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**Am. Sub. H. B. No. 468**

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**—**

**A B I L L**

To amend sections 127.16, 2921.13, 5110.01, 5110.02, 1  
5110.05, 5110.08, 5110.09, 5110.12, 5110.13, 2  
5110.16, 5110.17, 5110.18, 5110.19, 5110.21, 3  
5110.23, 5110.29, 5110.32, 5110.33, 5110.35, 4  
5110.352, 5110.353, 5110.354, 5110.38, 5110.39, 5  
5110.55, 5110.56, 5110.57, 5110.58, and 5110.59; 6  
to amend, for the purpose of adopting new section 7  
numbers as indicated in parentheses, sections 8  
5110.05 (5110.14), 5110.07 (5110.16), 5110.08 9  
(5110.17), 5110.09 (5110.18), 5110.12 (5110.20), 10  
5110.13 (5110.21), 5110.16 (5110.22), 5110.17 11  
(5110.23), 5110.18 (5110.24), 5110.19 (5110.25), 12  
5110.21 (5110.27), 5110.23 (5110.54), 5110.29 13  
(5110.11), 5110.32 (5110.42), 5110.33 (5110.43), 14  
and 5110.39 (5110.13); to enact new sections 15  
5110.03, 5110.05, 5110.07, 5110.08, 5110.09, 16  
5110.10, 5110.12, 5110.15, 5110.19, 5110.26, 17  
5110.28, 5110.29, 5110.32, and 5110.39 and 18

sections 5110.021, 5110.04, 5110.30, and 5110.31; 19  
and to repeal sections 5110.03, 5110.10, 5110.11, 20  
5110.14, 5110.15, 5110.22, 5110.25, 5110.26, 21  
5110.27, 5110.28, and 5110.351 of the Revised Code 22  
to modify the Ohio's Best Rx Program; and to amend 23  
sections 127.16, 173.06, 173.062, 173.99, 2921.13, 24  
5110.01, 5110.02, 5110.021, 5110.03, 5110.04, 25  
5110.05, 5110.07, 5110.08, 5110.09, 5110.10, 26  
5110.11, 5110.12, 5110.13, 5110.14, 5110.15, 27  
5110.16, 5110.17, 5110.18, 5110.19, 5110.20, 28  
5110.21, 5110.22, 5110.23, 5110.24, 5110.25, 29  
5110.26, 5110.27, 5110.28, 5110.29, 5110.30, 30  
5110.31, 5110.32, 5110.35, 5110.352, 5110.353, 31  
5110.354, 5110.36, 5110.37, 5110.38, 5110.39, 32  
5110.40, 5110.42, 5110.43, 5110.45, 5110.47, 33  
5110.54, 5110.55, 5110.56, 5110.57, 5110.58, and 34  
5110.59; to amend, for the purpose of adopting new 35  
section numbers as indicated in parentheses, 36  
sections 173.062 (173.061), 5110.01 (173.71), 37  
5110.02 (173.72), 5110.021 (173.721), 5110.03 38  
(173.73), 5110.04 (173.731), 5110.05 (173.732), 39  
5110.07 (173.74), 5110.08 (173.741), 5110.09 40  
(173.742), 5110.10 (173.75), 5110.11 (173.751), 41  
5110.12 (173.752), 5110.13 (173.753), 5110.14 42  
(173.76), 5110.15 (173.77), 5110.16 (173.771), 43  
5110.17 (173.772), 5110.18 (173.773), 5110.19 44  
(173.78), 5110.20 (173.79), 5110.21 (173.791), 45  
5110.22 (173.80), 5110.23 (173.801), 5110.24 46  
(173.802), 5110.25 (173.803), 5110.26 (173.81), 47  
5110.27 (173.811), 5110.28 (173.812), 5110.29 48  
(173.813), 5110.30 (173.814), 5110.31 (173.815), 49  
5110.32 (173.82), 5110.35 (173.83), 5110.352 50  
(173.831), 5110.353 (173.832), 5110.354 (173.833), 51

5110.36 (173.84), 5110.37 (173.722), 5110.38 52  
(173.724), 5110.39 (173.861), 5110.40 (173.723), 53  
5110.42 (173.85), 5110.43 (173.86), 5110.45 54  
(173.87), 5110.46 (173.871), 5110.47 (173.872), 55  
5110.48 (173.873), 5110.49 (173.874), 5110.50 56  
(173.875), 5110.51 (173.876), 5110.54 (173.88), 57  
5110.55 (173.89), 5110.56 (173.891), 5110.57 58  
(173.892), 5110.58 (173.90), and 5110.59 (173.91); 59  
and to repeal sections 173.061, 173.07, 173.071, 60  
173.072, and 5110.99 of the Revised Code on July 61  
1, 2007, to eliminate the prescription drug 62  
component of the Golden Buckeye Card Program and 63  
to transfer the Ohio's Best Rx Program to the 64  
Department of Aging. 65

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

**Section 1.** That sections 127.16, 2921.13, 5110.01, 5110.02, 66  
5110.05, 5110.08, 5110.09, 5110.12, 5110.13, 5110.16, 5110.17, 67  
5110.18, 5110.19, 5110.21, 5110.23, 5110.29, 5110.32, 5110.33, 68  
5110.35, 5110.352, 5110.353, 5110.354, 5110.38, 5110.39, 5110.55, 69  
5110.56, 5110.57, 5110.58, and 5110.59 be amended; sections 70  
5110.05 (5110.14), 5110.07 (5110.16), 5110.08 (5110.17), 5110.09 71  
(5110.18), 5110.12 (5110.20), 5110.13 (5110.21), 5110.16 72  
(5110.22), 5110.17 (5110.23), 5110.18 (5110.24), 5110.19 73  
(5110.25), 5110.21 (5110.27), 5110.23 (5110.54), 5110.29 74  
(5110.11), 5110.32 (5110.42), 5110.33 (5110.43), and 5110.39 75  
(5110.13) be amended for the purpose of adopting new sections 76  
numbers as indicated in parentheses; and new sections 5110.03, 77  
5110.05, 5110.07, 5110.08, 5110.09, 5110.10, 5110.12, 5110.15, 78  
5110.19, 5110.26, 5110.28, 5110.29, 5110.32, and 5110.39 and 79  
sections 5110.021, 5110.04, 5110.30, and 5110.31 of the Revised 80

Code be enacted to read as follows: 81

**Sec. 127.16.** (A) Upon the request of either a state agency or 82  
the director of budget and management and after the controlling 83  
board determines that an emergency or a sufficient economic reason 84  
exists, the controlling board may approve the making of a purchase 85  
without competitive selection as provided in division (B) of this 86  
section. 87

(B) Except as otherwise provided in this section, no state 88  
agency, using money that has been appropriated to it directly, 89  
shall: 90

(1) Make any purchase from a particular supplier, that would 91  
amount to fifty thousand dollars or more when combined with both 92  
the amount of all disbursements to the supplier during the fiscal 93  
year for purchases made by the agency and the amount of all 94  
outstanding encumbrances for purchases made by the agency from the 95  
supplier, unless the purchase is made by competitive selection or 96  
with the approval of the controlling board; 97

(2) Lease real estate from a particular supplier, if the 98  
lease would amount to seventy-five thousand dollars or more when 99  
combined with both the amount of all disbursements to the supplier 100  
during the fiscal year for real estate leases made by the agency 101  
and the amount of all outstanding encumbrances for real estate 102  
leases made by the agency from the supplier, unless the lease is 103  
made by competitive selection or with the approval of the 104  
controlling board. 105

(C) Any person who authorizes a purchase in violation of 106  
division (B) of this section shall be liable to the state for any 107  
state funds spent on the purchase, and the attorney general shall 108  
collect the amount from the person. 109

(D) Nothing in division (B) of this section shall be 110

construed as:	111
(1) A limitation upon the authority of the director of transportation as granted in sections 5501.17, 5517.02, and 5525.14 of the Revised Code;	112 113 114
(2) Applying to medicaid provider agreements under Chapter 5111. of the Revised Code or payments or provider agreements under the disability medical assistance program established under Chapter 5115. of the Revised Code;	115 116 117 118
(3) Applying to the purchase of examinations from a sole supplier by a state licensing board under Title XLVII of the Revised Code;	119 120 121
(4) Applying to entertainment contracts for the Ohio state fair entered into by the Ohio expositions commission, provided that the controlling board has given its approval to the commission to enter into such contracts and has approved a total budget amount for such contracts as agreed upon by commission action, and that the commission causes to be kept itemized records of the amounts of money spent under each contract and annually files those records with the clerk of the house of representatives and the clerk of the senate following the close of the fair;	122 123 124 125 126 127 128 129 130
(5) Limiting the authority of the chief of the division of mineral resources management to contract for reclamation work with an operator mining adjacent land as provided in section 1513.27 of the Revised Code;	131 132 133 134
(6) Applying to investment transactions and procedures of any state agency, except that the agency shall file with the board the name of any person with whom the agency contracts to make, broker, service, or otherwise manage its investments, as well as the commission, rate, or schedule of charges of such person with respect to any investment transactions to be undertaken on behalf of the agency. The filing shall be in a form and at such times as	135 136 137 138 139 140 141

