Department of Planning and Budget
2003 Fiscal Impact Statement

1. **Bill Number** HB 2592

   House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed

   Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. **Patron** Christian

3. **Committee** Health, Welfare and Institutions

4. **Title** Virginia Prescription Drug Payment Assistance Program.

5. **Summary/Purpose:**

This bill establishes a program to be administered by the Department of Medical Assistance Services (DMAS), modeled on Delaware's Prescription Drug Payment Assistance Program, to assist eligible elderly and disabled Virginians in paying for their prescription drugs. Payment assistance will not be permitted to exceed $2,500 per person per year. DMAS will be able to contract with a third-party administrator to provide administrative services that include enrollment, outreach, eligibility determination, data collection, premium payment and collection, financial oversight and reporting. The benefit is limited to prescription drugs manufactured by pharmaceutical companies that agree to provide manufacturer rebates.

Eligible individuals must have incomes at or below 150 percent of the federal poverty level (FPL) or have prescription drug expenses that exceed 40 percent of their annual income, as set forth in the Appropriations Act. These individuals must also be age 65 or older, or eligible for federal Old Age, Survivors and Disability Insurance Benefits, not be receiving a prescription drug benefit through a Medicare supplemental policy or other third-party payor prescription benefit as of July 1, 2003, and be ineligible for Medicaid prescription benefits. However, nothing will prohibit the enrollment of a person in the program during the period in which his or her Medicaid eligibility is determined.

Enrollees will receive an identification card to be presented to pharmacists and will start receiving the benefit the month after their eligibility is determined. The card shall conform to administrative standards developed and published by the National Council for Prescription Card Programs. Benefits will be paid to pharmacies under a point-of-service claims procedure to be established by DMAS. There will be a co-payment for each prescription, which in general will not exceed 25 percent of the cost, but not less than five dollars. All licensed pharmacists will be allowed to participate in the program so long as the provider is willing to abide by the terms and conditions the Board of Medical Assistance Services (BMAS) establishes to participate.

Money to pay the claims would come from the newly established Prescription Assistance Fund, which would be financed by 10 percent of the annual proceeds received by the Commonwealth under the Master Tobacco Settlement Agreement and any federal funds available for this purpose. Administrative costs are to be paid from the pharmaceutical manufacturer rebates to the extent available and the $20 annual enrollment fees.

BMAS will develop a comprehensive statewide community-based outreach plan to enroll eligible persons and DMAS shall report annually on the program's implementation. No entitlement to prescription drug coverage on the part of any eligible person or any right or entitlement to participation is created and such coverage will only be available to the extent that funds are available.

6. Fiscal Impact Estimates are: Preliminary

6a. Expenditure Impact: (see Section 8)

Item 322, Subprogram 47901

Fiscal Year	*Dollars*	*Positions*	*Fund*
2002-03	$0	0.0	GF
2003-04	$452,578	6.0	GF
2004-05	$319,000	6.0	GF

Item 322, Subprogram 47902

Fiscal Year	*Dollars*	*Positions*	*Fund*
2002-03	$0	0.0	GF
2003-04	$78,330	0.0	GF
2004-05	$76,173	0.0	GF

Item 328, Subprogram 46400

Fiscal Year	*Dollars*	*Positions*	*Fund*
2002-03	$0	0.0	GF
2003-04	$13,256,721	0.0	GF
2004-05	$13,429,297	0.0	GF

Total Department of Medical Assistance Services

Fiscal Year	*Dollars*	*Positions*	*Fund*
2002-03	$0	0.0	GF
2003-04	$13,787,629	6.0	GF
2004-05	$13,824,470	6.0	GF

Note: The difference between last year's fiscal impact estimates and the current ones is due to two reasons. First, due to the implementation schedule of the new MMIS, the program is not likely to be operational until the second half of FY 2004. Second, the estimated MSA amounts have changed since last year's fiscal impact estimates.

Item 356, Subprogram 46003 (Department of Social Services)

Fiscal Year	*Dollars*	*Positions*	*Fund*
2002-03	$0	0.0	GF
2003-04	$4,280,000	0.0	GF
2004-05	$4,060,000	0.0	GF

Item 290, Subprogram 72503 (Department of the Treasury)

Fiscal Year	*Dollars*	*Positions*	*Fund*
2002-03	$0	0.0	GF
2003-04	$54,000	0.0	GF
2004-05	$54,000	0.0	GF

6b. Revenue Impact: (see Section 8)

Fiscal Year	*Dollars*	*Positions*	*Fund*
2002-03	$0	0.0	GF
2003-04	$1,652,756	0.0	GF

2004-05	$3,495,480	0.0	GF

7. **Budget amendment necessary:** Yes, Item 290, Subprogram 72503; Item 322, Subprograms 47901 and 47902; Item 328, Subprogram 46400 (Due to the non-Medicaid nature of this program, a new subprogram would have to be created.); and Item 356, Subprogram 46003.

