

HOUSE No. 4902

Section 15 contained in the engrossed Bill making appropriations for the fiscal year 2005 (see House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment C of House, No. 4901). June 28, 2004.

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The Commonwealth of Massachusetts

In the Year Two Thousand Four

An Act relative to the development of a prescription drug procurement plan.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to develop forthwith a prescription drug procurement plan, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 6A of the General Laws is hereby amended by inserting after section 16B the following section:-

Section 16B 1/2. (a) Notwithstanding any general or special law to the contrary, the secretary of the executive office of health and human services, in consultation with the secretary of administration and finance and the secretary of public safety shall develop a coordinated, aggregate prescription drug procurement plan to manage and administer the disbursement, payment and reimbursement of prescription drugs, including claims processing, adjudication and client services for all pharmacy benefit

plans funded or subsidized, in whole or in part by the commonwealth. The aggregate procurement plan shall separately manage any and all benefits, rules and functions regarding drug utilization and cost for programs subject to Section 1927(a)(1) of the Social Security Act, Title XIX. This plan shall maximize cost savings, efficiencies, enhance affordable access to prescriptions and be designed to improve health outcomes, benefits and coverage in said pharmacy benefit plans.

(b) Notwithstanding any general or special law to the contrary, as part of the aggregate procurement plan, the secretary shall seek competitive bids from third party pharmacy benefits managers who are interested in providing procurement services to the commonwealth. The secretary shall consider those pharmacy benefits managers with experience in the administration of publicly-funded health benefit plans and who are qualified to assess and manage the clinical efficacy and cost effectiveness of the pharmacy benefit plans on behalf of the commonwealth. Nothing in this section shall preclude a not-for-profit entity from participating in the competitive bid process; provided, that during such competitive bid process, a not-for-profit pharmacy benefit manager shall demonstrate the capacity to provide the same level of service quality, assessment and ability to manage the clinical efficacy and cost effectiveness of the administration of such aggregate procurement plan as that of a for-profit pharmacy benefit manager, provided further, that the secretary may establish an inter-governmental service agreement between or among agencies of the commonwealth for the provision of pharmacy benefit management services if said not-for-profit pharmacy benefit manager is selected for the provision of such services; and provided further, that the secretary may request the aggregate pharmacy benefit manager plan to disclose information regarding

its marketing practices.

(c) A contract currently in existence with any agency or pharmacy benefits management company shall not be renewed or extended in a manner inconsistent with this section, but, a contract in existence with any agency or pharmacy benefits management company shall not be terminated before its expiration date if the termination would cause substantial financial cost or service interruption to the commonwealth.

(d) The secretary shall ensure that the aggregate procurement plan employs clinically-based tools to maximize cost savings, efficiencies, affordability, and to improve health outcomes and access to pharmacy benefits and coverage and effectively manage the pharmacy plans of the commonwealth.

(e) The secretary shall implement the aggregate procurement plan not later than November 5, 2004 and shall submit, on April 15 of each year, a report detailing the coordinated aggregate or bulk purchasing arrangement results for the previous year to the house and senate clerks, the chairpersons of the house and senate committees on ways and means and the chairs of the joint committee on healthcare. The report shall include, but not be limited to, a review of the aggregate procurement plan's achievement relative to:

(1) cost savings achieved during the previous fiscal year; (2) administrative costs relating to the management of the program for the previous fiscal year; (3) any recommendations for enhancing the benefits provided by each plan, savings costs, reducing inefficiencies and improving access and quality; and, (4) a cost-benefit analysis of the inclusion of other governmental entities, including but not limited to county, municipal and quasi-governmental entities within the aggregate pharmaceutical

procurement plan.

SECTION 2. This act shall take effect as of July 1, 2004.