the board considers appropriate.	142
(7) Applying to purchases made with money for the per cent	143
for arts program established by section 3379.10 of the Revised	144
Code;	145
(8) Applying to purchases made by the rehabilitation services	146
commission of services, or supplies, that are provided to persons	147
with disabilities, or to purchases made by the commission in	148
connection with the eligibility determinations it makes for	149
applicants of programs administered by the social security	150
administration;	151
(9) Applying to payments by the department of job and family	152
services under section 5111.13 of the Revised Code for group	153
health plan premiums, deductibles, coinsurance, and other	154
cost-sharing expenses;	155
(10) Applying to any agency of the legislative branch of the	156
state government;	157
(11) Applying to agreements or contracts entered into under	158
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the	159
Revised Code;	160
(12) Applying to purchases of services by the adult parole	161
authority under section 2967.14 of the Revised Code or by the	162
department of youth services under section 5139.08 of the Revised	163
Code;	164
(13) Applying to dues or fees paid for membership in an	165
organization or association;	166
(14) Applying to purchases of utility services pursuant to	167
section 9.30 of the Revised Code;	168
(15) Applying to purchases made in accordance with rules	169
adopted by the department of administrative services of motor	170
vehicle, aviation, or watercraft fuel, or emergency repairs of	171

such vehicles;	172
(16) Applying to purchases of tickets for passenger air transportation;	173 174
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	175 176 177
(18) Applying to the judicial branch of state government;	178
(19) Applying to purchases of liquor for resale by the division of liquor control;	179 180
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	181 182 183
(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;	184 185 186 187
(22) Applying to purchases of books, periodicals, pamphlets, newspapers, maintenance subscriptions, and other published materials;	188 189 190
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	191 192
(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;	193 194 195 196
(25) Applying to purchases from a qualified nonprofit agency pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code;	197 198 199
(26) Applying to payments by the department of job and family	200

services to the United States department of health and human	201
services for printing and mailing notices pertaining to the tax	202
refund offset program of the internal revenue service of the	203
United States department of the treasury;	204
(27) Applying to contracts entered into by the department of	205
mental retardation and developmental disabilities under sections	206
5123.18, 5123.182, and 5123.199 of the Revised Code;	207
(28) Applying to payments made by the department of mental	208
health under a physician recruitment program authorized by section	209
5119.101 of the Revised Code;	210
(29) Applying to contracts entered into with persons by the	211
director of commerce for unclaimed funds collection and remittance	212
efforts as provided in division (F) of section 169.03 of the	213
Revised Code. The director shall keep an itemized accounting of	214
unclaimed funds collected by those persons and amounts paid to	215
them for their services.	216
(30) Applying to purchases made by a state institution of	217
higher education in accordance with the terms of a contract	218
between the vendor and an inter-university purchasing group	219
comprised of purchasing officers of state institutions of higher	220
education;	221
(31) Applying to the department of job and family services'	222
purchases of health assistance services under the children's	223
health insurance program part I provided for under section 5101.50	224
of the Revised Code or the children's health insurance program	225
part II provided for under section 5101.51 of the Revised Code;	226
(32) Applying to payments by the attorney general from the	227
reparations fund to hospitals and other emergency medical	228
facilities for performing medical examinations to collect physical	229
evidence pursuant to section 2907.28 of the Revised Code;	230



(33) Applying to contracts with a contracting authority or administrative receiver under division (B) of section 5126.056 of the Revised Code;	231 232 233
(34) Applying to reimbursements paid to the United States department of veterans affairs for pharmaceutical and patient supply purchases made on behalf of the Ohio veterans' home agency;	234 235 236
(35) Applying to agreements <del>the department of job and family services enters</del> <u>entered</u> into with terminal distributors of dangerous drugs under section <del>5110.12</del> <u>5110.20</u> of the Revised Code.	237 238 239
(E) Notwithstanding division (B)(1) of this section, the cumulative purchase threshold shall be seventy-five thousand dollars for the departments of mental retardation and developmental disabilities, mental health, rehabilitation and correction, and youth services.	240 241 242 243 244
(F) When determining whether a state agency has reached the cumulative purchase thresholds established in divisions (B)(1), (B)(2), and (E) of this section, all of the following purchases by such agency shall not be considered:	245 246 247 248
(1) Purchases made through competitive selection or with controlling board approval;	249 250
(2) Purchases listed in division (D) of this section;	251
(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.	252 253
(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.	254 255 256
<b>Sec. 2921.13.</b> (A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:	257 258 259

(1) The statement is made in any official proceeding.	260
(2) The statement is made with purpose to incriminate another.	261 262
(3) The statement is made with purpose to mislead a public official in performing the public official's official function.	263 264
(4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance, as defined in section 9.66 of the Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury.	265 266 267 268 269 270 271
(5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.	272 273 274
(6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.	275 276
(7) The statement is in writing on or in connection with a report or return that is required or authorized by law.	277 278
(8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.	279 280 281 282 283 284 285
(9) The statement is made with purpose to commit or facilitate the commission of a theft offense.	286 287
(10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its	288 289

jurisdiction, either orally or in a written document, including, 290  
but not limited to, an application, petition, complaint, or other 291  
pleading, or an inventory, account, or report. 292

(11) The statement is made on an account, form, record, 293  
stamp, label, or other writing that is required by law. 294

(12) The statement is made in connection with the purchase of 295  
a firearm, as defined in section 2923.11 of the Revised Code, and 296  
in conjunction with the furnishing to the seller of the firearm of 297  
a fictitious or altered driver's or commercial driver's license or 298  
permit, a fictitious or altered identification card, or any other 299  
document that contains false information about the purchaser's 300  
identity. 301

(13) The statement is made in a document or instrument of 302  
writing that purports to be a judgment, lien, or claim of 303  
indebtedness and is filed or recorded with the secretary of state, 304  
a county recorder, or the clerk of a court of record. 305

(14) The statement is made with purpose to obtain an Ohio's 306  
best Rx program enrollment card under section ~~5110.09~~ 5110.18 of 307  
the Revised Code or a payment ~~from the department of job and~~ 308  
~~family services~~ under section ~~5110.17~~ 5110.23 of the Revised Code. 309

(15) The statement is made in an application filed with a 310  
county sheriff pursuant to section 2923.125 of the Revised Code in 311  
order to obtain or renew a license to carry a concealed handgun or 312  
is made in an affidavit submitted to a county sheriff to obtain a 313  
temporary emergency license to carry a concealed handgun under 314  
section 2923.1213 of the Revised Code. 315

(16) The statement is required under section 5743.72 of the 316  
Revised Code in connection with the person's purchase of 317  
cigarettes or tobacco products in a delivery sale. 318

(B) No person, in connection with the purchase of a firearm, 319

as defined in section 2923.11 of the Revised Code, shall knowingly  
furnish to the seller of the firearm a fictitious or altered  
driver's or commercial driver's license or permit, a fictitious or  
altered identification card, or any other document that contains  
false information about the purchaser's identity.

(C) No person, in an attempt to obtain a license to carry a  
concealed handgun under section 2923.125 of the Revised Code,  
shall knowingly present to a sheriff a fictitious or altered  
document that purports to be certification of the person's  
competence in handling a handgun as described in division (B)(3)  
of section 2923.125 of the Revised Code.

(D) It is no defense to a charge under division (A)(6) of  
this section that the oath or affirmation was administered or  
taken in an irregular manner.

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

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5),  
(6), (7), (8), (10), (11), (13), (14), or (16) of this section is  
guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (A)(9) of this section is  
guilty of falsification in a theft offense. Except as otherwise  
provided in this division, falsification in a theft offense is a  
misdemeanor of the first degree. If the value of the property or  
services stolen is five hundred dollars or more and is less than  
five thousand dollars, falsification in a theft offense is a  
felony of the fifth degree. If the value of the property or  
services stolen is five thousand dollars or more and is less than  
one hundred thousand dollars, falsification in a theft offense is

a felony of the fourth degree. If the value of the property or  
services stolen is one hundred thousand dollars or more,  
falsification in a theft offense is a felony of the third degree.

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

(4) Whoever violates division (A)(15) or (C) of this section  
is guilty of falsification to obtain a concealed handgun license,  
a felony of the fourth degree.

(G) A person who violates this section is liable in a civil  
action to any person harmed by the violation for injury, death, or  
loss to person or property incurred as a result of the commission  
of the offense and for reasonable attorney's fees, court costs,  
and other expenses incurred as a result of prosecuting the civil  
action commenced under this division. A civil action under this  
division is not the exclusive remedy of a person who incurs  
injury, death, or loss to person or property as a result of a  
violation of this section.

**Sec. 5110.01.** As used in this chapter:

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

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

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

~~(D)~~(C) "Medicaid program" or "medicaid" means the medical  
assistance program established under Chapter 5111. of the Revised  
Code.

