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**Am. Sub. H. B. No. 311**

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Mumper, Robert Gardner, Brady, Dann, Prentiss, Miller, Fingerhut, Fedor,  
DiDonato, Zurz, Carnes, Armbruster, Austria, Goodman, Roberts, Mallory**

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**A B I L L**

To amend sections 127.16 and 2921.13 and to enact 1  
sections 5110.01, 5110.02, 5110.03, 5110.05, 2  
5110.07 to 5110.19, 5110.21, 5110.22, 5110.23, 3  
5110.25, 5110.26, 5110.27, 5110.28, 5110.29, 4  
5110.32, 5110.33, 5110.35, 5110.351, 5110.352, 5  
5110.353, 5110.354, 5110.36 to 5110.40, 5110.45 to 6  
5110.51, 5110.55 to 5110.59, and 5110.99 of the 7  
Revised Code to create the Ohio's Best Rx Program 8  
and to make an appropriation. 9

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 127.16 and 2921.13 be amended and 10  
sections 5110.01, 5110.02, 5110.03, 5110.05, 5110.07, 5110.08, 11  
5110.09, 5110.10, 5110.11, 5110.12, 5110.13, 5110.14, 5110.15, 12  
5110.16, 5110.17, 5110.18, 5110.19, 5110.21, 5110.22, 5110.23, 13  
5110.25, 5110.26, 5110.27, 5110.28, 5110.29, 5110.32, 5110.33, 14  
5110.35, 5110.351, 5110.352, 5110.353, 5110.354, 5110.36, 5110.37, 15  
5110.38, 5110.39, 5110.40, 5110.45, 5110.46, 5110.47, 5110.48, 16  
5110.49, 5110.50, 5110.51, 5110.55, 5110.56, 5110.57, 5110.58, 17  
5110.59, and 5110.99 of the Revised Code be enacted to read as 18  
follows: 19

**Sec. 127.16.** (A) Upon the request of either a state agency or 20  
the director of budget and management and after the controlling 21  
board determines that an emergency or a sufficient economic reason 22  
exists, the controlling board may approve the making of a purchase 23  
without competitive selection as provided in division (B) of this 24  
section. 25

(B) Except as otherwise provided in this section, no state 26  
agency, using money that has been appropriated to it directly, 27  
shall: 28

(1) Make any purchase from a particular supplier, that would 29  
amount to fifty thousand dollars or more when combined with both 30  
the amount of all disbursements to the supplier during the fiscal 31  
year for purchases made by the agency and the amount of all 32  
outstanding encumbrances for purchases made by the agency from the 33  
supplier, unless the purchase is made by competitive selection or 34  
with the approval of the controlling board; 35

(2) Lease real estate from a particular supplier, if the 36  
lease would amount to seventy-five thousand dollars or more when 37  
combined with both the amount of all disbursements to the supplier 38  
during the fiscal year for real estate leases made by the agency 39

and the amount of all outstanding encumbrances for real estate 40  
leases made by the agency from the supplier, unless the lease is 41  
made by competitive selection or with the approval of the 42  
controlling board. 43

(C) Any person who authorizes a purchase in violation of 44  
division (B) of this section shall be liable to the state for any 45  
state funds spent on the purchase, and the attorney general shall 46  
collect the amount from the person. 47

(D) Nothing in division (B) of this section shall be 48  
construed as: 49

(1) A limitation upon the authority of the director of 50  
transportation as granted in sections 5501.17, 5517.02, and 51  
5525.14 of the Revised Code; 52

(2) Applying to medicaid provider agreements under Chapter 53  
5111. of the Revised Code or payments or provider agreements under 54  
the disability medical assistance program established under 55  
Chapter 5115. of the Revised Code; 56

(3) Applying to the purchase of examinations from a sole 57  
supplier by a state licensing board under Title XLVII of the 58  
Revised Code; 59

(4) Applying to entertainment contracts for the Ohio state 60  
fair entered into by the Ohio expositions commission, provided 61  
that the controlling board has given its approval to the 62  
commission to enter into such contracts and has approved a total 63  
budget amount for such contracts as agreed upon by commission 64  
action, and that the commission causes to be kept itemized records 65  
of the amounts of money spent under each contract and annually 66  
files those records with the clerk of the house of representatives 67  
and the clerk of the senate following the close of the fair; 68

(5) Limiting the authority of the chief of the division of 69  
mineral resources management to contract for reclamation work with 70

an operator mining adjacent land as provided in section 1513.27 of 71  
the Revised Code; 72

(6) Applying to investment transactions and procedures of any 73  
state agency, except that the agency shall file with the board the 74  
name of any person with whom the agency contracts to make, broker, 75  
service, or otherwise manage its investments, as well as the 76  
commission, rate, or schedule of charges of such person with 77  
respect to any investment transactions to be undertaken on behalf 78  
of the agency. The filing shall be in a form and at such times as 79  
the board considers appropriate. 80

(7) Applying to purchases made with money for the per cent 81  
for arts program established by section 3379.10 of the Revised 82  
Code; 83

(8) Applying to purchases made by the rehabilitation services 84  
commission of services, or supplies, that are provided to persons 85  
with disabilities, or to purchases made by the commission in 86  
connection with the eligibility determinations it makes for 87  
applicants of programs administered by the social security 88  
administration; 89

(9) Applying to payments by the department of job and family 90  
services under section 5111.13 of the Revised Code for group 91  
health plan premiums, deductibles, coinsurance, and other 92  
cost-sharing expenses; 93

(10) Applying to any agency of the legislative branch of the 94  
state government; 95

(11) Applying to agreements or contracts entered into under 96  
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 97  
Revised Code; 98

(12) Applying to purchases of services by the adult parole 99  
authority under section 2967.14 of the Revised Code or by the 100  
department of youth services under section 5139.08 of the Revised 101

Code;	102
(13) Applying to dues or fees paid for membership in an organization or association;	103 104
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	105 106
(15) Applying to purchases made in accordance with rules adopted by the department of administrative services of motor vehicle, aviation, or watercraft fuel, or emergency repairs of such vehicles;	107 108 109 110
(16) Applying to purchases of tickets for passenger air transportation;	111 112
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	113 114 115
(18) Applying to the judicial branch of state government;	116
(19) Applying to purchases of liquor for resale by the division of liquor control;	117 118
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	119 120 121
(21) Applying to purchases from the United States postal service and purchases of stamps and postal meter replenishment from vendors at rates established by the United States postal service;	122 123 124 125
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	126 127 128
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	129 130

(24) Limiting the authority of the director of environmental protection to enter into contracts under division (D) of section 3745.14 of the Revised Code to conduct compliance reviews, as defined in division (A) of that section;	131 132 133 134
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 4115.31 to 4115.35 of the Revised Code;	135 136
(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;	137 138 139 140 141
(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5123.199 of the Revised Code;	142 143 144
(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;	145 146 147
(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.	148 149 150 151 152 153
(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;	154 155 156 157 158
(31) Applying to the department of job and family services' purchases of health assistance services under the children's	159 160

health insurance program part I provided for under section 5101.50	161
of the Revised Code or the children's health insurance program	162
part II provided for under section 5101.51 of the Revised Code;	163
(32) Applying to payments by the attorney general from the	164
reparations fund to hospitals and other emergency medical	165
facilities for performing medical examinations to collect physical	166
evidence pursuant to section 2907.28 of the Revised Code;	167
(33) Applying to contracts with a contracting authority or	168
administrative receiver under division (G)(2) of section 5126.055	169
of the Revised Code;	170
(34) Applying to reimbursements paid to the United States	171
department of veterans affairs for pharmaceutical and patient	172
supply purchases made on behalf of the Ohio veterans' home agency;	173
<u>(35) Applying to agreements the department of job and family</u>	174
<u>services enters into with terminal distributors of dangerous drugs</u>	175
<u>under section 5110.12 of the Revised Code.</u>	176
(E) Notwithstanding division (B)(1) of this section, the	177
cumulative purchase threshold shall be seventy-five thousand	178
dollars for the departments of mental retardation and	179
developmental disabilities, mental health, rehabilitation and	180
correction, and youth services.	181
(F) When determining whether a state agency has reached the	182
cumulative purchase thresholds established in divisions (B)(1),	183
(B)(2), and (E) of this section, all of the following purchases by	184
such agency shall not be considered:	185
(1) Purchases made through competitive selection or with	186
controlling board approval;	187
(2) Purchases listed in division (D) of this section;	188
(3) For the purposes of the thresholds of divisions (B)(1)	189
and (E) of this section only, leases of real estate.	190

