

**State of Washington
Joint Legislative Audit and Review Committee (JLARC)**



**“Rx Washington”
Prescription Drug Discount Program
Sunset Review**

Final Report 07-12

September 26, 2007

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Committee Action

On September 26, 2007, the Joint Legislative Audit and Review Committee took action to establish this report as the formal sunset review of the Prescription Drug Discount Program.

Why a Briefing Report Instead of a Pre-Sunset Review?*

In 2003, the Legislature created a prescription drug discount program, to be administered by the state Health Care Authority (HCA). The Health Care Authority named the program “Rx Washington.”

The 2003 legislation also included a sunset of the new program, with the sunset review to be conducted by the Joint Legislative Audit and Review Committee (JLARC) by December 2009. As part of its regular pre-sunset review process, JLARC staff began work with the Health Care Authority to develop performance measures and a data collection plan so that information would be available for the Legislature’s consideration at the time of the scheduled review of the program. However, in the course of this discussion, we learned that the program is no longer in operation.

In lieu of a pre-sunset plan to set up the future review, this briefing report provides a reminder of what the sunset review process is. It then moves on to describe the creation, implementation, and discontinuation of the Rx Washington prescription drug discount program. The briefing report concludes with options for JLARC and the Legislature to consider with regard to JLARC’s future sunset assignment. Absent specific action by JLARC or the Legislature, JLARC will face a statutory mandate to complete a sunset review of a program that is no longer in operation.

What Is a Sunset Review?

A sunset review is an evaluation by JLARC of the need for the continued existence of a program or agency. The review yields a recommendation to: 1) retain the program or agency as is; 2) modify the program or agency; or 3) allow the program or agency to terminate. A sunset review is triggered when the Legislature adds a program or agency to Chapter 43.131 RCW (the Sunset Act). This addition to the Sunset Act includes a specific date for the program or agency to terminate; in the case of the 2003 prescription drug discount program, the program termination date is June 30, 2010. Unless the Legislature takes specific action to repeal an established sunset date, the program or agency terminates on that date.

JLARC’s sunset reviews are consistent with evaluation criteria specific in the Sunset Act. A sunset review assesses the degree to which a program or agency is:

- Complying with legislative intent;
- Reaching expected performance goals and targets;
- Operating in an efficient and economical manner; and
- Undertaking activities duplicated by another agency or the private sector.

*Note: This report was originally delivered to JLARC as a briefing report. The Committee took action on September 26, 2007, which established this report as the formal sunset review of the program.

As mentioned above, in advance of a sunset review, JLARC staff work with the agency or program to establish performance measures and develop a data collection plan for use in the sunset evaluation. It was as part of this pre-sunset work that JLARC staff learned the program scheduled for review is no longer in operation.

Information on the Rx Washington Prescription Drug Discount Program

Creation of the Program

The Legislature created this prescription drug discount program in 2003 as part of Engrossed Second Substitute Senate Bill 6088, which also included a number of other provisions related to prescription drug purchasing and use. The intent of the program was to give eligible Washington State residents greater access to more affordable prescription drugs. The legislation directed the Health Care Authority, when negotiating discounts with drug manufacturers for state-purchased health care programs, to also negotiate such discounts for Washington residents who were:

- 1) Under 300 percent of federal poverty level;
- 2) Did not have other prescription drug coverage; and
- 3) Were either 50 years of age or older, or from 19 to 49 years of age if they were eligible for federal old age, survivors, and/or disability insurance benefits.

The legislation also specified that enrollees were to be charged an annual enrollment fee to cover administrative costs, and discounts provided by drug manufacturers could not be at the expense of retail pharmacies.

Implementation of the Program

The Health Care Authority was able to contract with the same company that administered the state’s Uniform Medical Plan pharmacy benefits. This contractor was responsible for providing enrollment and renewal materials, determining eligibility, collecting a \$10 annual membership fee, and providing customer support. The new “Rx Washington” program became available to eligible residents on June 1, 2004. Six months later, in December 2004, the HCA reported that only 25 people had enrolled.