~~(E)(D)~~ "National drug code number" means the number 380  
registered for a drug pursuant to the listing system established 381  
by the United States food and drug administration under the "Drug 382  
Listing Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended. 383

~~(F)~~ "Ohio's best Rx program administrator" means the entity, 384  
if any, the department of job and family services contracts with 385  
pursuant to section 5110.10 of the Revised Code to perform 386  
administrative functions of the Ohio's best Rx program and to 387  
offer the mail order system through which Ohio's best Rx program 388  
participants may obtain drugs by mail. 389

~~(G)~~ "Ohio's best Rx program applicant" or "applicant" means 390  
an individual who signs an application for the Ohio's best Rx 391  
program and submits it to the department of job and family 392  
services, or the Ohio's best Rx program administrator, for a 393  
determination of eligibility for the program. 394

~~(H)(E)~~ "Ohio's best Rx program participant" or "participant" 395  
means an individual determined eligible for the Ohio's best Rx 396  
program and included under a ~~valid~~ an Ohio's best Rx program 397  
enrollment card. 398

~~(I)~~ "Ohio's best Rx program price" means the price a 399  
participating terminal distributor is to charge an Ohio's best Rx 400  
program participant for a drug included in the Ohio's best Rx 401  
program as determined under section 5110.14 of the Revised Code. 402  
"Ohio's best Rx program price" does not include either of the 403  
following: 404

~~(1)~~ The amount of the professional fee, if any, the 405  
participating terminal distributor adds to the Ohio's best Rx 406  
program price pursuant to an agreement under section 5110.12 of 407  
the Revised Code; 408

~~(2)~~ The amount of the administrative fee, if any, the 409  
department of job and family services reports to the participating 410

~~terminal distributor under section 5110.29 of the Revised Code.~~ 411

~~(J)(F) "Participating manufacturer" means a drug manufacturer 412  
participating in the Ohio's best Rx program pursuant to a ~~rebate~~ 413  
manufacturer agreement entered into under section 5110.26 of the 414  
Revised Code. 415~~

~~(K)(G) "Participating terminal distributor" means a terminal 416  
distributor of dangerous drugs participating in the Ohio's best Rx 417  
program pursuant to an agreement entered into ~~with the department~~ 418  
~~of job and family services~~ under section ~~5110.12~~ 5110.20 of the 419  
Revised Code. 420~~

~~(L) "Per unit price," with regard to a state health benefit 421  
plan or state retirement system health benefit plan, means the 422  
total amount paid to a terminal distributor of dangerous drugs 423  
under a state health benefit plan or state retirement system 424  
health benefit plan for one unit of a drug covered by the plan, 425  
after the plan discounts or otherwise reduces the amount to be 426  
paid to the terminal distributor. "Per unit price" includes both 427  
of the following: 428~~

~~(1) The amount that the state health benefit plan or state 429  
retirement system health benefit plan, or other government entity 430  
or person authorized to make the payment on behalf of the plan, 431  
pays to the terminal distributor of dangerous drugs; 432~~

~~(2) The amount that the beneficiary of the state health 433  
benefit plan or state retirement system health benefit plan pays 434  
to the terminal distributor of dangerous drugs in the form of a 435  
copayment, coinsurance, or other cost sharing charge. 436~~

~~(M) "Per unit rebate," with regard to a state health benefit 437  
plan or state retirement system health benefit plan, means all 438  
rebates, discounts, formulary fees, administrative fees, and other 439  
allowances a drug manufacturer pays to the plan, or other 440  
government entity or person authorized to receive all or part of 441~~

~~such payments, for a drug during a calendar year, divided by the  
total number of units of that drug dispensed under the plan during  
the same calendar year.~~ 442  
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~~(N) "Rebate administration percentage" means the percentage  
specified in rules adopted under division (K) of section 5110.35  
of the Revised Code.~~ 445  
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~~(O) "Rebate agreement" means an agreement under section  
5110.21 of the Revised Code between the department of job and  
family services and a drug manufacturer.~~ 448  
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~~(P) "State health benefit plan" means a program of health  
care benefits offered through the Ohio med preferred provider  
organization, or a successor entity selected by the state, to  
which either of the following apply:~~ 451  
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~~(1) It is provided by a collective bargaining agreement  
authorized by division (A)(4) of section 4117.03 of the Revised  
Code.~~ 455  
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~~(2) It is offered by the department of administrative  
services to state employees in accordance with section 124.81 or  
124.82 of the Revised Code.~~ 458  
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~~(Q) "State retirement system" means all of the following: the  
public employees retirement system, state teachers retirement  
system, school employees retirement system, Ohio police and fire  
pension fund, and state highway patrol retirement system.~~ 461  
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~~(R) "State retirement system health benefit plan" means a  
plan of health care benefits offered by a state retirement system  
under section 145.58, 742.45, 3307.39, 3309.69, or 5505.28 of the  
Revised Code.~~ 465  
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~~(S)(H) "Political subdivision" has the same meaning as in  
section 9.23 of the Revised Code.~~ 469  
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~~(I) "State agency" has the same meaning as in section 9.23 of~~ 471



the Revised Code.

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

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

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

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~~(V)~~(M) "Usual and customary charge" means the amount a participating terminal distributor or the ~~Ohio's best Rx program administrator~~ drug mail order system included in the Ohio's best Rx program pursuant to section 5110.19 of the Revised Code charges ~~for~~ when a drug included in the program ~~to~~ is purchased by an individual who does not receive a discounted price for the drug pursuant to any drug discount program, including the Ohio's best Rx program, a prescription drug discount card program established under section 173.061 of the Revised Code, or a pharmacy assistance program established by any person or government entity, and for whom no third-party payer or program funded in whole or part with state or federal funds is responsible for all or part of the cost of the drug ~~the distributor dispenses to the individual.~~

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**Sec. 5110.02.** There is hereby established the Ohio's best Rx program for the purpose of providing outpatient prescription drug discounts to individuals residing in this state who are enrolled in the program by meeting the eligibility requirements specified in section 5110.14 of the Revised Code, including eligible individuals who are sixty years of age or older, eligible individuals who have low incomes but are not eligible for medicaid, and other eligible individuals who do not have health benefits that cover outpatient drugs. The program shall include all drugs that are included in a manufacturer agreement entered

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into under section 5110.26 of the Revised Code and all other drugs 502  
that may be dispensed only pursuant to a prescription issued by a 503  
licensed health professional authorized to prescribe drugs, as 504  
defined in section 4729.01 of the Revised Code. Except as provided 505  
in section 5110.10 of the Revised Code, the department of job and 506  
family services shall administer the program. 507

**Sec. 5110.021.** (A) Except as provided in division (B) of this 508  
section, the Ohio's best Rx program shall be administered by the 509  
department of job and family services. 510

(B)(1) The department may enter into a contract with any 511  
person under which the person serves as the administrator of the 512  
Ohio's best Rx program. Before entering into a contract for a 513  
program administrator, the department shall issue a request for 514  
proposals from persons seeking to be considered. The department 515  
shall develop a process to be used in issuing the request for 516  
proposals, receiving responses to the request, and evaluating the 517  
responses on a competitive basis. In accordance with that process, 518  
the department shall select the person to be awarded the contract. 519

(2) Subject to divisions (B)(5) and (6) of this section, the 520  
department may delegate to the person awarded the contract any of 521  
the department's powers or duties specified in this chapter or any 522  
other provision of the Revised Code pertaining to the Ohio's best 523  
Rx program. The terms of the contract shall specify the extent to 524  
which the powers or duties are delegated to the program 525  
administrator. 526

(3) In exercising powers or performing duties delegated under 527  
the contract, the program administrator is subject to the same 528  
provisions of this chapter or other provisions of the Revised Code 529  
that grant the powers or duties to the department, as well as any 530  
limitations or restrictions that are applicable to or associated 531

with those powers or duties. 532

(4) Wherever the department is referred to in this chapter or 533  
another provision of the Revised Code relative to a power or duty 534  
delegated to the program administrator, both of the following 535  
apply: 536

(a) If the department has delegated the power or duty in 537  
whole to the program administrator, the reference to the 538  
department is, instead, a reference to the administrator. 539

(b) If the department retains any part of the power or duty 540  
that is delegated to the program administrator, the reference to 541  
the department is a reference to both the department and the 542  
administrator. 543

(5) The terms of a contract for a program administrator shall 544  
include provisions for offering the drug mail order system 545  
included in the Ohio's best Rx program pursuant to section 5110.19 546  
of the Revised Code. The terms of the contract may permit the 547  
administrator to offer the drug mail order system by contracting 548  
with another person. 549

(6) The department shall not delegate to a program 550  
administrator the department's powers or duties to do any of the 551  
following: 552

(a) Enter into contracts under this section other than a 553  
contract to offer a drug mail order system; 554

(b) Receive verification of drug pricing information under 555  
section 5110.09 of the Revised Code or verification of drug 556  
manufacturer payment information under section 5110.30 of the 557  
Revised Code from the pharmacy benefit manager selected under 558  
section 5110.04 of the Revised Code to serve as the Ohio's best Rx 559  
program's consulting pharmacy benefit manager; 560

(c) Request the program's consulting pharmacy benefit manager 561

to provide for an audit under section 5110.05 of the Revised Code; 562

(d) Review or use any information contained in or pertaining 563  
to an audit provided for by the program's consulting pharmacy 564  
benefit manager other than the audit's findings of whether the 565  
consulting pharmacy benefit manager provided valid information 566  
when providing drug pricing verification services or drug 567  
manufacturer payment verification services; 568

(e) Adopt rules under section 5110.35 or 5110.36 of the 569  
Revised Code; 570

(f) Employ an ombudsperson pursuant to section 5110.40 of the 571  
Revised Code. 572

**Sec. 5110.03.** (A) Any entity that provides services as a 573  
pharmacy benefit manager relative to the outpatient drug coverage 574  
included in a health benefit plan offered to the employees or 575  
retirees of a state agency or political subdivision and the 576  
eligible dependents of those employees or retirees shall provide 577  
drug pricing verification services under section 5110.09 of the 578  
Revised Code and drug manufacturer payment verification services 579  
under section 5110.30 of the Revised Code if the entity is 580  
selected under section 5110.04 of the Revised Code by the 581  
department of job and family services to serve as the Ohio's best 582  
Rx program's consulting pharmacy benefit manager for purposes of 583  
providing the verification services. 584

(B) Both of the following apply to the entity selected to 585  
serve as the Ohio's best Rx program's consulting pharmacy benefit 586  
manager: 587

(1) The entity shall provide the drug pricing verification 588  
services and drug manufacturer payment verification services 589  
without charge, either to the Ohio's best Rx program or to the 590  
state agency or political subdivision for which it provides 591

services as a pharmacy benefit manager.