(G) As used in this section, "competitive selection," 191  
"purchase," "supplies," and "services" have the same meanings as 192  
in section 125.01 of the Revised Code. 193

**Sec. 2921.13.** (A) No person shall knowingly make a false 194  
statement, or knowingly swear or affirm the truth of a false 195  
statement previously made, when any of the following applies: 196

(1) The statement is made in any official proceeding. 197

(2) The statement is made with purpose to incriminate 198  
another. 199

(3) The statement is made with purpose to mislead a public 200  
official in performing the public official's official function. 201

(4) The statement is made with purpose to secure the payment 202  
of unemployment compensation; Ohio works first; prevention, 203  
retention, and contingency benefits and services; disability 204  
financial assistance; retirement benefits; economic development 205  
assistance, as defined in section 9.66 of the Revised Code; or 206  
other benefits administered by a governmental agency or paid out 207  
of a public treasury. 208

(5) The statement is made with purpose to secure the issuance 209  
by a governmental agency of a license, permit, authorization, 210  
certificate, registration, release, or provider agreement. 211

(6) The statement is sworn or affirmed before a notary public 212  
or another person empowered to administer oaths. 213

(7) The statement is in writing on or in connection with a 214  
report or return that is required or authorized by law. 215

(8) The statement is in writing and is made with purpose to 216  
induce another to extend credit to or employ the offender, to 217  
confer any degree, diploma, certificate of attainment, award of 218  
excellence, or honor on the offender, or to extend to or bestow 219



upon the offender any other valuable benefit or distinction, when 220  
the person to whom the statement is directed relies upon it to 221  
that person's detriment. 222

(9) The statement is made with purpose to commit or 223  
facilitate the commission of a theft offense. 224

(10) The statement is knowingly made to a probate court in 225  
connection with any action, proceeding, or other matter within its 226  
jurisdiction, either orally or in a written document, including, 227  
but not limited to, an application, petition, complaint, or other 228  
pleading, or an inventory, account, or report. 229

(11) The statement is made on an account, form, record, 230  
stamp, label, or other writing that is required by law. 231

(12) The statement is made in connection with the purchase of 232  
a firearm, as defined in section 2923.11 of the Revised Code, and 233  
in conjunction with the furnishing to the seller of the firearm of 234  
a fictitious or altered driver's or commercial driver's license or 235  
permit, a fictitious or altered identification card, or any other 236  
document that contains false information about the purchaser's 237  
identity. 238

(13) The statement is made in a document or instrument of 239  
writing that purports to be a judgment, lien, or claim of 240  
indebtedness and is filed or recorded with the secretary of state, 241  
a county recorder, or the clerk of a court of record. 242

(14) The statement is made with purpose to obtain an Ohio's 243  
best Rx program enrollment card under section 5110.09 of the 244  
Revised Code or a payment from the department of job and family 245  
services under section 5110.17 of the Revised Code. 246

(B) No person, in connection with the purchase of a firearm, 247  
as defined in section 2923.11 of the Revised Code, shall knowingly 248  
furnish to the seller of the firearm a fictitious or altered 249  
driver's or commercial driver's license or permit, a fictitious or 250

altered identification card, or any other document that contains 251  
false information about the purchaser's identity. 252

(C) It is no defense to a charge under division (A)(4) of 253  
this section that the oath or affirmation was administered or 254  
taken in an irregular manner. 255

(D) If contradictory statements relating to the same fact are 256  
made by the offender within the period of the statute of 257  
limitations for falsification, it is not necessary for the 258  
prosecution to prove which statement was false but only that one 259  
or the other was false. 260

(E)(1) Whoever violates division (A)(1), (2), (3), (4), (5), 261  
(6), (7), (8), (10), (11), ~~or (13)~~, or (14) of this section is 262  
guilty of falsification, a misdemeanor of the first degree. 263

(2) Whoever violates division (A)(9) of this section is 264  
guilty of falsification in a theft offense. Except as otherwise 265  
provided in this division, falsification in a theft offense is a 266  
misdemeanor of the first degree. If the value of the property or 267  
services stolen is five hundred dollars or more and is less than 268  
five thousand dollars, falsification in a theft offense is a 269  
felony of the fifth degree. If the value of the property or 270  
services stolen is five thousand dollars or more and is less than 271  
one hundred thousand dollars, falsification in a theft offense is 272  
a felony of the fourth degree. If the value of the property or 273  
services stolen is one hundred thousand dollars or more, 274  
falsification in a theft offense is a felony of the third degree. 275

(3) Whoever violates division (A)(12) or (B) of this section 276  
is guilty of falsification to purchase a firearm, a felony of the 277  
fifth degree. 278

(F) A person who violates this section is liable in a civil 279  
action to any person harmed by the violation for injury, death, or 280  
loss to person or property incurred as a result of the commission 281

of the offense and for reasonable attorney's fees, court costs, 282  
and other expenses incurred as a result of prosecuting the civil 283  
action commenced under this division. A civil action under this 284  
division is not the exclusive remedy of a person who incurs 285  
injury, death, or loss to person or property as a result of a 286  
violation of this section. 287

Sec. 5110.01. As used in this chapter: 288

(A) "Administrative fee" means the amount specified in rules 289  
adopted under division (G) of section 5110.35 of the Revised Code. 290

(B) "Children's health insurance program" means the 291  
children's health insurance program part I and part II established 292  
under sections 5101.50 to 5101.5110 of the Revised Code. 293

(C) "Disability medical assistance program" means the program 294  
established under section 5115.10 of the Revised Code. 295

(D) "Medicaid" means the medical assistance program 296  
established under Chapter 5111. of the Revised Code. 297

(E) "National drug code number" means the number registered 298  
for a drug pursuant to the listing system established by the 299  
United States food and drug administration under the "Drug Listing 300  
Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended. 301

(F) "Ohio's best Rx program administrator" means the entity, 302  
if any, the department of job and family services contracts with 303  
pursuant to section 5110.10 of the Revised Code to perform 304  
administrative functions of the Ohio's best Rx program and to 305  
offer the mail order system through which Ohio's best Rx program 306  
participants may obtain drugs by mail. 307

(G) "Ohio's best Rx program applicant" or "applicant" means 308  
an individual who signs an application for the Ohio's best Rx 309  
program and submits it to the department of job and family 310  
services, or the Ohio's best Rx program administrator, for a 311

determination of eligibility for the program. 312

(H) "Ohio's best Rx program participant" or "participant" means an individual determined eligible for the Ohio's best Rx program and included under a valid Ohio's best Rx program enrollment card. 313  
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(I) "Ohio's best Rx program price" means the price a participating terminal distributor is to charge an Ohio's best Rx program participant for a drug included in the Ohio's best Rx program as determined under section 5110.14 of the Revised Code. "Ohio's best Rx program price" does not include either of the following: 317  
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(1) The amount of the professional fee, if any, the participating terminal distributor adds to the Ohio's best Rx program price pursuant to an agreement under section 5110.12 of the Revised Code; 323  
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(2) The amount of the administrative fee, if any, the department of job and family services reports to the participating terminal distributor under section 5110.29 of the Revised Code. 327  
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(J) "Participating manufacturer" means a drug manufacturer participating in the Ohio's best Rx program pursuant to a rebate agreement. 330  
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(K) "Participating terminal distributor" means a terminal distributor of dangerous drugs participating in the Ohio's best Rx program pursuant to an agreement entered into with the department of job and family services under section 5110.12 of the Revised Code. 333  
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(L) "Per unit price," with regard to a state health benefit plan or state retirement system health benefit plan, means the total amount paid to a terminal distributor of dangerous drugs under a state health benefit plan or state retirement system 338  
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health benefit plan for one unit of a drug covered by the plan, 342  
after the plan discounts or otherwise reduces the amount to be 343  
paid to the terminal distributor. "Per unit price" includes both 344  
of the following: 345

(1) The amount that the state health benefit plan or state 346  
retirement system health benefit plan, or other government entity 347  
or person authorized to make the payment on behalf of the plan, 348  
pays to the terminal distributor of dangerous drugs; 349