8. **Fiscal implications:**

Administrative and Support Services

If DMAS were to administer the program internally, the agency would implement the program as a Medicaid look-alike program using the Medicaid Management Information System (MMIS) and the same co-payment amounts as what is currently being paid by Medicaid recipients. DMAS would manually track the annual benefit amount to ensure that the maximum per person reimbursement rate is not exceeded. Given the schedule for implementation of the new MMIS, DMAS projects that a prescription payment assistance program could not be operational until January 1, 2004. The enactment clause in this bill is unclear. For the sake of this fiscal impact statement, DMAS assumes an implementation date of January 1, 2004.

The agency estimates that some systems work would be required to create a new eligibility code on the system and ensure that the benefits for these individuals are limited to pharmacy claims. An accounts receivable subsidiary system would also be required to manage the annual enrollment fees. The estimated cost of implementing the systems changes in FY 2004 is approximately $200,000. In addition, the agency estimates $13,328 in start- up support costs in FY 2004.

Besides systems development costs, there would also be claims processing costs. DMAS' contract with its fiscal agent sets out charges of $.3625 in FY 2004 and $.3709 in FY 2005 per processed claim. DMAS estimates approximately 13.21 claims per recipient in FY 2004 (six months) and 26.43 claims in FY 2005 based on the estimated cost per full year enrollee, divided by projected expenditures. The total claims processing cost is dependent upon the number of individuals covered under the program. Based on the enrollment estimates for this proposed program discussed under the *Medical Assistance Services (Non-Medicaid)* section, DMAS estimates claims processing costs of $78,330 in FY 2004 and $76,173 in FY 2005.

The bill requires that an annual enrollment fee of $20 be collected from each person enrolled to cover a portion of the administrative costs. The agency feels that this collection requirement and the other demands placed upon its staff are such that sufficient attention could not be paid to the implementation and daily operation of the program. DMAS estimates that in order to sufficiently administer and monitor the program, it would require three additional positions in program operations: one Band 4, Program Specialist I , two Band 4, Health Care Compliance Specialists I; and 3.5 additional positions in fiscal operations: 1.5 Band 3, Administrative Office Specialists III, one Band 5 Financial Services Manager I, and one Band 4, Financial Services Specialist I. The cost of these positions with benefits is $319,000 per year. Although, for FY 2004, the cost estimate reflects the staff being in place for ¾ of the year.

The bill gives DMAS the option to contract out the operation of the program. The agency estimates that if it were to contract out the operation through a stand-alone system, it would cost approximately $4.3 million in one-time development costs. In addition, DMAS would require staff for contract oversight, financial auditing, and appeals. In addition to one-time costs, DMAS estimates that a stand-alone system would cost approximately $2.49 per enrollee

per month in claims processing costs. These estimates are based on information provided to DMAS by a private contractor that provides this service to other states. Given the uncertainty of DMAS' exercising this option, these costs are not included in this bill's fiscal impact estimates.

Medical Assistance Services (Non-Medicaid)

Census data indicates that there are approximately 207,000 Virginians over age 65 at or below 150 percent of the federal poverty guidelines and an additional 134,000 individuals between ages 18 and 64 receiving Social Security OASDI in Virginia.[1] Of this number, approximately 138,000 are Medicaid-enrolled individuals who would not be eligible for the proposed program. The agency estimates the total potential population for this program to be in the range of 203,000 individuals. There are approximately 30,000 aged and disabled low-income individuals would be eligible to receive some Medicaid benefits, but who do not receive coverage for pharmacy prescriptions through Medicaid. These individuals would be immediately eligible for this program and are included in the estimated 203,000 referenced above.

The estimated annual cost per recipient is $1,621 per enrollee for FY 2004. This cost is based on information based on information from other states that show an average cost of approximately $1,400 per full year enrollee in similar programs. DMAS took the $1,400 figure and inflated it by the forecasted growth in pharmacy cost per unit from FY 2001 to FY 2004. The cost per recipient was inflated to $1,728 for FY 2005.