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(2) The entity shall provide the verification services for the entire year for which it is selected to serve as the program's consulting pharmacy benefit manager, regardless of the duration or termination of its responsibility to the state agency or political subdivision for which it provides services as a pharmacy benefit manager.

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(C) If the entity selected to serve as the consulting pharmacy benefit manager fails to provide the program with drug pricing verification services or drug manufacturer payment verification services, or fails to provide for an audit when requested to do so under section 5110.05 of the Revised Code, the department may ask the attorney general to bring an action for injunctive relief in any court of competent jurisdiction. On the filing of an appropriate petition in the court, the court shall conduct a hearing on the petition. If it is demonstrated in the proceedings that the pharmacy benefit manager has failed to provide the verification services or has failed to provide for the audit, the court shall grant a temporary or permanent injunction enjoining the pharmacy benefit manager from continuing to fail to provide the verification services or from continuing to fail to provide for the audit.

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(D) This section does not impose any duty on the state agency or political subdivision for which an entity provides services as a pharmacy benefit manager.

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**Sec. 5110.04.** Annually, the department of job and family services shall select a pharmacy benefit manager, from among the pharmacy benefit managers subject to section 5110.03 of the Revised Code, to serve as the Ohio's best Rx program's consulting pharmacy benefit manager for purposes of providing drug pricing verification services under section 5110.09 of the Revised Code

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and drug manufacturer payment verification services under section 623  
5110.30 of the Revised Code. The department shall select the 624  
pharmacy benefit manager that the department considers to be the 625  
most appropriate pharmacy benefit manager to provide the 626  
verification services for the Ohio's best Rx program. In making 627  
the selection, the department shall consider the pharmacy benefit 628  
manager that provides services relative to the outpatient drug 629  
coverage included in the health benefit plan offered to the 630  
greatest number of employees or retirees of a state agency or 631  
political subdivision and the eligible dependents of those 632  
employees or retirees. 633

The department shall provide written notice to the pharmacy 634  
benefit manager that it has been selected to serve as the Ohio's 635  
best Rx program's consulting pharmacy benefit manager. The notice 636  
shall specify the date on which the pharmacy benefit manager is to 637  
begin serving as the program's consulting pharmacy benefit manager 638  
for the ensuing year. 639

Before the end of the one-year period during which a pharmacy 640  
benefit manager is to serve as the program's consulting pharmacy 641  
benefit manager, the department shall make another selection in 642  
accordance with this section. In making the selection, the 643  
department may select the same pharmacy benefit manager to serve 644  
as the program's consulting pharmacy benefit manager or may select 645  
another pharmacy benefit manager. 646

**Sec. 5110.05.** (A) To determine whether the pharmacy benefit 647  
manager selected under section 5110.04 of the Revised Code to 648  
serve as the Ohio's best Rx program's consulting pharmacy benefit 649  
manager has provided valid information when providing drug pricing 650  
verification services under section 5110.09 of the Revised Code or 651  
drug manufacturer payment verification services under section 652

5110.30 of the Revised Code, the department of job and family services may request that the consulting pharmacy benefit manager provide for an audit of its relevant contracts with drug manufacturers and terminal distributors of dangerous drugs. 653  
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In making audit requests under this section, both of the following apply: 657  
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(1) The department may request an audit on a regularly occurring basis, but not more frequently than once every three years. 659  
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(2) The department may request an audit at any time it has a reasonable basis to believe that the consulting pharmacy benefit manager is not acting in good faith in providing drug pricing verification services or drug manufacturer payment verification services. Notice of the request shall be made in writing and signed by the director of job and family services. The notice may specify the basis for the belief that the consulting pharmacy benefit manager is not acting in good faith. If the basis for the belief is not specified and the audit findings demonstrate that the consulting pharmacy benefit manager acted in good faith, the department shall pay the cost incurred by the consulting pharmacy benefit manager in providing for the audit. 662  
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(B) An audit provided for under this section shall be performed only by an auditor that is mutually satisfactory to the department and consulting pharmacy benefit manager and independent of both the department and consulting pharmacy benefit manager. 674  
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(C) If the findings of an audit provided for under this section demonstrate that the verification services provided by the consulting pharmacy benefit manager did not result in valid information, the department shall use the audit findings for purposes of confirming the validity of the one or more drug 678  
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pricing formulas designated under section 5110.08 of the Revised Code and entering into agreements with drug manufacturers under section 5110.26 of the Revised Code. 683  
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Sec. 5110.07. Annually, the department of job and family services shall establish a base price for each drug included in the Ohio's best Rx program. In the case of drugs dispensed by a terminal distributor of dangerous drugs that has entered into an agreement under section 5110.20 of the Revised Code, the base price shall be established by using the one or more formulas designated under section 5110.08 of the Revised Code. In the case of the drug mail order system included in the program pursuant to section 5110.19 of the Revised Code, the base price shall be established in accordance with the rules adopted under section 5110.35 of the Revised Code governing the drug mail order system. 686  
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Sec. 5110.08. Annually, the department of job and family services shall designate one or more formulas for use in establishing under section 5110.07 of the Revised Code the Ohio's best Rx program's base price for drugs dispensed by a terminal distributor of dangerous drugs that has entered into an agreement under section 5110.20 of the Revised Code. Each formula shall include a drug pricing discount component that is expressed as a percentage discount. The formula used for generic drugs may include the maximum allowable cost limits that apply to generic drugs under the medicaid program. 697  
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In designating the one or more formulas, the department shall use the best information on drug pricing that is available to the department, including information obtained through the drug pricing verification services provided under section 5110.09 of the Revised Code by the Ohio's best Rx program's consulting pharmacy benefit manager selected under section 5110.04 of the 707  
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Revised Code. Based on the available information, the department shall modify the one or more formulas as it considers appropriate to maximize the benefits provided to Ohio's best Rx program participants. 713  
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Sec. 5110.09. For purposes of section 5110.08 of the Revised Code, the department of job and family services shall obtain verification of drug pricing information from the Ohio's best Rx program's consulting pharmacy benefit manager selected under section 5110.04 of the Revised Code. The information shall be obtained in accordance with the following procedures: 717  
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(A) For brand name drugs, excluding generic drugs marketed under brand names, the department shall submit to the consulting pharmacy benefit manager the formula the department proposes to use to establish the program's base price for brand name drugs during the year. 723  
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The consulting pharmacy benefit manager shall review the formula submitted by the department. In conducting the review, the consulting pharmacy benefit manager shall compare the drug pricing discount percentage included in the department's formula to the drug pricing discount percentage included in the formula most commonly used by the consulting pharmacy benefit manager to establish part of its payment rate for brand name drugs dispensed by terminal distributors of dangerous drugs other than drug mail order systems. If the formulas are not expressed in equivalent terms, the consulting pharmacy benefit manager shall make all accommodations necessary to make the comparison of the discount percentages. 728  
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After conducting the review, the consulting pharmacy benefit manager shall provide information to the department verifying whether the discount percentage included in the department's formula is more than two percentage points below the discount 740  
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percentage included in the formula used by the consulting pharmacy 744  
benefit manager. The information provided to the department shall 745  
be certified by signature of an officer of the consulting pharmacy 746  
benefit manager. 747

(B) For generic drugs, the department shall identify the 748  
fifty generic drugs most frequently purchased by Ohio's best Rx 749  
program participants in the immediately preceding year from 750  
terminal distributors of dangerous drugs other than the drug mail 751  
order system included in the program pursuant to section 5110.19 752  
of the Revised Code. The department shall submit to the consulting 753  
pharmacy benefit manager the names of the fifty drugs, the number 754  
of prescriptions filled for each of the drugs, the formula used to 755  
compute the base price for the drugs during the year, and the 756  
weighted average base price for the drugs that resulted for the 757  
year. 758

The consulting pharmacy benefit manager shall review the 759  
submitted information. In conducting the review, the consulting 760  
pharmacy benefit manager shall compare the department's weighted 761  
average base price to the equivalent part of the consulting 762  
pharmacy benefit manager's weighted average payment rate for the 763  
same drugs when dispensed by terminal distributors of dangerous 764  
drugs other than drug mail order systems. For purposes of the 765  
comparison, the department and consulting pharmacy benefit manager 766  
shall express the weighted average base price and payment rate in 767  
terms of a discount percentage that is taken from the drugs' 768  
average wholesale price, as identified by a national drug price 769  
reporting service selected by the department and the consulting 770  
pharmacy benefit manager. 771

After conducting the review, the consulting pharmacy benefit 772  
manager shall provide information to the department verifying 773  
whether the discount percentage reflected in the department's 774  
weighted average base price for the drugs is more than two 775

percentage points below the equivalent part of the consulting 776  
pharmacy benefit manager's weighted average payment rate for the 777  
same drugs. The information provided to the department shall be 778  
certified by signature of an officer of the consulting pharmacy 779  
benefit manager. 780

**Sec. 5110.10.** (A) Subject to division (B) of this section, 781  
the amount that an Ohio's best Rx program participant is to be 782  
charged for a quantity of a drug purchased under the program shall 783  
be established in accordance with all of the following: 784

(1) If the drug is not included in a manufacturer agreement 785  
entered into under section 5110.26 of the Revised Code, the 786  
participant shall be charged an amount that is computed according 787  
to the drug's base price established under section 5110.07 of the 788  
Revised Code. 789