(2) The amount that the beneficiary of the state health 350  
benefit plan or state retirement system health benefit plan pays 351  
to the terminal distributor of dangerous drugs in the form of a 352  
copayment, coinsurance, or other cost-sharing charge. 353

(M) "Per unit rebate," with regard to a state health benefit 354  
plan or state retirement system health benefit plan, means all 355  
rebates, discounts, formulary fees, administrative fees, and other 356  
allowances a drug manufacturer pays to the plan, or other 357  
government entity or person authorized to receive all or part of 358  
such payments, for a drug during a calendar year, divided by the 359  
total number of units of that drug dispensed under the plan during 360  
the same calendar year. 361

(N) "Rebate administration percentage" means the percentage 362  
specified in rules adopted under division (K) of section 5110.35 363  
of the Revised Code. 364

(O) "Rebate agreement" means an agreement under section 365  
5110.21 of the Revised Code between the department of job and 366  
family services and a drug manufacturer. 367

(P) "State health benefit plan" means a program of health 368  
care benefits offered through the Ohio med preferred provider 369  
organization, or a successor entity selected by the state, to 370  
which either of the following apply: 371

(1) It is provided by a collective bargaining agreement 372  
authorized by division (A)(4) of section 4117.03 of the Revised 373  
Code. 374

(2) It is offered by the department of administrative 375  
services to state employees in accordance with section 124.81 or 376  
124.82 of the Revised Code. 377

(Q) "State retirement system" means all of the following: the 378  
public employees retirement system, state teachers retirement 379  
system, school employees retirement system, Ohio police and fire 380  
pension fund, and state highway patrol retirement system. 381

(R) "State retirement system health benefit plan" means a 382  
plan of health care benefits offered by a state retirement system 383  
under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the 384  
Revised Code. 385

(S) "Terminal distributor of dangerous drugs" has the same 386  
meaning as in section 4729.01 of the Revised Code. 387

(T) "Third-party payer" has the same meaning as in section 388  
3901.38 of the Revised Code. 389

(U) "Trade secret" has the same meaning as in section 1333.61 390  
of the Revised Code. 391

(V) "Usual and customary charge" means the amount a 392  
participating terminal distributor or the Ohio's best Rx program 393  
administrator charges for a drug included in the program to an 394  
individual who does not receive a discounted price for the drug 395  
pursuant to any drug discount program, including the Ohio's best 396  
Rx program, a prescription drug discount card program established 397  
under section 173.061 of the Revised Code, or a pharmacy 398  
assistance program established by any person or government entity, 399  
and for whom no third-party payer or program funded in whole or 400  
part with state or federal funds is responsible for all or part of 401

the cost of the drug the distributor dispenses to the individual. 402

Sec. 5110.02. There is hereby established the Ohio's best Rx 403  
program. Except as provided in section 5110.10 of the Revised 404  
Code, the department of job and family services shall administer 405  
the program. 406

Sec. 5110.03. (A) Except as provided in division (B) of this 407  
section, a drug shall be included in the Ohio's best Rx program if 408  
the drug is covered by a state health benefit plan or state 409  
retirement system health benefit plan or is covered by a rebate 410  
agreement entered into under section 5110.21 of the Revised Code. 411

(B) The department of job and family services may exclude 412  
from the program a drug covered by a state health benefit plan or 413  
state retirement system health benefit plan if the plan receives a 414  
rebate for the drug from the manufacturer but the drug is not 415  
covered by a rebate agreement entered into under section 5110.21 416  
of the Revised Code. 417

Sec. 5110.05. (A) To be eligible for the Ohio's best Rx 418  
program, an individual must meet all of the following requirements 419  
at the time of application or reapplication for the program: 420

(1) Be a resident of this state; 421

(2) Have family income, as determined under rules adopted 422  
pursuant to section 5110.35 of the Revised Code, that does not 423  
exceed two hundred fifty per cent of the federal poverty 424  
guidelines, as revised annually by the United States department of 425  
health and human services in accordance with section 673(2) of the 426  
"Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 427  
U.S.C. 9902, as amended, or be sixty years of age or older; 428

(3) Not have outpatient prescription drug coverage paid for 429  
in whole or in part by any of the following: 430

<u>(a) A third-party payer;</u>	431
<u>(b) The medicaid program;</u>	432
<u>(c) The children's health insurance program;</u>	433
<u>(d) The disability medical assistance program;</u>	434
<u>(e) Another health plan or pharmacy assistance program that</u>	435
<u>uses state or federal funds to pay part or all of the cost of the</u>	436
<u>individual's outpatient prescription drugs, other than a</u>	437
<u>prescription drug discount card program established under section</u>	438
<u>173.061 of the Revised Code.</u>	439
<u>(4) Not have had outpatient prescription drug coverage</u>	440
<u>specified in division (A)(3) of this section during any of the</u>	441
<u>four months preceding the month in which the application or</u>	442
<u>reapplication for the Ohio's best Rx program is made, unless any</u>	443
<u>of the following applies:</u>	444
<u>(a) The individual is sixty years of age or older.</u>	445
<u>(b) The third-party payer that paid all or part of the</u>	446
<u>coverage filed for bankruptcy under federal bankruptcy laws.</u>	447
<u>(c) The individual is no longer eligible for coverage</u>	448
<u>provided through a retirement plan subject to protection under the</u>	449
<u>"Employee Retirement Income Security Act of 1974," 88 Stat. 832,</u>	450
<u>29 U.S.C. 1001, as amended.</u>	451
<u>(d) The individual is no longer eligible for the medicaid</u>	452
<u>program, children's health insurance program, or disability</u>	453
<u>medical assistance program.</u>	454
<u>(B) Application and annual reapplication for the Ohio's best</u>	455
<u>Rx program shall be made in accordance with rules adopted under</u>	456
<u>section 5110.35 of the Revised Code on a form prescribed in those</u>	457
<u>rules. An individual may apply or reapply on behalf of the</u>	458
<u>individual and the individual's spouse and children. The guardian</u>	459
<u>or custodian of an individual may apply or reapply on behalf of</u>	460



the individual.

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Sec. 5110.07. The department of job and family services shall  
provide each applicant for the Ohio's best Rx program information  
about the medicaid program in accordance with rules adopted under  
section 5110.35 of the Revised Code. The information shall include  
general eligibility requirements, application procedures, and  
benefits. The information shall also explain the ways in which the  
medicaid program's drug benefits are better than the Ohio's best  
Rx program.

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Sec. 5110.08. On receipt of applications and annual  
reapplications, the department of job and family services shall  
make eligibility determinations for the Ohio's best Rx program in  
accordance with procedures established in rules adopted under  
section 5110.35 of the Revised Code. Each determination that an  
individual is eligible is valid for one year beginning on a date  
determined in accordance with the eligibility determination  
procedures. The beginning date may not precede the date on which  
the individual's eligibility is determined. Annual reapplication  
may be made under division (B) of section 5110.05 of the Revised  
Code if the individual seeks to continue to participate in the  
program after the date eligibility would otherwise end.

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An eligibility determination under this section may not be  
appealed under Chapter 119., section 5101.35, or any other  
provision of the Revised Code.

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Sec. 5110.09. The department of job and family services shall  
issue Ohio's best Rx program enrollment cards to or on behalf of  
individuals determined eligible to participate. One enrollment  
card may cover each member of a family determined eligible to  
participate. The card is valid only during the period each  
individual covered by the card is eligible to participate. The

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card shall be presented to a participating terminal distributor 491  
each time a drug included in the program is purchased under the 492  
program. 493

Sec. 5110.10. Subject to section 5110.11 of the Revised Code, 494  
the department of job and family services may contract with a 495  
person to be the Ohio's best Rx program administrator. 496

The Ohio's best Rx program administrator shall do all of the 497  
following: 498

(A) Perform any duty this chapter gives the department that 499  
the department specifies in the contract, other than adoption of 500  
rules under sections 5110.35 and 5110.36 of the Revised Code and 501  
employment of an ombudsperson under section 5110.40 of the Revised 502  
Code; 503

(B) Subject to division (P) of section 5110.35 of the Revised 504  
Code, offer the mail order system through which Ohio's best Rx 505  
program participants may obtain drugs; 506

(C) Charge an Ohio's best Rx program participant for each 507  
drug included in the program an amount not exceeding the Ohio's 508  
best Rx program price as determined under section 5110.14 of the 509  
Revised Code plus the administrative fee described in division (F) 510  
of section 5110.12 of the Revised Code, if any. 511

Sec. 5110.11. Before entering into a contract under section 512  
5110.10 of the Revised Code with a person to be the Ohio's best Rx 513  
program administrator, the department of job and family services 514  
shall issue a request for proposals from persons seeking to be 515  
considered. The department shall develop a process which it shall 516  
use in issuing the request for proposals, receiving responses to 517  
the request, and evaluating the responses on a competitive basis. 518  
In accordance with that process, the department shall select the 519

person to be awarded the contract.