Based on the estimated amounts Virginia will receive from the master tobacco settlement agreement, DMAS believes that the program could cover 16,354 recipients in FY 2004 for the six months that the program would be operational. However, only 7,771 recipients could be covered for a full year in FY 2005. Due to the open-ended nature of the bill's language, it is unclear as to whether DMAS is expected to enroll as many individuals as possible on a first-come first served basis until funding is depleted or enroll as many individuals as the estimated funding would allow to be served for a full year.

Department of Social Services

The Department of Social Services (DSS) would be responsible for performing the eligibility work for this program. DMAS estimates that it could cost as much as $20 per applicant. This estimate is based on operations experience with similar programs in the past.

Although the funding would limit the number of individuals served, that would not stop every individual in the potential population from applying. The estimated annual cost for DSS to perform the eligibility determination for this program would be approximately $4.1 million; assuming that approximately 203,000 applications were processed each year. Given that eligible individuals would have to have incomes at or below 150 percent of the FPL or have prescription drug expenses that exceed 40 percent of their annual income, annual determinations would be necessary. In addition, DSS would need $220,000 in FY 2004 for one-time costs, including adjustments to the Application Benefit Delivery Automation Project (ADAPT).

Department of the Treasury

DMAS estimates that it would need a lock box (a.k.a. an automated interface with an accounts receivable system) to manage the checks it will receive for the annual enrollment fees. This

[1] Annual Statistical Report on the Social Security Disability Insurance Program, 2001.

will ensure that these checks do not intermingle with other checks being collected and processed by DMAS for its other Medicaid and non-Medicaid programs. The estimated cost for this lock box would be approximately $54,000 per year.

Revenue

The $20 enrollment fee will cover a portion of the administrative costs. Based upon the assumed enrollment level, DMAS expects $327,084 in enrollment fee revenue in FY 2004 and $155,414 in enrollment fee revenue in FY 2005.

DMAS believes that it would be difficult to estimate the impact of the rebate proposal of this bill, which it feels is unlikely to produce significant revenue in this program. The Medicaid program is a federal mandate and pharmaceutical companies participating in Medicaid are required to participate in this program. The rebate program proposed in this bill would not be a federal mandate. DMAS estimates that it would have a more difficult time operating it with no guarantee of rebates. The agency currently recovers approximately 20 percent of gross pharmacy expenditures under the Medicaid program.

While some states, such as Connecticut, have been successful implementing pharmaceutical manufacturer rebates in state only programs, others have not. However, DMAS believes that if it were able to receive the same level of rebates realized under Medicaid, collections would be approximately $1.3 million in FY 2004 and $3.3 million in FY 2005. These estimates are best-case scenario estimates.

The problem in those states which are attempting to establish in-state-only rebate programs appears to be that the agencies that are responsible for implementing and operating the programs have been give little legal authority to enforce compliance from the participating pharmaceutical companies. At least under the Medicaid program, the pharmaceutical companies realize that if they wish to participate in the states' Medicaid programs, they must also agree to participate in Medicaid's pharmaceutical rebate program. If states wish their in-state-only rebate programs to work, they must provide sufficient authority to the responsible agencies to enforce compliance from the participating pharmaceutical companies. Otherwise, they cannot expect the programs to generate substantial revenues.

9. **Specific agency or political subdivisions affected:** DMAS, DSS, and Treasury

10. **Technical amendment necessary:** The enactment clause in this bill is unclear as to when DMAS should implement this program. Clause 3 appears to authorize the promulgation of emergency regulations, requiring the agency to adopt regulations to be effective within 280 days of the enactment of the act, which would lead to an implementation date prior to July 1, 2004. Therefore, it is unclear why clause 4 references a July 1, 2004 date.

    Section 32.1-367 section 5 states that in order or an individual to be eligible they must "not be receiving a prescription drug benefit through a Medicare supplemental policy or any other third party payor prescription benefit as of July 1, 2003: and". This language does not address an individual who begins receiving a prescription drug benefit on or after July 2, 2003. This should be amended to say "… prescription benefit at the time they are to be enrolled in the program."

11. **Other comments:** The major issue with this bill is that it depends on a limited funding source. Although there is no way to predict when or if this funding source may cease, there is

always the potential that the situation with the tobacco companies could change, thus reducing or possibly eliminating these settlement funds. An even larger concern is what to do with the individuals who become dependent upon this program when the funding source does change.

This bill is the companion to SB 785.

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cc: Secretary of Health and Human Resources