(2) If the drug is included in a manufacturer agreement 790  
entered into under section 5110.26 of the Revised Code, the 791  
participant shall be charged an amount that is computed by 792  
subtracting from the drug's base price established under section 793  
5110.07 of the Revised Code the amount of the manufacturer payment 794  
that applies to the transaction, as established under section 795  
5110.28 of the Revised Code. 796

(3) If an administrative fee is specified in rules adopted 797  
under section 5110.35 of the Revised Code, the participant shall 798  
be charged the amount of the administrative fee. 799

(4) If the drug is dispensed by a terminal distributor of 800  
dangerous drugs under an agreement entered into under section 801  
5110.20 of the Revised Code, and the terminal distributor charges 802  
a professional fee pursuant to the agreement, the participant 803  
shall be charged the amount of the professional fee. 804

(5) If the drug is dispensed through the drug mail order 805

system included in the program pursuant to section 5110.19 of the 806  
Revised Code, the participant shall not be charged a professional 807  
fee. 808

(B) When a quantity of a drug is purchased by an Ohio's best 809  
Rx program participant, the participating terminal distributor or 810  
drug mail order system dispensing the drug shall charge the lesser 811  
of the amount that applies to the transaction, as established in 812  
accordance with division (A) of this section, or the usual and 813  
customary charge that otherwise would apply to the transaction. 814  
When a drug is purchased at the usual and customary charge 815  
pursuant to this division, the transaction is not subject to this 816  
chapter as the purchase or dispensing of a drug under the program. 817

**Sec. ~~5110.29~~ 5110.11.** The department of job and family 818  
services shall report ~~all of~~ the following to each participating 819  
terminal distributor and the ~~Ohio's best Rx program administrator~~ 820  
~~drug mail order system included in the Ohio's best Rx program~~ 821  
~~pursuant to section 5110.19 of the Revised Code~~ in a manner 822  
enabling the distributor and ~~administrator~~ system to comply with 823  
section ~~5110.14~~ 5110.10 of the Revised Code: 824

~~(A) For each drug included in the Ohio's best Rx program that~~ 825  
~~is not covered by a rebate agreement under section 5110.21 of the~~ 826  
~~Revised Code, the results of the department's computations under~~ 827  
~~division (A) of section 5110.27 of the Revised Code.~~ 828

~~(B) For each drug included in the program that is covered by~~ 829  
~~a rebate agreement entered into under section 5110.21 of the~~ 830  
~~Revised Code, the results of the department's computations under~~ 831  
~~division (C) of section 5110.27 of the Revised Code.~~ 832

(C), the amount to be charged under division (A)(1) or (2) of 833  
section 5110.10 of the Revised Code; 834

(B) The administrative fee, if any, determined specified by 835

the department in ~~accordance with~~ rules adopted under section 836  
5110.35 of the Revised Code. 837

Sec. 5110.12. The amount that an Ohio's best Rx program 838  
participant saves when a drug is purchased under the program shall 839  
be determined by subtracting the amount that the participant is 840  
charged in accordance with division (A) of section 5110.10 of the 841  
Revised Code from the usual and customary charge that otherwise 842  
would apply to the transaction. 843

~~Sec. 5110.39~~ 5110.13. Not later than the first day of March 844  
of each year, the department of job and family services shall do 845  
all of the following: 846

(A) Create a list of the twenty-five drugs most often 847  
dispensed to Ohio's best Rx program participants under the 848  
program, using data from the most recent six-month period for 849  
which the data is available; 850

(B) Determine the average amount that ~~participating terminal~~ 851  
~~distributors charge~~ participants are charged under the program, on 852  
a date selected by the department, ~~participants~~ for each drug 853  
included on the list created under division (A) of this section; 854

(C) Determine, for the date selected for division (B) of this 855  
section, the average usual and customary charge ~~of participating~~ 856  
~~terminal distributors~~ for each drug included on the list created 857  
under division (A) of this section; 858

(D) By comparing the average charges determined under 859  
divisions (B) and (C) of this section, determine the average 860  
percentage savings ~~in the amount participating terminal~~ 861  
~~distributors charge~~ Ohio's best Rx program participants receive 862  
for each drug included on the list created under division (A) of 863  
this section. 864

~~Sec. 5110.05~~ 5110.14. (A) To be eligible for the Ohio's best Rx program, an individual must meet all of the following requirements at the time of application ~~or reapplication~~ for the program:

(1) ~~Be~~ The individual must be a resident of this state~~+~~.

(2) ~~Have~~ Either of the following must be the case:

(a) The individual has family income, as determined under rules adopted pursuant to section 5110.35 of the Revised Code, that does not exceed ~~two~~ three hundred ~~fifty~~ per cent of the federal poverty guidelines, as revised annually by the United States department of health and human services in accordance with section 673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 Stat. 511, 42 U.S.C. 9902, as amended~~, or be;~~

(b) The individual is sixty years of age or older~~+~~.

(3) ~~Not~~ Except as provided in division (B) of this section, ~~the individual must not have coverage for outpatient prescription drug coverage~~ drugs paid for in whole or in part by any of the following:

(a) A third-party payer, including an employer;

(b) The medicaid program;

(c) The children's health insurance program;

(d) The disability medical assistance program;

(e) Another health plan or pharmacy assistance program that uses state or federal funds to pay part or all of the cost of the individual's outpatient ~~prescription~~ drugs, ~~other than a prescription drug discount card program established under section 173.061 of the Revised Code.~~

(4) ~~Not~~ The individual must not have had coverage for outpatient ~~prescription drug coverage~~ drugs paid for by any of the

entities or programs specified in division (A)(3) of this section 894  
during any of the four months preceding the month in which the 895  
application ~~or reapplication~~ for the Ohio's best Rx program is 896  
made, unless any of the following applies: 897

(a) The individual is sixty years of age or older. 898

(b) The third-party payer, including an employer, that paid 899  
~~all or part of~~ for the coverage filed for bankruptcy under federal 900  
bankruptcy laws. 901

(c) The individual is no longer eligible for coverage 902  
provided through a retirement plan subject to protection under the 903  
"Employee Retirement Income Security Act of 1974," 88 Stat. 832, 904  
29 U.S.C. 1001, as amended. 905

(d) The individual is no longer eligible for the medicaid 906  
program, children's health insurance program, or disability 907  
medical assistance program. 908

(e) The individual is either temporarily or permanently 909  
discharged from employment due to a business reorganization. 910

~~(B) Application and annual reapplication for the Ohio's best~~ 911  
~~Rx program shall be made in accordance with rules adopted under~~ 912  
~~section 5110.35 of the Revised Code on a form prescribed in those~~ 913  
~~rules. An individual may apply or reapply on behalf of the~~ 914  
~~individual and the individual's spouse and children. The guardian~~ 915  
~~or custodian of an individual may apply or reapply on behalf of~~ 916  
~~the individual. An individual is not subject to division (A)(3) of~~ 917  
~~this section if the individual has coverage for outpatient drugs~~ 918  
~~paid for in whole or in part by any of the following:~~ 919

(1) A prescription drug discount card program established 920  
under section 173.061 of the Revised Code; 921

(2) The workers' compensation program; 922

(3) A medicare prescription drug plan offered pursuant to the 923

"Medicare Prescription Drug, Improvement, and Modernization Act of 2003," 117 Stat. 2071, 42 U.S.C. 1395w-101, as amended, but only if all of the following are the case with respect to the particular drug being purchased through the Ohio's best Rx program:

(a) The individual is responsible for the full cost of the drug.

(b) The drug is not subject to a rebate from the manufacturer under the individual's medicare prescription drug plan.

(c) The manufacturer of the drug has agreed to the Ohio's best Rx program's inclusion of individuals who have coverage through a medicare prescription drug plan.

**Sec. 5110.15.** Application for participation in the Ohio's best Rx program shall be made in accordance with rules adopted by the department of job and family services under section 5110.35 of the Revised Code. When applying for participation, an individual may include application for participation by the individual's spouse and children. An individual's guardian or custodian may apply on behalf of the individual.

When submitting an application, the applicant shall include the information and documentation specified in the department's rules as necessary to verify eligibility for the program. The application may be submitted on a paper form prescribed and supplied by the department or pursuant to any other application method the department makes available for the program, including methods that permit an individual to apply by telephone or through the internet.

An applicant shall attest that the information and documentation the applicant submits with an application is accurate to the best knowledge and belief of the applicant. In the



case of a paper application form, the applicant's signature shall 954  
be used to certify that the applicant has attested to the accuracy 955  
of the information and documentation. In the case of other 956  
application methods, the application certification process 957  
specified in the department's rules shall be used to certify that 958  
the applicant has attested to the accuracy of the information and 959  
documentation. 960

The department shall inform each applicant that knowingly 961  
making a false statement in an application is falsification under 962  
section 2921.13 of the Revised Code, a misdemeanor of the first 963  
degree. In the case of a paper application form, the department 964  
shall provide the information by including on the form a statement 965  
printed in bold letters. 966

**Sec. ~~5110.07~~ 5110.16.** The department of job and family 967  
services shall provide each applicant for the Ohio's best Rx 968  
program information about the medicaid program in accordance with 969  
rules adopted under section 5110.35 of the Revised Code. The 970  
information shall include general eligibility requirements, 971  
application procedures, and benefits. The information shall also 972  
explain the ways in which the medicaid program's drug benefits are 973  
better than the Ohio's best Rx program. 974

**Sec. ~~5110.08~~ 5110.17.** On receipt of applications ~~and annual~~ 975  
~~reapplications~~, the department of job and family services shall 976  
make eligibility determinations for the Ohio's best Rx program in 977  
accordance with procedures established in rules adopted under 978  
section 5110.35 of the Revised Code. ~~Each determination that an~~ 979  
~~individual is eligible is valid for one year beginning on a date~~ 980  
~~determined in accordance with the eligibility determination~~ 981  
~~procedures. The beginning date may not precede the date on which~~ 982  
~~the individual's eligibility is determined. Annual reapplication~~ 983

~~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.~~

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

**Sec. ~~5110.09~~ 5110.18.** (A) 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 card shall be presented to a participating terminal distributor each~~

The department shall determine the information to be included on the card, including an identification number, and shall determine the card's size and format. If the department establishes an application method that permits individuals to apply through the internet, the department may issue the enrollment card by sending the applicant an electronic version of the card in a printable format.