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Sec. 5110.12. A terminal distributor of dangerous drugs may enter into an agreement with the department of job and family services to participate in the Ohio's best Rx program for purposes of dispensing drugs. Before entering into an agreement with a terminal distributor, the department shall provide the terminal distributor with a formula that allows the terminal distributor to calculate the price of each drug included in the program, a statistically valid sampling of drug prices that includes the prices of not less than two branded and two generic drugs from each category of drugs included in the program, or the current Ohio's best Rx program price for each drug included in the program.

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An agreement entered into under this section shall do all of the following:

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(A) Except as provided in division (C) of this section, be in effect for not less than one year;

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(B) Specify the dates that the agreement is to begin and end;

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(C) Permit the participating terminal distributor to terminate the agreement before the date the agreement would otherwise end as specified pursuant to division (B) of this section by providing the department notice of early termination at least thirty days before the effective date of the early termination;

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(D) Require that the participating terminal distributor charge an Ohio's best Rx program participant for each drug included in the program the lesser of (1) the sum of the Ohio's best Rx program price as determined under section 5110.14 of the Revised Code, the professional fee under division (E) of this section, if any, and the administrative fee under division (F) of

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this section, if any, or (2) the terminal distributor's usual and 550  
customary charge; 551

(E) Permit the participating terminal distributor to add to 552  
the Ohio's best Rx program price a professional fee in an amount 553  
not to exceed, except as provided in rules adopted under section 554  
5110.35 of the Revised Code, three dollars; 555

(F) Require the participating terminal distributor to add to 556  
the Ohio's best Rx program price an administrative fee, in an 557  
amount determined in accordance with rules adopted under section 558  
5110.35 of the Revised Code, for each transaction in which a 559  
quantity of the drug is dispensed if an administrative fee is 560  
required by those rules; 561

(G) Require the participating terminal distributor to 562  
disclose to each participant the amount the participant saves 563  
under the program as determined in accordance with section 5110.15 564  
of the Revised Code; 565

(H) Require the participating terminal distributor to submit 566  
a claim to the department under section 5110.16 of the Revised 567  
Code for each sale of a drug to a participant; 568

(I) Permit the participating terminal distributor to deliver 569  
drugs to Ohio's best Rx program participants by mail. 570

Sec. 5110.13. The department of job and family services may 571  
not prohibit a terminal distributor of dangerous drugs from 572  
participating in any other program the department administers on 573  
the basis that the terminal distributor has not entered into an 574  
agreement under section 5110.12 of the Revised Code. 575

No entity under contract with the department under section 576  
5110.10 of the Revised Code may prohibit a terminal distributor of 577  
dangerous drugs from participating in a program or network the 578  
entity administers or operates on the basis that the terminal 579

distributor has not entered into an agreement under section 580  
5110.12 of the Revised Code. 581

Sec. 5110.14. The Ohio's best Rx program price for a drug 582  
included in the program, as described in section 5110.03 of the 583  
Revised Code, shall be determined by multiplying the number of 584  
units of the drug a participating terminal distributor dispenses 585  
to a participant by whichever of the following is applicable: 586

(A) If the drug is not subject to a rebate agreement entered 587  
into under section 5110.21 of the Revised Code, the amount 588  
computed under division (A)(1) or (2) of section 5110.27 of the 589  
Revised Code, as applicable; 590

(B) If the drug is subject to a rebate agreement entered into 591  
under section 5110.21 of the Revised Code, the amount computed 592  
under division (C) of section 5110.27 of the Revised Code. 593

Sec. 5110.15. The amount that an Ohio's best Rx program 594  
participant saves under the program on a transaction for a drug 595  
included in the program shall be determined by subtracting the sum 596  
of the following from the usual and customary charge for that 597  
quantity of the drug the participating terminal distributor or 598  
Ohio's best Rx program administrator dispenses to the participant: 599

(A) The Ohio's best Rx program price multiplied by the number 600  
of units of the drug dispensed; 601

(B) The professional fee, if any, the distributor or 602  
administrator is permitted to charge pursuant to an agreement 603  
under section 5110.12 of the Revised Code or a contract under 604  
section 5110.10 of the Revised Code; 605

(C) The administrative fee, if any, the department of job and 606  
family services reports to the distributor or administrator under 607  
section 5110.29 of the Revised Code. 608

Sec. 5110.16. A participating terminal distributor or the 609  
Ohio's best Rx program administrator shall submit a claim to the 610  
department of job and family services for each drug dispensed to 611  
an Ohio's best Rx program participant not later than thirty days 612  
after the drug is dispensed. The claim shall be submitted in 613  
accordance with the electronic method provided for in rules 614  
adopted under section 5110.35 of the Revised Code. 615

The claim shall specify all of the following: 616

(A) The prescription number of the participant's prescription 617  
under which the drug is dispensed to the participant; 618

(B) The name of, and national drug code number for, the drug 619  
dispensed to the participant; 620

(C) The number of units of the drug dispensed to the 621  
participant; 622

(D) The amount the distributor or administrator charged the 623  
participant for the drug; 624

(E) The date that the distributor or administrator dispensed 625  
the drug to the participant; 626

(F) Any additional information required by rules adopted 627  
under section 5110.35 of the Revised Code. 628

Sec. 5110.17. (A) In accordance with rules adopted under 629  
section 5110.35 of the Revised Code and subject to section 5110.19 630  
of the Revised Code, the department of job and family services 631  
shall pay a participating terminal distributor or the Ohio's best 632  
Rx program administrator for complete and timely claims for drugs 633  
included in the program that are covered by a rebate agreement 634  
entered into under section 5110.21 of the Revised Code. The 635  
payment for a complete and timely claim shall be made by a date 636  
that is not later than two weeks after the claim is received by 637

the department. 638

(B) Subject to division (D) of this section, the amount to be 639  
paid for a claim shall be determined as follows: 640

(1) Multiply the rebate amount for the national drug code 641  
number for the drug for which the claim is made, as agreed to 642  
under division (B)(4)(a) of section 5110.21 of the Revised Code or 643  
computed under division (B) of section 5110.27 of the Revised 644  
Code, as applicable, by the number of units of the drug dispensed 645  
to the Ohio's best Rx program participant; 646

(2) If an administrative fee was charged, for each 647  
transaction in which a quantity of the drug was dispensed, 648  
subtract from the amount computed under division (B)(1) of this 649  
section the administrative fee amount specified in rules adopted 650  
under section 5110.35 of the Revised Code. 651

(C) The department may combine claims from a participating 652  
terminal distributor or the administrator to make aggregate 653  
payments under this section to the distributor or administrator. 654

(D) If the total of the amounts computed under division (B) 655  
of this section for any period for which payments are due is a 656  
negative number, the terminal distributor or administrator has 657  
been overpaid for claims submitted under section 5110.16 of the 658  
Revised Code. When there is an overpayment, the department shall 659  
reduce future payments to the terminal distributor or 660  
administrator under this section or collect an amount from the 661  
terminal distributor or administrator sufficient to reimburse the 662  
department for the overpayment. 663

**Sec. 5110.18.** Neither the department of job and family 664  
services nor the Ohio's best Rx program administrator may charge a 665  
participating terminal distributor for the submission or 666  
processing of a claim under sections 5110.16 and 5110.17 of the 667

Revised Code.

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Sec. 5110.19. The department of job and family services may not make a payment under section 5110.17 of the Revised Code for a claim submitted under section 5110.16 of the Revised Code if any of the following are the case:

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(A) The claim is submitted by a terminal distributor of dangerous drugs that is neither a participating terminal distributor nor the Ohio's best Rx program administrator.

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(B) The claim is for a drug that is not included in the program.