In January 2005, the Health Care Authority along with the Department of Social and Health Services and the Department of Labor and Industries submitted the *Interagency Report on the Implementation of Senate Bill 6088* to the Legislature. The report discusses the following factors as difficulties in implementing the Rx Washington program and attracting enrollees:

- The ability and processes required to negotiate drug discounts for large groups and for individuals are very different. Drug manufacturers were not inclined to provide non-Uniform Medical Plan members with the same benefits provided to members;

- The HCA was unable to negotiate discounts with drug manufacturers that would not come at the expense of retail pharmacies. This resulted in a limited "mail order" only program;
- Many private entities already offered similar discount cards; and
- A new Medicare prescription drug discount card became available in June 2004 and provided better coverage for senior citizens, thereby reducing the need for and interest in the Rx Washington program.

Meanwhile, the Legislature's interest in prescription drug programs continued. The Legislature passed Substitute Senate Bill 5471 (2005), directing the Health Care Authority to establish a prescription drug purchasing consortium.¹ The legislation allowed any individual, regardless of income or age, to participate in the consortium's prescription drug discount coverage beginning January 2006.

Discontinuation of the Program

The Health Care Authority reports that it discontinued the Rx Washington program in January 2006. The HCA transferred the approximately 60 members who were enrolled in the program at the time to the new prescription drug program created by the Legislature in the 2005 Session.

Number of Participants and Drug Discounts in the Rx Washington Program

While JLARC has not conducted a comprehensive review of the discontinued program, the Health Care Authority has reported information on two aspects of the program: enrollment, and success in negotiating prescription drug price discounts.

With regard to enrollment, enrollment in the earlier Rx Washington program at the time it was discontinued was approximately 60 enrollees. In contrast, the HCA reports that enrollment in the newer prescription drug program is approaching 60,000 people as of August 2007.

In terms of discounts, the 2005 report to the Legislature referenced earlier indicates that the Rx Washington program provided enrollees with savings of 10 to 25 percent compared to average retail prices for the same prescriptions. The report noted that these discounts were similar or less than enrollees could receive through other public or private programs. In comparison, the HCA reports that it expects the newer prescription drug program to provide average savings of 20 percent on brand-name drugs and up to 60 percent savings on generic drugs.²

¹ This 2005 legislation also includes a JLARC study of the consortium, by December 2008. This latter study is a performance audit on the operation of the consortium, rather than a sunset review.

² See the Health Care Authority's on-line information for consumers interested in learning more about the Washington Prescription Drug Program (www.rx.wa.gov/consortium/learnmore.shtml).

Recommendation for JLARC and Consideration for the Legislature

The Rx Washington prescription drug discount program created by the Legislature in 2003 is no longer in operation. Previous enrollees in the Rx Washington program have been transferred into a different prescription drug discount program created by the Legislature in 2005. Nonetheless, JLARC continues to face a statutory mandate to conduct a sunset review of the Rx Washington program. Absent specific JLARC or legislative action, JLARC will have to conduct a full sunset review of this discontinued program by December 2009. Therefore, JLARC staff makes the following recommendation to the Joint Legislative Audit and Review Committee and provides an additional consideration for the Legislature:

Recommendation for JLARC

JLARC accepts this briefing report, in lieu of a full sunset review, with a recommendation that the Legislature take no action, allowing the Rx Washington prescription drug discount program to terminate on June 30, 2010, as current law stipulates.

Additional Consideration for the Legislature

The Legislature repeals the Rx Washington prescription drug discount program and amends the Sunset Act to remove the requirements that JLARC conduct a sunset review. Legislative action is required in either the 2008 or 2009 Legislative Session.

Committee Addendum

The Joint Legislative Audit and Review Committee approved this addendum to the report at its September 26, 2007, meeting.

JLARC accepts the briefing report in lieu of a full sunset review, with a recommendation that the Legislature repeal both the Rx Washington prescription drug discount program and the requirement for JLARC to conduct a sunset review of the program.