(B) Each time a drug included in the program is purchased under the program, the entity dispensing the drug shall confirm whether the individual for whom the drug is dispensed is enrolled in the program. If the drug is being purchased from a participating terminal distributor rather than the drug mail order system included in the program pursuant to section 5110.19 of the Revised Code, and the individual's enrollment card is available for presentation at the time of the purchase, the purchaser shall present the card to the participating terminal distributor as

confirmation of the individual's enrollment in the program. If the 1014  
drug is being purchased through the drug mail order system and the 1015  
individual's program identification number is available, the 1016  
purchaser shall present the identification number as confirmation 1017  
of enrollment. Otherwise, the terminal distributor or mail order 1018  
system shall confirm the individual's enrollment through the 1019  
department. The department shall establish the methods to be used 1020  
in confirming enrollment through the department, including 1021  
confirmation by telephone, through the internet, or by any other 1022  
electronic means. 1023

(C) Purchasing a drug under the program by using an 1024  
enrollment card or any other method shall serve as an attestation 1025  
by the participant for whom the drug is dispensed that the 1026  
participant meets the eligibility requirements specified in 1027  
division (A)(3) of section 5110.14 of the Revised Code regarding 1028  
not having coverage for outpatient drugs. 1029

**Sec. 5110.19.** (A) For purposes of making drugs included in 1030  
the Ohio's best Rx program available to participants by mail, the 1031  
department of job and family services shall include a drug mail 1032  
order system within the program. Not more than one drug mail order 1033  
system shall be included in the program. Subject to division (B) 1034  
of this section, the program's drug mail order system shall be 1035  
provided in accordance with rules adopted under section 5110.35 of 1036  
the Revised Code. 1037

(B) Neither the department nor the drug mail order system 1038  
shall promote the purchase of drugs through the system by using 1039  
information collected under the program regarding the drugs 1040  
purchased by participants from participating terminal 1041  
distributors. This division does not preclude the use of the 1042  
information for purposes of limiting the amount that a participant 1043  
may be charged for a quantity of a drug purchased through the drug 1044

mail order system to an amount that is not more than the amount 1045  
that would be charged if the same quantity of the drug were 1046  
purchased from a participating terminal distributor. 1047

Sec. ~~5110.12~~ 5110.20. A (A) For purposes of making drugs 1048  
included in the Ohio's best Rx program available to participants 1049  
from terminal distributors of dangerous drugs other than the drug 1050  
mail order system included in the program pursuant to section 1051  
5110.19 of the Revised Code, the department of job and family 1052  
services shall enter into agreements under this section with 1053  
terminal distributors of dangerous drugs. Any terminal distributor 1054  
of dangerous drugs may enter into an agreement with the department 1055  
of job and family services to participate in the Ohio's best Rx 1056  
program for purposes of dispensing drugs pursuant to this section. 1057  
Before 1058

Before entering into an agreement with a terminal 1059  
distributor, the department shall provide the terminal distributor 1060  
with a one of the following: 1061

(1) A formula that allows the terminal distributor to 1062  
calculate the price of for each drug included in the program, a 1063  
the amount to be charged under division (A)(1) or (2) of section 1064  
5110.10 of the Revised Code by participating terminal 1065  
distributors. 1066

(2) A statistically valid sampling of drug prices that 1067  
includes the prices of amount to be charged under division (A)(1) 1068  
or (2) of section 5110.10 of the Revised Code by participating 1069  
terminal distributors for not less fewer than two branded brand 1070  
name drugs and two generic drugs from each category of drugs 1071  
included in the program, or the. 1072

(3) The current Ohio's best Rx program price amount to be 1073  
charged under division (A)(1) or (2) of section 5110.10 of the 1074

Revised Code by participating terminal distributors for each drug 1075  
included in the program. 1076

(B) An agreement entered into under this section shall do all 1077  
of the following: 1078

~~(A)(1)~~ Except as provided in division ~~(C)(B)(3)~~ of this 1079  
section, be in effect for not less than one year; 1080

~~(B)(2)~~ Specify the dates that the agreement is to begin and 1081  
end; 1082

~~(C)(3)~~ Permit the ~~participating~~ terminal distributor to 1083  
terminate the agreement before the date the agreement would 1084  
otherwise end as specified pursuant to division (B)(2) of this 1085  
section by providing the department notice of early termination at 1086  
least thirty days before the effective date of the early 1087  
termination; 1088

~~(D)(4)~~ Require that the ~~participating~~ terminal distributor 1089  
~~charge an Ohio's best Rx program participant for each drug~~ 1090  
~~included in the program the lesser of (1) the sum of the Ohio's~~ 1091  
~~best Rx program price as determined under section 5110.14 of the~~ 1092  
~~Revised Code, the professional fee under division (E) of this~~ 1093  
~~section, if any, and the administrative fee under division (F) of~~ 1094  
~~this section, if any, or (2) the terminal distributor's usual and~~ 1095  
~~customary charge comply with section 5110.10 of the Revised Code~~ 1096  
~~when charging for a drug purchased under the program;~~ 1097

~~(E)(5)~~ Permit the ~~participating~~ terminal distributor to add 1098  
to the ~~Ohio's best Rx program price~~ amount to be charged under 1099  
division (A)(1) or (2) of section 5110.10 of the Revised Code a 1100  
professional fee in an amount not to exceed, except as provided in 1101  
rules adopted under section 5110.35 of the Revised Code, three 1102  
dollars; 1103

~~(F)~~ Require the ~~participating terminal distributor to add to~~ 1104  
~~the Ohio's best Rx program price an administrative fee, in an~~ 1105

~~amount determined in accordance with rules adopted under section 1106  
5110.35 of the Revised Code, for each transaction in which a 1107  
quantity of the drug is dispensed if an administrative fee is 1108  
required by those rules; 1109~~

~~(G)(6) Require the participating terminal distributor to 1110  
disclose to each participant the amount the participant saves 1111  
under the program as determined in accordance with section ~~5110.15~~ 1112  
5110.12 of the Revised Code; 1113~~

~~(H)(7) Require the participating terminal distributor to 1114  
submit a claim to the department under section ~~5110.16~~ 5110.22 of 1115  
the Revised Code for each sale of a drug to a participant; 1116~~

~~(I)(8) Permit the participating terminal distributor to 1117  
deliver drugs to Ohio's best Rx program participants by mail, but 1118  
not by using a drug mail order system operated in the same manner 1119  
as the system included in the program pursuant to section 5110.19 1120  
of the Revised Code. 1121~~

~~**Sec. ~~5110.13~~ 5110.21.** ~~The department of job and family 1122  
services may not prohibit a~~ A terminal distributor of dangerous 1123  
drugs shall not be prohibited from participating in any ~~other~~ 1124  
program ~~the department administers~~ or any network of health care 1125  
providers on the basis that the terminal distributor has not 1126  
entered into an agreement under section ~~5110.12~~ 5110.20 of the 1127  
Revised Code to participate in the Ohio's best Rx program. 1128~~

~~No entity under contract with the department under section 1129  
5110.10 of the Revised Code may prohibit a terminal distributor of 1130  
dangerous drugs from participating in a program or network the 1131  
entity administers or operates on the basis that the terminal 1132  
distributor has not entered into an agreement under section 1133  
5110.12 of the Revised Code. 1134~~

~~**Sec. ~~5110.16~~ 5110.22.** A participating terminal distributor or 1135~~

~~the Ohio's best Rx program administrator shall submit~~ For each 1136  
drug dispensed under the Ohio's best Rx program, a claim shall be 1137  
submitted to the department of job and family services ~~for each~~ 1138  
~~drug dispensed to an Ohio's best Rx program participant.~~ The 1139  
participating terminal distributor or the drug mail order system 1140  
included in the program pursuant to section 5110.19 of the Revised 1141  
Code that dispensed the drug shall submit the claim not later than 1142  
thirty days after the drug is dispensed. The claim shall be 1143  
submitted in accordance with the electronic method provided for in 1144  
rules adopted under section 5110.35 of the Revised Code. 1145

The claim shall specify all of the following: 1146

(A) The prescription number of the participant's prescription 1147  
under which the drug ~~is~~ was dispensed to the participant; 1148

(B) The name of, and national drug code number for, the drug 1149  
dispensed to the participant; 1150

(C) The number of units of the drug dispensed to the 1151  
participant; 1152

(D) The amount ~~the distributor or administrator charged~~ the 1153  
participant was charged for the drug; 1154

(E) The date ~~that the distributor or administrator dispensed~~ 1155  
the drug was dispensed to the participant; 1156

(F) Any additional information required by rules adopted 1157  
under section 5110.35 of the Revised Code. 1158