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(C) The claim is for a drug included in the program but the drug is dispensed to an individual who is not covered by a valid Ohio's best Rx program enrollment card.

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(D) A person or government entity has paid the participating terminal distributor or the administrator through any other prescription drug coverage program or prescription drug discount program for dispensing the drug, unless the payment is reimbursement for redeeming a coupon or is an amount directly paid by a drug manufacturer to the terminal distributor for dispensing drugs to residents of a long-term care facility.

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Sec. 5110.21. (A) A drug manufacturer may enter into a rebate agreement with the department of job and family services regarding drugs it manufactures. The agreement shall specify the time it is to be in effect, which shall be not less than one year from the date the agreement is entered into.

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(B) The agreement shall do all of the following:

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(1) Specify which of the manufacturer's drugs are included in the agreement;

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<u>(2) Permit the department to remove a drug from the agreement</u>	696
<u>in the event of a dispute over the drug's utilization;</u>	697
<u>(3) Require that the manufacturer make a rebate payment to</u>	698
<u>the department for each drug specified under division (B)(1) of</u>	699
<u>this section that is dispensed to an Ohio's best Rx program</u>	700
<u>participant;</u>	701
<u>(4)(a) Require that the per unit rebate be in an amount equal</u>	702
<u>to the greater of the following:</u>	703
<u>(i) The weighted average of the per unit rebates for the drug</u>	704
<u>as computed under division (C)(1) of this section;</u>	705
<u>(ii) A per unit amount specified by the manufacturer.</u>	706
<u>(b) Require that the rebate payment for a quantity of a drug</u>	707
<u>dispensed to an Ohio's best Rx participant be equal to the amount</u>	708
<u>determined by multiplying the applicable per unit rebate by the</u>	709
<u>number of units dispensed.</u>	710
<u>(5) Specify the intervals at which the manufacturer will</u>	711
<u>report to the department amounts specified pursuant to division</u>	712
<u>(B)(4)(a)(ii) of this section;</u>	713
<u>(6) Require that the manufacturer make the rebate payments to</u>	714
<u>the department on a quarterly basis or in accordance with a</u>	715
<u>schedule established by rules adopted under section 5110.35 of the</u>	716
<u>Revised Code.</u>	717
<u>(C)(1) For the purposes of division (B)(4)(a)(i) of this</u>	718
<u>section, once each year the department shall compute the weighted</u>	719
<u>average of the per unit rebates for each drug using the</u>	720
<u>information available to the department from submissions under</u>	721
<u>division (A)(4) of section 5110.25 of the Revised Code. The</u>	722
<u>computation shall be made in accordance with section 5110.28 of</u>	723
<u>the Revised Code and rules adopted under section 5110.35 of the</u>	724
<u>Revised Code.</u>	725

(2) If no computation can be made under division (C)(1) of this section, the rebate for the drug shall be the amount specified under (B)(4)(a)(ii) of this section. 726  
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(D) On submission to the department by a manufacturer that has entered into a rebate agreement under this section of a request the department considers reasonable, the department shall permit the manufacturer to audit claims submitted under section 5110.16 of the Revised Code. 729  
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**Sec. 5110.22.** If a drug manufacturer has not entered into a rebate agreement under section 5110.21 of the Revised Code with respect to a drug it manufactures that is covered by a state health benefit plan or state retirement system health benefit plan that receives a rebate for the drug from the manufacturer, the department of job and family services shall ask the department of administrative services and each state retirement system to determine whether the drug should be placed, for the following plan year, on a prior authorization list of the state health benefit plan or state retirement system health benefit plan. 734  
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Additions made under this section to prior authorization lists shall be made in accordance with state law and applicable collectively bargained agreements. 744  
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**Sec. 5110.23.** (A) The department of job and family services shall compile both of the following: 747  
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(1) A list consisting of the name of each drug manufacturer that enters into a rebate agreement under section 5110.21 of the Revised Code and the names of the drugs included in each rebate agreement; 749  
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(2) A list consisting of the name of each participating terminal distributor. 753  
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(B) The lists compiled under this section are public records 755  
for the purpose of section 149.43 of the Revised Code. The 756  
department shall specifically make the lists available to 757  
physicians, participating terminal distributors, and other health 758  
professionals. 759

**Sec. 5110.25.** (A) All of the following information shall be 760  
submitted to the department of job and family services with 761  
respect to a state health benefit plan and each state retirement 762  
system health benefit plan: 763

(1) The name of the plan; 764

(2) The number of individuals eligible for benefits under the 765  
plan; 766

(3) The formula used to determine the per unit price for each 767  
drug covered by the plan and dispensed through means other than a 768  
mail order system, the per unit price for those drugs, or, if the 769  
formula and per unit price are available for submission under this 770  
section, both the formula and per unit price. 771

(4) The per unit rebate for each drug covered by the plan and 772  
dispensed through a mail order system or means other than a mail 773  
order system. 774

(B) The information specified in division (A) of this section 775  
shall be submitted in accordance with section 5110.26 of the 776  
Revised Code and rules adopted under section 5110.35 of the 777  
Revised Code. In the case of a state health benefit plan, the 778  
information shall be submitted by the department of administrative 779  
services. In the case of a state retirement system health benefit 780  
plan, the information shall be submitted by the state retirement 781  
system that offers the health benefit plan. The department of 782  
administrative services and each state retirement system shall 783  
ensure in all of their relationships with other persons that they 784

are able to submit the information to the department of job and family services.

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Sec. 5110.26. In submitting information about a drug under section 5110.25 of the Revised Code, the department of administrative services and each state retirement system shall do all of the following:

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(A) Compute and submit information separately for each of the drug's national drug code numbers;

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(B) Submit the formula, per unit price, or formula and per unit price information after each change to the formula or per unit price, unless the formula or per unit price changes more than once a week, in which case submit the formula or per unit price information at least once each week;

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(C) Provide for the formula or per unit price information to reflect the formula or per unit price as most recently changed;

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(D) Submit the information regarding the per unit rebate once a year and provide for the information to reflect the per unit rebate for the previous calendar year.

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Sec. 5110.27. In accordance with section 5110.28 of the Revised Code and rules adopted under section 5110.35 of the Revised Code, the department of job and family services shall do all of the following for each drug included in the Ohio's best Rx program:

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(A) On receipt of each submission of formula or per unit price information under division (A)(3) of section 5110.25 of the Revised Code, or, at the department's discretion, more frequent intervals, the department shall do the following using the information available to the department from those submissions:

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(1) If the drug is covered by one or more state health

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benefit plans or state retirement system health benefit plans, 814  
compute the weighted average of the per unit prices under those 815  
plans; 816

(2) If the drug is not covered by any state health benefit 817  
plan or state retirement system health benefit plan, compute a 818  
weighted average per unit price using the formula information 819  
received under division (A)(3) of section 5110.25 of the Revised 820  
Code for comparable drugs covered by one or more state health 821  
benefit plans or state retirement system health benefit plans. 822

(B) If the drug is covered by a rebate agreement entered into 823  
under section 5110.21 of the Revised Code and the department has 824  
established a rebate administration percentage by rule adopted 825  
under section 5110.35 of the Revised Code, at intervals specified 826  
by the department, the department shall do both of the following: 827

(1) Multiply the amount agreed to under division (B)(4)(a) of 828  
section 5110.21 of the Revised Code by the rebate administration 829  
percentage; 830

(2) Subtract the product determined under division (B)(1) of 831  
this section from the amount agreed to under division (B)(4)(a) of 832  
section 5110.21 of the Revised Code. 833

(C) If the drug is covered by a rebate agreement entered into 834  
under section 5110.21 of the Revised Code, on receipt of each 835  
submission of formula or per unit price information under division 836  
(A)(3) of section 5110.25 of the Revised Code, or, at the 837  
department's discretion, more frequent intervals, the department 838  
shall subtract the amount agreed to under division (B)(4) of 839  
section 5110.21 of the Revised Code or the amount computed under 840  
division (B) of this section, as applicable, from the applicable 841  
amount computed under division (A)(1) or (2) of this section. 842

