18,221 in 2003 and 26,956 as of September 30, 2004.

Unitary Application Form

VDH and VDA have been requested to explore the feasibility of developing a unitary application form that would be accepted by all current non-Medicare-approved pharmaceutical discount cards. Following discussions with relevant entities, the Commissioners of Health and of Aging are of the opinion that the life expectancy of flat-fee pharmaceutical manufacturer-specific cards is very limited. The Pfizer *Share Card*, for example, launched with much publicity and with the active participation of Virginia’s government in 2002 has been discontinued, replaced with new programs incorporating the benefit formerly granted by the Share Card into the Medicare approved discount cards. At the time of launch in 2002, representatives of Pfizer freely acknowledged that the Share Card and similar cards from other manufacturers were intended only to “bridge the gap” until passage of a Medicare prescription drug benefit. Likewise, the *Together Rx* card, a unitary discount card offered by a consortium of pharmaceutical manufacturers, announces on its website that it will cease to exist upon the implementation of the full Medicare Part D in 2006. And although the *Lilly Answers* program continues to operate both as a free-standing fixed fee card and as a component of most Medicare approved discount cards, the commitment to continue Lilly Answers as a free-standing discount card extends only until 2006.

Considering all known factors, it is the conclusion of VDH and VDA that the remaining free-standing cards will cease to exist upon the initiation of Medicare Part D in 2006.

VDH and VDA further observe that the design of the current transitional Medicare drug benefit for low income seniors has provided an incentive to switch to Medicare-approved prescription drug cards for many who formerly might have pursued free-standing discount cards. For individuals having incomes no greater than 135 percent of federal poverty to obtain the full \$600 “free drug” transitional benefit offered in 2004 and 2005, one must have a Medicare approved discount card, and must have no other prescription drug assistance. While the free-standing discount cards are not per se a disqualification for transitional benefits, the caveat of having “no other prescription drug benefit” logically has had a depressing or “chilling” effect on interest in free-standing cards.

However, VDA and VDH believe that programs offering low cost and no cost prescription assistance to persons having incomes near poverty levels, whether from individual pharmaceutical companies such as Merck, or through the auspices of the Pharmaceutical Research and Manufacturers Association, (PhRMA) will continue regardless of changes in the Medicare drug benefit. Not limited to those over 65, these programs require the participation of pharmacies and/or physicians, have widely diverse applications and eligibility requirements, and are considered extremely difficult for average consumers to navigate.

A software system entitled Pharmacy Connection, owned and distributed by the Virginia Health Care Foundation, a public-private partnership established with the assistance and participation of the Virginia General Assembly, permits an applicant to apply for low-cost and no-cost prescription assistance from all available programs simultaneously. While use of Pharmacy Connection is labor-intensive, the resulting value of pharmaceuticals delivered to Virginians has been truly impressive. Based upon the potential of savings and volume of drugs that can be accessed efficiently, VDH and VDA recommend strongly that additional Pharmacy Connection access sites be established throughout Virginia.