**Sec. ~~5110.17~~ 5110.23.** (A) In accordance with rules adopted 1159  
under section 5110.35 of the Revised Code and subject to section 1160  
~~5110.19~~ 5110.25 of the Revised Code, the department of job and 1161  
family services shall ~~pay a participating terminal distributor or~~ 1162  
~~the Ohio's best Rx program administrator~~ make payments under the 1163  
Ohio's best Rx program for complete and timely claims submitted 1164

under section 5110.22 of the Revised Code for drugs included in 1165  
the program that are covered by also included in a rebate 1166  
manufacturer agreement entered into under section ~~5110.21~~ 5110.26 1167  
of the Revised Code. The payment for a complete and timely claim 1168  
shall be made by a date that is not later than two weeks after the 1169  
~~claim is received by~~ the department receives the claim from the 1170  
~~participating terminal distributor or the drug mail order system~~ 1171  
included in the program pursuant to section 5110.19 of the Revised 1172  
Code. 1173

(B) Subject to division (D) of this section, the amount to be 1174  
paid for a claim for a drug dispensed under the program shall be 1175  
determined as follows: 1176

(1) ~~Multiply~~ Compute the rebate manufacturer payment amount 1177  
for that applies to the transaction, based on quantity of the drug 1178  
dispensed and the drug's national drug code number for the drug 1179  
for which the claim is made, as agreed to under division (B)(4)(a) 1180  
of section 5110.21 of the Revised Code or computed under division 1181  
(B) of section 5110.27 of the Revised Code, as applicable, by the 1182  
number of units of the drug dispensed to the Ohio's best Rx 1183  
program participant, in accordance with the provisions of division 1184  
(B) of section 5110.28 of the Revised Code; 1185

(2) If rules adopted under section 5110.35 of the Revised 1186  
Code require that program participants be charged an 1187  
administrative fee ~~was charged,~~ for each transaction in which a 1188  
quantity of the drug was dispensed, subtract from the amount 1189  
computed under division (B)(1) of this section the administrative 1190  
fee amount specified in those rules ~~adopted under section 5110.35~~ 1191  
of the Revised Code. 1192

(C) The department may combine the claims ~~from~~ submitted by a 1193  
participating terminal distributor or the ~~administrator~~ program's 1194  
~~drug mail order system~~ to make aggregate payments under this 1195  
section to the distributor or ~~administrator~~ system. 1196



(D) If the total of the amounts computed under division (B) 1197  
of this section for any period for which payments are due is a 1198  
negative number, the participating terminal distributor or 1199  
~~administrator~~ the program's drug mail order system that submitted 1200  
the claims has been overpaid for the claims ~~submitted under~~ 1201  
~~section 5110.16 of the Revised Code~~. When there is an overpayment, 1202  
the department shall reduce future payments ~~to the terminal~~ 1203  
~~distributor or administrator~~ made under this section to the 1204  
distributor or system or collect an amount from the ~~terminal~~ 1205  
~~distributor or administrator~~ system sufficient to reimburse the 1206  
department for the overpayment. 1207

**Sec. ~~5110.18~~ 5110.24.** Neither ~~the department of job and~~ 1208  
~~family services nor the Ohio's best Rx program administrator may~~ 1209  
~~charge~~ a participating terminal distributor nor the drug mail 1210  
order system included in the Ohio's best Rx program pursuant to 1211  
section 5110.19 of the Revised Code may be charged by the 1212  
department of job and family services for the submission of a 1213  
claim under section 5110.22 of the Revised Code or the processing 1214  
of a claim under ~~sections 5110.16 and 5110.17~~ section 5110.23 of 1215  
the Revised Code. 1216

**Sec. ~~5110.19~~ 5110.25.** The department of job and family 1217  
services may not make a payment under section ~~5110.17~~ 5110.23 of 1218  
the Revised Code for a claim submitted under section ~~5110.16~~ 1219  
5110.22 of the Revised Code if any of the following are the case: 1220

(A) The claim is submitted by either a terminal distributor 1221  
of dangerous drugs that is ~~neither~~ not a participating terminal 1222  
distributor ~~nor the Ohio's best Rx program administrator~~ or a drug 1223  
mail order system that is not the system included in the Ohio's 1224  
best Rx program pursuant to section 5110.19 of the Revised Code. 1225

(B) The claim is for a drug that is not included in the 1226

program. 1227

(C) The claim is for a drug included in the program but the 1228  
drug is dispensed to an individual who is not covered by a ~~valid~~ 1229  
an Ohio's best Rx program enrollment card. 1230

(D) A person or government entity has paid the participating 1231  
terminal distributor or the ~~administrator~~ program's drug mail 1232  
order system through any other prescription drug coverage program 1233  
or prescription drug discount program for dispensing the drug, 1234  
unless the payment is reimbursement for redeeming a coupon or is 1235  
an amount directly paid by a drug manufacturer to the ~~terminal~~ 1236  
distributor or system for dispensing drugs to residents of a 1237  
long-term care facility. 1238

Sec. 5110.26. For purposes of participating in the Ohio's 1239  
best Rx program, any drug manufacturer may enter into an agreement 1240  
with the department of job and family services under which the 1241  
manufacturer agrees to make payments to the department with 1242  
respect to one or more of the manufacturer's drugs when the one or 1243  
more drugs are dispensed under the program. The terms of the 1244  
agreement shall comply with section 5110.27 of the Revised Code. 1245

~~Sec. 5110.21~~ 5110.27. (A) A manufacturer agreement entered 1246  
into under section 5110.26 of the Revised Code by a drug 1247  
manufacturer ~~may enter into a rebate agreement with~~ and the 1248  
department of job and family services ~~regarding drugs it~~ 1249  
manufactures. ~~The agreement shall specify~~ include terms that do 1250  
all of the following: 1251

(1) Specify the time ~~it~~ the agreement is to be in effect, 1252  
which shall be not less than one year from the date the agreement 1253  
is entered into- 1254

~~(B) The agreement shall do all of the following:~~ 1255

<del>(1)</del> <i>i</i>	1256
<u>(2)</u> Specify which of the manufacturer's drugs are included in the agreement;	1257 1258
<del>(2)</del> <u>(3)</u> Permit the department to remove a drug from the agreement in the event of a dispute over the drug's utilization;	1259 1260
<del>(3)</del> <u>(4)</u> Require that the manufacturer <del>make</del> <u>specify</u> a <del>rebate payment per unit amount that will be paid</del> to the department for each drug <del>specified under division (B)(1) of this section</del> <u>included in the agreement</u> that is dispensed to an Ohio's best Rx program participant;	1261 1262 1263 1264 1265
<del>(4)</del> <del>(a)</del> <u>(5)</u> Require that the per unit <del>rebate be in an amount equal to the greater of the following</del> :	1266 1267
<del>(i)</del> The weighted average of the per unit rebates for the drug as computed under <del>division (C)(1) of this section</del> ;	1268 1269
<del>(ii)</del> A per unit amount specified by the manufacturer.	1270
<del>(b)</del> Require that the rebate payment for a quantity of a drug dispensed to an Ohio's best Rx participant be equal to the amount determined by multiplying the applicable per unit rebate by the number of units dispensed.	1271 1272 1273 1274
<del>(5)</del> Specify the intervals at which the manufacturer will report to the department amounts specified pursuant to <del>division (B)(4)(a)(ii) of this section</del> ;	1275 1276 1277
<del>(6)</del> <u>amount specified by the manufacturer be an amount that the manufacturer believes is greater than or comparable to the per unit amount generally payable by the manufacturer for the same drug when the drug is dispensed to an individual using the outpatient drug coverage included in a health benefit plan offered in this state or another state to public employees or retirees and the eligible dependents of those employees or retirees;</u>	1278 1279 1280 1281 1282 1283 1284
<u>(6)</u> Require the manufacturer to make payments in accordance	1285

with the amounts computed under division (A) of section 5110.28 of 1286  
the Revised Code; 1287

(7) Require that the manufacturer make the rebate payments to 1288  
the department on a quarterly basis or in accordance with a 1289  
schedule established by rules adopted under section 5110.35 of the 1290  
Revised Code. 1291

~~(C)(1) For the purposes of division (B)(4)(a)(i) of this~~ 1292  
~~section, once each year the department shall compute the weighted~~ 1293  
~~average of the per unit rebates for each drug using the~~ 1294  
~~information available to the department from submissions under~~ 1295  
~~division (A)(4) of section 5110.25 of the Revised Code. The~~ 1296  
~~computation shall be made in accordance with section 5110.28 of~~ 1297  
~~the Revised Code and rules adopted under section 5110.35 of the~~ 1298  
~~Revised Code.~~ 1299

~~(2) If no computation can be made under division (C)(1) of~~ 1300  
~~this section, the rebate for the drug shall be the amount~~ 1301  
~~specified under (B)(4)(a)(ii) of this section.~~ 1302

~~(D) On submission to the department by a manufacturer that~~ 1303  
~~has entered into a rebate agreement under this section of a~~ 1304  
~~request the department considers reasonable, the department shall~~ 1305  
~~permit the manufacturer to audit claims submitted under section~~ 1306  
~~5110.16 of the Revised Code.~~ 1307

(B) For any drug included in a manufacturer agreement, the 1308  
terms of the agreement may provide for the establishment of a 1309  
process for referring Ohio's best Rx program applicants and 1310  
participants to a patient assistance program operated or sponsored 1311  
by the manufacturer. The referral process may be included only if 1312  
the manufacturer agrees to refer to the Ohio's best Rx program 1313  
residents of this state who apply but are found to be ineligible 1314  
for the patient assistance program. 1315