Sec. 5110.28. The department of job and family services shall 843

use the number of individuals eligible for benefits under a state health benefit plan or state retirement system health benefit plan to compute the weighted averages required by division (C)(1) of section 5110.21 and division (A) of section 5110.27 of the Revised Code. 844  
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**Sec. 5110.29.** The department of job and family services shall report all of the following to each participating terminal distributor and the Ohio's best Rx program administrator in a manner enabling the distributor and administrator to comply with section 5110.14 of the Revised Code: 849  
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(A) For each drug included in the Ohio's best Rx program that is not covered by a rebate agreement under section 5110.21 of the Revised Code, the results of the department's computations under division (A) of section 5110.27 of the Revised Code. 854  
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(B) For each drug included in the program that is covered by a rebate agreement entered into under section 5110.21 of the Revised Code, the results of the department's computations under division (C) of section 5110.27 of the Revised Code. 858  
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(C) The administrative fee, if any, determined by the department in accordance with rules adopted under section 5110.35 of the Revised Code. 862  
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**Sec. 5110.32.** (A) The Ohio's best Rx program fund is hereby created. The fund shall be in the custody of the treasurer of state, but shall not be part of the state treasury. The fund shall consist of the following: 865  
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(1) Rebate payments made by participating manufacturers made pursuant to agreements under section 5110.21 of the Revised Code; 869  
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(2) Administrative fees; 871

(3) The fund's investment earnings. 872

(B) The department of job and family services shall use money 873  
in the Ohio's best Rx program fund to make payments to 874  
participating terminal distributors and the Ohio's best Rx program 875  
administrator under section 5110.17 of the Revised Code. 876

**Sec. 5110.33.** (A) The Ohio's best Rx administration fund is 877  
hereby created in the state treasury. The treasurer of state shall 878  
transfer from the Ohio's best Rx program fund to the Ohio's best 879  
Rx administration fund amounts equal to the following: 880

(1) Amounts resulting from application of the rebate 881  
administration percentage determined under section 5110.354 of the 882  
Revised Code; 883

(2) The amount of administrative fees charged Ohio's best Rx 884  
participants; 885

(3) The amount of investment earnings credited to the Ohio's 886  
best Rx program fund. 887

The treasurer of state shall make the transfers in accordance 888  
with a schedule developed by the treasurer of state and the 889  
department of job and family services. 890

(B) The department of job and family services shall use money 891  
in the Ohio's best Rx administration fund to pay the 892  
administrative costs of the Ohio's best Rx program, including, but 893  
not limited to, costs associated with contracted services, staff, 894  
outreach activities, computers and network services, and the 895  
Ohio's best Rx program council. 896

**Sec. 5110.35.** The department of job and family services shall 897  
adopt rules in accordance with Chapter 119. of the Revised Code to 898  
implement the Ohio's best Rx program. The rules shall provide for 899  
all of the following: 900

<u>(A) Determination of family income for the purpose of</u>	901
<u>division (A)(2) of section 5110.05 of the Revised Code;</u>	902
<u>(B) For the purpose of section 5110.06 of the Revised Code,</u>	903
<u>the application and annual reapplication process for the program</u>	904
<u>and documentation to be submitted with applications and</u>	905
<u>reapplications for the purpose of verifying eligibility;</u>	906
<u>(C) For the purpose of section 5110.06 of the Revised Code</u>	907
<u>and subject to section 5110.351 of the Revised Code, the</u>	908
<u>application form for the program;</u>	909
<u>(D) The method of providing information about the medicaid</u>	910
<u>program to applicants under section 5110.07 of the Revised Code;</u>	911
<u>(E) For the purpose of section 5110.08 of the Revised Code,</u>	912
<u>eligibility determination procedures;</u>	913
<u>(F) Subject to section 5110.352 of the Revised Code,</u>	914
<u>periodically increasing the maximum professional fee that</u>	915
<u>participating terminal distributors may charge Ohio's best Rx</u>	916
<u>program participants under section 5110.12 of the Revised Code or</u>	917
<u>the Ohio's best Rx program administrator may charge under a</u>	918
<u>contract entered into under section 5110.10 of the Revised Code;</u>	919
<u>(G) Subject to section 5110.353 of the Revised Code, the</u>	920
<u>amount of the administrative fee, if any, participating terminal</u>	921
<u>distributors are to charge Ohio's best Rx program participants</u>	922
<u>under section 5110.12 of the Revised Code or the Ohio's best Rx</u>	923
<u>program administrator may charge under a contract entered into</u>	924
<u>under section 5110.10 of the Revised Code;</u>	925
<u>(H) The electronic method for participating terminal</u>	926
<u>distributors and the Ohio's best Rx program administrator to</u>	927
<u>submit claims to the department under section 5110.16 of the</u>	928
<u>Revised Code;</u>	929
<u>(I) Additional information participating terminal</u>	930



distributors and the Ohio's best Rx program administrator shall 931  
include on claims submitted under section 5110.16 of the Revised 932  
Code that the department determines is necessary for the 933  
department to be able to make payments under section 5110.17 of 934  
the Revised Code; 935

(J) The method for making payments to participating terminal 936  
distributors or the Ohio's best Rx program administrator under 937  
section 5110.17 of the Revised Code; 938

(K) Subject to section 5110.354 of the Revised Code, the 939  
percentage that is the rebate administration percentage; 940

(L) If the department determines it is best that 941  
participating manufacturers make rebates under section 5110.21 of 942  
the Revised Code on a basis other than quarterly, a schedule for 943  
payment of the rebates; 944

(M) The process for the department of administrative services 945  
and state retirement systems to calculate and submit the 946  
information required by section 5110.25 of the Revised Code; 947

(N) Procedures for making computations under sections 5110.21 948  
and 5110.27 of the Revised Code; 949

(O) Standards and procedures for the use and preservation of 950  
records regarding the Ohio's best Rx program by the department and 951  
the Ohio's best Rx program administrator pursuant to section 952  
5110.59 of the Revised Code; 953

(P) For the purpose of section 5110.10 of the Revised Code, 954  
the standards and procedures governing the operation of the mail 955  
order system by the Ohio's best Rx program administrator; 956

(Q) The efficient administration of other provisions of this 957  
chapter for which the department determines rules are necessary. 958

**Sec. 5110.351. In adopting a rule under division (C) of** 959

section 5110.35 of the Revised Code to prescribe the application 960  
form for the Ohio's best Rx program, the department of job and 961  
family services shall do all of the following: 962

(A) Specify the information that an applicant must include in 963  
the application about the applicant and the members of the 964  
applicant's family included in the application; 965

(B) Require that the applicant attest that the information 966  
the applicant provides in the application and the documentation 967  
submitted with the application is accurate to the best knowledge 968  
and belief of the applicant; 969

(C) Include a statement printed in bold letters informing the 970  
applicant that knowingly making a false statement on the form is 971  
falsification under section 2921.13 of the Revised Code, a 972  
misdemeanor of the first degree. 973

**Sec. 5110.352.** As used in this section, "medicaid dispensing 974  
fee" means the dispensing fee established under section 5111.08 of 975  
the Revised Code for the medicaid program. 976

In adopting a rule under division (F) of section 5110.35 of 977  
the Revised Code increasing the maximum amount of the professional 978  
fee participating terminal distributors may charge Ohio's best Rx 979  
program participants under section 5110.12 of the Revised Code and 980  
the Ohio's best Rx program administrator may charge under a 981  
contract entered into under section 5110.10 of the Revised Code, 982  
the department of job and family services shall review the amount 983  
of the professional fee once a year or, at the department's 984  
discretion, at more frequent intervals and shall not increase the 985  
professional fee to an amount exceeding the medicaid dispensing 986  
fee. 987

A participating terminal distributor and the Ohio's best Rx 988  
program administrator may charge a maximum three dollar 989

professional fee regardless of whether the medicaid dispensing fee 990  
for that drug is less than that amount. The department, however, 991  
may not adopt a rule increasing the maximum professional fee for 992  
that drug until the medicaid dispensing fee for that drug exceeds 993  
that amount. 994

**Sec. 5110.353.** (A) Once a year or, at the discretion of the 995  
department of job and family services, at more frequent intervals, 996  
the department shall determine the amount, if any, to be specified 997  
in a rule adopted under division (G) of section 5110.35 of the 998  
Revised Code as the administrative fee. In determining the amount 999  
of the administrative fee, the department shall determine an 1000  
amount, not exceeding one dollar per transaction, that equals or 1001  
is less than the amount needed to cover the administrative costs 1002  
of the Ohio's best Rx program when added to the sum of the 1003  
following: 1004

(1) The amount resulting from the application of the rebate 1005  
administration percentage; 1006

(2) The investment earnings of the Ohio's best Rx program 1007  
fund created by section 5110.32 of the Revised Code. 1008

(B) Once a year or, at the discretion of the department, at 1009  
more frequent intervals, the department shall report the 1010  
methodology underlying the determination of the administrative fee 1011  
to the Ohio's best Rx program council. 1012

**Sec. 5110.354.** (A) At least once a year or, at the discretion 1013  
of the department of job and family services, at more frequent 1014  
intervals, the department shall determine the percentage, if any, 1015  
to be specified in a rule adopted under division (K) of section 1016  
5110.35 of the Revised Code as the rebate administration 1017  
percentage. The percentage, which shall not exceed five per cent, 1018  
shall result in an amount that equals or is less than the amount 1019

needed to cover the administrative costs of the Ohio's best Rx 1020  
program when added to the sum of the following: 1021

(1) The administrative fee specified in section 5110.353 of 1022  
the Revised Code; 1023

(2) The investment earnings of the Ohio's best Rx program 1024  
fund created by section 5110.32 of the Revised Code. 1025

(B) Once a year or, at the discretion of the department, at 1026  
more frequent intervals, the department shall report the 1027  
methodology underlying the determination of the rebate 1028  
administration percentage to the Ohio's best Rx program council. 1029

Sec. 5110.36. Notwithstanding any provision of this chapter, 1030  
the department of job and family services may adopt rules in 1031  
accordance with Chapter 119. of the Revised Code to make 1032  
adjustments to the Ohio's best Rx program that the department 1033  
considers appropriate to conform the program to, or coordinate it 1034  
with, any federally funded prescription drug program created after 1035  
October 1, 2003. 1036

Sec. 5110.37. The department of job and family services shall 1037  
undertake outreach efforts to publicize the Ohio's best Rx program 1038  
and maximize participation in the program. 1039

Sec. 5110.38. The department of job and family services may 1040  
coordinate the Ohio's best Rx program with a state health benefit 1041  
plan to enhance efficiency, reduce the cost of drugs, and maximize 1042  
the benefits of the Ohio's best Rx program and state health 1043  
benefit plans. 1044

Sec. 5110.39. Not later than April 1, 2005, the department of 1045  
job and family services shall do all of the following: 1046

(A) Create a list of the twenty-five drugs most often 1047  
dispensed to Ohio's best Rx program participants under the 1048  
program, using data from the most recent six-month period for 1049  
which the data is available; 1050

(B) Determine the average amount that participating terminal 1051  
distributors charge, on a date selected by the department, 1052  
participants for each drug included on the list created under 1053  
division (A) of this section; 1054

(C) Determine, for the date selected for division (B) of this 1055  
section, the average usual and customary charge of participating 1056  
terminal distributors for each drug included on the list created 1057  
under division (A) of this section; 1058

(D) By comparing the average charges determined under 1059  
divisions (B) and (C) of this section, determine the average 1060  
percentage savings in the amount participating terminal 1061  
distributors charge Ohio's best Rx program participants for each 1062  
drug included on the list created under division (A) of this 1063  
section. 1064

**Sec. 5110.40.** The department of job and family services shall 1065  
employ an ombudsperson to assist terminal distributors of 1066  
dangerous drugs with grievances regarding the Ohio's best Rx 1067  
program. 1068

**Sec. 5110.45.** There is hereby created the Ohio's best Rx 1069  
program council. The council shall advise the department of job 1070  
and family services on the Ohio's best Rx program. With the 1071  
approval of a majority of the council's appointed members, the 1072  
council may initiate studies to determine whether there are more 1073  
effective ways to administer the program and provide the 1074  
department with suggestions for improvements. 1075

<u>Sec. 5110.46. The Ohio's best Rx program council shall</u>	1076
<u>consist of the following members:</u>	1077
<u>(A) The president of the senate;</u>	1078
<u>(B) The speaker of the house of representatives;</u>	1079
<u>(C) The minority leader of the senate;</u>	1080
<u>(D) The minority leader of the house of representatives;</u>	1081
<u>(E) A representative of the Ohio chapter of the American</u>	1082
<u>federation of labor-congress of industrial organizations,</u>	1083
<u>appointed by the governor from a list of names submitted to the</u>	1084
<u>governor by that organization;</u>	1085
<u>(F) A representative of the Ohio chapter of the American</u>	1086
<u>association of retired persons, appointed by the governor from a</u>	1087
<u>list of names submitted to the governor by that organization;</u>	1088
<u>(G) A representative of a disability advocacy organization</u>	1089
<u>located in the state of Ohio, appointed by the governor from a</u>	1090
<u>list of names submitted to the governor by disability advocacy</u>	1091
<u>organizations located in the state of Ohio;</u>	1092
<u>(H) A representative of the Ohio chapter of the united way,</u>	1093
<u>appointed by the governor from a list of names submitted to the</u>	1094
<u>governor by that organization;</u>	1095
<u>(I) A representative of the Ohio alliance of retired</u>	1096
<u>Americans, appointed by the governor from a list of names</u>	1097
<u>submitted to the governor by that organization;</u>	1098
<u>(J) Three representatives of research-based drug</u>	1099
<u>manufacturers, appointed by the governor from a list of names</u>	1100
<u>submitted to the governor by the pharmaceutical research and</u>	1101
<u>manufacturers of America;</u>	1102
<u>(K) A pharmacist licensed under Chapter 4729. of the Revised</u>	1103
<u>Code, appointed by the governor from a list of names submitted to</u>	1104

the governor by the Ohio pharmacists association. 1105

Sec. 5110.47. The governor shall make initial appointments to 1106  
the Ohio's best Rx program council not later than thirty days 1107  
after the effective date of this section. The members appointed by 1108  
the governor shall serve at the pleasure of the governor. If an 1109  
appointed member's seat becomes vacant, the governor shall fill 1110  
the vacancy not later than thirty days after the vacancy occurs 1111  
and in the manner provided for the initial appointment. 1112

Sec. 5110.48. The president of the senate and speaker of the 1113  
house of representatives shall serve as co-chairs of the Ohio's 1114  
best Rx program council. 1115

The president of the senate, the minority leader of the 1116  
senate, the speaker of the house of representatives, and the 1117  
minority leader of the house of representatives may each appoint a 1118  
member of the general assembly to attend any meeting of the Ohio's 1119  
best Rx program council on behalf of the president of the senate, 1120  
the minority leader of the senate, the speaker of the house of 1121  
representatives, or the minority leader of the house of 1122  
representatives, respectively. 1123

Sec. 5110.49. Members of the Ohio's best Rx program council 1124  
shall serve without compensation and shall not be reimbursed for 1125  
any expenses associated with their duties on the council. 1126

Sec. 5110.50. Except for any part of records that contain a 1127  
trade secret, the Ohio's best Rx program council's records are a 1128  
public record for the purpose of section 149.43 of the Revised 1129  
Code. 1130

Sec. 5110.51. Sections 101.82 to 101.87 of the Revised Code 1131  
do not apply to the Ohio's best Rx program council. 1132

Sec. 5110.55. Information transmitted by or to any of the 1133  
following for any purpose related to the Ohio's best Rx program is 1134  
confidential to the extent required by federal and state law: 1135

(A) Drug manufacturers; 1136

(B) Terminal distributors of dangerous drugs; 1137

(C) The Ohio's best Rx program administrator; 1138

(D) The department of job and family services; 1139

(E) The department of administrative services; 1140

(F) The state retirement systems; 1141

(G) A state health benefit plan or state retirement system 1142  
health benefit plan; 1143

(H) Ohio's best Rx program participants; 1144

(I) Any other government entity or person. 1145

Sec. 5110.56. (A) Except as provided by section 5110.57 of 1146  
the Revised Code, all of the following are trade secrets, are not 1147  
public records for the purposes of section 149.43 of the Revised 1148  
Code, and shall not be used, released, published, or disclosed in 1149  
a form that reveals a specific drug or the identity of a drug 1150  
manufacturer: 1151

(1) The amounts determined under section 5110.17 of the 1152  
Revised Code; 1153

(2) Information disclosed in a rebate agreement or in 1154  
communications related to a rebate agreement; 1155

(3) Information that the department of administrative 1156  
services and state retirement systems submit to the department of 1157  
job and family services under divisions (A)(3) and (4) of section 1158  
5110.25 of the Revised Code; 1159



(4) The elements of the computations under division (C) of section 5110.21 of the Revised Code and under section 5110.27 of the Revised Code and any results of those computations that reveal or could be used to reveal the drug pricing or rebate information and amounts used to make the computations. 1160  
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(B) No person or government entity shall use or reveal any information specified in division (A) of this section except as required for the implementation of this chapter. 1165  
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**Sec. 5110.57.** Sections 5110.55 and 5110.56 of the Revised Code shall not preclude the department of job and family services from disclosing information necessary for the implementation of this chapter, including the Ohio's best Rx program price to participating terminal distributors or the Ohio's best Rx program administrator under section 5110.29 of the Revised Code. 1168  
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**Sec. 5110.58.** (A) As used in this section, "identifying information" means information that identifies or could be used to identify an Ohio's best Rx program applicant or participant. "Identifying information" does not include aggregate information about applicants and participants that does not identify and could not be used to identify an individual applicant or participant. 1174  
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(B) Except as provided in divisions (C), (D), and (E) of this section, no person or government entity shall sell, solicit, disclose, receive, or use identifying information or knowingly permit the use of identifying information. 1180  
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(C)(1) The department of job and family services and the Ohio's best Rx program administrator may solicit, disclose, receive, or use identifying information or knowingly permit the use of identifying information for a purpose directly connected to the administration of the Ohio's best Rx program, including disclosing and knowingly permitting the use of identifying 1184  
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information included in a claim that a participating manufacturer 1190  
audits pursuant to division (D) of section 5110.21 of the Revised 1191  
Code, contacting Ohio's best Rx program applicants or participants 1192  
regarding participation in the program, and notifying applicants 1193  
and participants regarding participating terminal distributors. 1194

(2) The department and administrator may solicit, disclose, 1195  
receive, or use identifying information or knowingly permit the 1196  
use of identifying information to the extent required by federal 1197  
law. 1198

(3) The department and administrator may disclose identifying 1199  
information to the Ohio's best Rx program applicant or participant 1200  
who is the subject of that information or to the parent, spouse, 1201  
guardian, or custodian of that applicant or participant. 1202

(D) A participating terminal distributor or the Ohio's best 1203  
Rx program administrator may solicit, disclose, receive, or use 1204  
identifying information or knowingly permit the use of identifying 1205  
information to the extent required or permitted by an agreement 1206  
the distributor enters into under section 5110.12 of the Revised 1207  
Code or a contract the administrator enters into under section 1208  
5110.10 of the Revised Code. 1209

(E) A participating manufacturer may, for the purpose of 1210  
auditing a claim pursuant to division (D) of section 5110.21 of 1211  
the Revised Code, solicit, receive, and use identifying 1212  
information included in the claim. 1213

**Sec. 5110.59.** The department of job and family services and 1214  
the Ohio's best Rx program administrator shall use and preserve 1215  
records regarding the Ohio's best Rx program in accordance with 1216  
rules adopted under section 5110.35 of the Revised Code. This 1217  
section applies to the department's or administrator's use and 1218  
preservation of records received or generated by the department, 1219

any other government entity, or any person. 1220

Sec. 5110.99. Whoever violates division (B) of section 1221  
5110.58 of the Revised Code is guilty of a misdemeanor of the 1222  
first degree. 1223

**Section 2.** That existing sections 127.16 and 2921.13 of the 1224  
Revised Code are hereby repealed. 1225

**Section 3.** It is not the intention of the General Assembly to 1226  
establish an entitlement program through the enactment of Chapter 1227  
5110. of the Revised Code by this act. 1228

**Section 4.** All items in this section are hereby appropriated 1229  
as designated out of any moneys in the state treasury to the 1230  
credit of the General Revenue Fund and the State Special Revenue 1231  
Fund Group. For all appropriations made in this act, those in the 1232  
first column are for fiscal year 2004 and those in the second 1233  
column are for fiscal year 2005. The appropriations made in this 1234  
act are in addition to any other appropriations made for the 1235  
2003-2005 biennium. 1236

JFS DEPARTMENT OF JOB AND FAMILY SERVICES 1237

General Revenue Fund 1238

GRF 600-440 Ohio's Best Rx	\$	10,000,000	\$	0	1239
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Start-Up Costs

TOTAL GRF General Revenue Fund	\$	10,000,000	\$	0	1240
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State Special Revenue Fund Group 1241

5AA 600-440 Ohio's Best Rx	\$	5,000,000	\$	5,000,000	1242
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Administration

TOTAL SSR State Special Revenue	\$	5,000,000	\$	5,000,000	1243
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Fund Group

TOTAL ALL BUDGET FUND GROUPS	\$	15,000,000	\$	5,000,000	1244
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OHIO'S BEST RX START-UP COSTS 1245

The foregoing appropriation item 600-440, Ohio's Best Rx 1246  
Start-Up Costs, shall be used by the Department of Job and Family 1247  
Services to pay for the administrative and operational expenses 1248  
for the creation and operation of the Ohio's Best Rx Program in 1249  
accordance with Chapter 5110. of the Revised Code including costs 1250  
associated with the duties assigned by the department to the 1251  
Ohio's Best Rx Program Administrator and making payments to 1252  
participating terminal distributors until sufficient cash exists 1253  
to make payments from the accounts created in sections 5110.32 and 1254  
5110.33 of the Revised Code. Of the foregoing appropriation item 1255  
600-440, Ohio's Best Rx Start-up Costs, not more than \$450,000 in 1256  
fiscal year 2004 and not more than \$750,000 in fiscal year 2005 1257  
may be used by the department for administrative and operational 1258  
costs, excluding outreach, that are not associated with the Ohio's 1259  
Best Rx Program Administrator or the payments to participating 1260  
terminal distributors. 1261

If the Director of the Department of Job and Family Services 1262  
estimates that the appropriation is insufficient to fully cover 1263  
start-up costs, the Director shall, in consultation with the 1264  
Director of the Office of Budget and Management, submit a letter 1265  
to the Governor, President of the Senate, Speaker of the House of 1266  
Representatives, and the Minority Leaders of the Senate and House 1267  
of Representatives. The letter shall declare the additional 1268  
appropriation authority estimated to be needed and shall show a 1269  
breakdown of how the additional appropriation authority will be 1270  
used. The Director of Job and Family Services shall obtain the 1271  
approval of the Controlling Board for any supplemental 1272  
appropriation, if required. The amount approved by the Controlling 1273  
Board is hereby appropriated. The use of state funds for start-up 1274  
costs shall in no way obligate the state to fund further program 1275  
costs, as the program is a discount program, not an entitlement 1276

program. Any unspent appropriations from fiscal year 2004 may be	1277
carried over to fiscal year 2005.	1278
OHIO'S BEST RX ADMINISTRATION	1279
The foregoing appropriation item 600-673, Ohio's Best Rx	1280
Administration, shall be used on an ongoing basis to cover	1281
expenses associated with the Ohio's Best Rx Program defined in	1282
section 5110.33 of the Revised Code. If receipts to the fund	1283
exceed the appropriated amounts, the Director of Job and Family	1284
Services may request that the Director of Budget and Management	1285
increase the appropriation authority of this fund. Upon approval	1286
from the Director of Budget and Management, the additional amounts	1287
are hereby appropriated.	1288
Within the limits set forth in this act, the Director of	1289
Budget and Management shall establish accounts indicating source	1290
and amount of funds for each appropriation made in this act, and	1291
shall determine the form and manner in which appropriation	1292
accounts shall be maintained. Expenditures from appropriations	1293
contained in this act shall be accounted for as though made in Am.	1294
Sub. H.B. 95 of the 125th General Assembly.	1295
The appropriations made in this act are subject to all	1296
provisions of Am. Sub. H.B. 95 of the 125th General Assembly that	1297
are generally applicable to such appropriations.	1298
<b>Section 5.</b> The codified and uncodified sections of law	1299
contained in this act, and the items of law of which they are	1300
composed, are not subject to the referendum. Therefore, under Ohio	1301
Constitution, Article II, Section 1d and section 1.471 of the	1302
Revised Code, the codified and uncodified sections of law	1303
contained in this act, and the items of law of which they are	1304
composed, go into immediate effect when this act becomes law.	1305