Sec. 5110.28. When a drug included in a manufacturer agreement entered into under section 5110.26 of the Revised Code is dispensed under the Ohio's best Rx program, the manufacturer payment amount that applies to the transaction shall be established in accordance with the following: 1316  
1317  
1318  
1319  
1320

(A) For purposes of the amount to be paid by the manufacturer, the manufacturer payment amount shall be computed by multiplying the per unit amount specified for the drug in the manufacturer agreement by the number of units dispensed. 1321  
1322  
1323  
1324

(B) For purposes of the amount that a participant is to be charged under section 5110.10 of the Revised Code and the amount to be paid for claims under section 5110.23 of the Revised Code, both of the following apply: 1325  
1326  
1327  
1328

(1) If a program administration percentage is not determined by the department of job and family services in rules adopted under section 5110.35 of the Revised Code, the manufacturer payment amount shall be the same as the manufacturer payment amount computed under division (A) of this section. 1329  
1330  
1331  
1332  
1333

(2) If a program administration percentage is determined by the department, the manufacturer payment amount shall be computed as follows: 1334  
1335  
1336

(a) Multiply the per unit amount specified for the drug in the agreement by the program administration percentage; 1337  
1338

(b) Subtract the product determined under division (B)(2)(a) of this section from the per unit amount specified for the drug in the agreement; 1339  
1340  
1341

(c) Multiply the per unit amount resulting from the computation under division (B)(2)(b) of this section by the number of units dispensed. 1342  
1343  
1344

Sec. 5110.29. In its negotiations with a drug manufacturer 1345  
proposing to enter into an agreement under section 5110.26 of the 1346  
Revised Code, the department of job and family services shall use 1347  
the best information on manufacturer payments that is available to 1348  
the department, including information obtained from the 1349  
verifications made under section 5110.30 of the Revised Code by 1350  
the Ohio's best Rx program's consulting pharmacy benefit manager 1351  
selected under section 5110.04 of the Revised Code. The department 1352  
shall use the information in an attempt to obtain manufacturer 1353  
payments that maximize the benefits provided to Ohio's best Rx 1354  
program participants. 1355

Sec. 5110.30. Annually, the department of job and family 1356  
services shall select a sample of not more than ten of the drugs 1357  
that were included in the manufacturer agreements entered into 1358  
under section 5110.26 of the Revised Code in the immediately 1359  
preceding year. The department shall submit to the program's 1360  
consulting pharmacy benefit manager selected under section 5110.04 1361  
of the Revised Code information that identifies the per unit 1362  
amount of the manufacturer payments that applied to each of the 1363  
drugs in the sample. 1364

The consulting pharmacy benefit manager shall review the 1365  
submitted information. After the review, the consulting pharmacy 1366  
benefit manager shall provide information to the department 1367  
verifying whether any of the per unit payment amounts that applied 1368  
to the selected drugs were more than two per cent lower than the 1369  
per unit payment amounts negotiated by the consulting pharmacy 1370  
benefit manager for the same drugs in connection with health 1371  
benefit plans that generally do not use formularies to restrict 1372  
the outpatient drug coverage included in the plans. The consulting 1373  
pharmacy benefit manager shall specify which, if any, of the drugs 1374  
in the sample were subject to the lower per unit payment amounts. 1375

The information provided to the department shall be certified by 1376  
signature of an officer of the consulting pharmacy benefit 1377  
manager. 1378

Sec. 5110.31. (A) The department of job and family services 1379  
shall seek from the centers for medicare and medicaid services of 1380  
the United States department of health and human services written 1381  
confirmation that manufacturer payments made pursuant to an 1382  
agreement entered into under section 5110.26 of the Revised Code 1383  
are exempt from the medicaid best price computation applicable 1384  
under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 1385  
42 U.S.C. 1396r-8, as amended. 1386

(B) Entering into a manufacturer agreement under section 1387  
5110.26 of the Revised Code does not require a drug manufacturer 1388  
to make a manufacturer payment that would establish the 1389  
manufacturer's medicaid best price for a drug. 1390

Sec. 5110.32. A drug manufacturer that enters into an 1391  
agreement under section 5110.26 of the Revised Code may submit a 1392  
request to the department of job and family services to audit 1393  
claims submitted under section 5110.22 of the Revised Code. On 1394  
submission of a request that the department considers reasonable, 1395  
the department shall permit the manufacturer to audit the claims. 1396

Sec. 5110.35. The department of job and family services shall 1397  
adopt rules in accordance with Chapter 119. of the Revised Code to 1398  
implement the Ohio's best Rx program. The rules shall provide for 1399  
all of the following: 1400

(A) Standards and procedures for establishing, pursuant to 1401  
section 5110.07 of the Revised Code, the base price for each drug 1402  
included in the program; 1403

(B) Determination of family income for the purpose of 1404

division (A)(2)(a) of section ~~5110.05~~ 5110.14 of the Revised Code; 1405

~~(B)(C)~~ For the purpose of ~~division (B) of section 5110.05~~ 1406  
5110.15 of the Revised Code, the application ~~and annual~~ 1407  
~~reapplication~~ process for the program, including the information 1408  
and documentation to be submitted with applications ~~and~~ 1409  
~~reapplications for the purpose of verifying~~ to verify eligibility 1410  
and a process to be used in certifying that an applicant has 1411  
attested to the accuracy of the submitted information and 1412  
documentation; 1413

~~(C) For the purpose of division (B) of section 5110.05 of the~~ 1414  
~~Revised Code and subject to section 5110.351 of the Revised Code,~~ 1415  
~~the application form for the program;~~ 1416

(D) The method of providing information about the medicaid 1417  
program to applicants under section ~~5110.07~~ 5110.16 of the Revised 1418  
Code; 1419

(E) For the purpose of section ~~5110.08~~ 5110.17 of the Revised 1420  
Code, eligibility determination procedures; 1421

(F) Standards and procedures governing the drug mail order 1422  
system included in the program pursuant to section 5110.19 of the 1423  
Revised Code; 1424

(G) Subject to section 5110.352 of the Revised Code, 1425  
periodically increasing the maximum professional fee that 1426  
participating terminal distributors may charge Ohio's best Rx 1427  
program participants pursuant to an agreement entered into under 1428  
section ~~5110.12~~ 5110.20 of the Revised Code ~~or the Ohio's best Rx~~ 1429  
~~program administrator may charge under a contract entered into~~ 1430  
~~under section 5110.10 of the Revised Code;~~ 1431

~~(G)(H)~~ Subject to section 5110.353 of the Revised Code, the 1432  
amount of the administrative fee, if any, ~~participating terminal~~ 1433  
~~distributors are to charge~~ that Ohio's best Rx program 1434  
participants ~~under section 5110.12 of the Revised Code or the~~ 1435



~~Ohio's best Rx program administrator may charge under a contract~~ 1436  
~~entered into under section 5110.10 of the Revised Code~~ are to be 1437  
charged under the program; 1438

~~(H)(I)~~ The electronic method for ~~participating terminal~~ 1439  
~~distributors and the Ohio's best Rx program administrator to~~ 1440  
~~submit~~ submission of claims to the department under section 1441  
~~5110.16~~ 5110.22 of the Revised Code; 1442

~~(I)(J)~~ Additional information ~~participating terminal~~ 1443  
~~distributors and the Ohio's best Rx program administrator shall~~ 1444  
~~include~~ to be included on claims submitted under section ~~5110.16~~ 1445  
5110.22 of the Revised Code that the department determines is 1446  
necessary for the department to be able to make payments under 1447  
section ~~5110.17~~ 5110.23 of the Revised Code; 1448

~~(J)(K)~~ The method for making payments ~~to participating~~ 1449  
~~terminal distributors or the Ohio's best Rx program administrator~~ 1450  
under section ~~5110.17~~ 5110.23 of the Revised Code; 1451

~~(K)(L)~~ Subject to section 5110.354 of the Revised Code, the 1452  
percentage, if any, that is the ~~rebate~~ program administration 1453  
percentage; 1454

~~(L)(M)~~ If the department determines it is best that 1455  
participating manufacturers make ~~rebates~~ payments pursuant to 1456  
manufacturer agreements entered into under section ~~5110.21~~ 5110.26 1457  
of the Revised Code on a basis other than quarterly, a schedule 1458  
for ~~payment of the rebates~~ making the payments; 1459

~~(M)~~ The ~~process for the department of administrative services~~ 1460  
~~and state retirement systems to calculate and submit the~~ 1461  
~~information required by section 5110.25 of the Revised Code;~~ 1462

(N) Procedures for making computations under sections ~~5110.21~~ 1463  
5110.10 and ~~5110.27~~ 5110.28 of the Revised Code; 1464

(O) Standards and procedures for the use and preservation of 1465

records regarding the Ohio's best Rx program ~~by the department and~~ 1466  
~~the Ohio's best Rx program administrator~~ pursuant to section 1467  
5110.59 of the Revised Code; 1468

~~(P) For the purpose of section 5110.10 of the Revised Code,~~ 1469  
~~the standards and procedures governing the operation of the mail~~ 1470  
~~order system by the Ohio's best Rx program administrator;~~ 1471

~~(Q)~~ The efficient administration of other provisions of this 1472  
chapter for which the department determines rules are necessary. 1473

**Sec. 5110.352.** As used in this section, "medicaid dispensing 1474  
fee" means the dispensing fee established under section 5111.071 1475  
of the Revised Code for the medicaid program. 1476

In adopting a rule under division ~~(F)~~ (G) of section 5110.35 1477  
of the Revised Code increasing the maximum amount of the 1478  
professional fee participating terminal distributors may charge 1479  
Ohio's best Rx program participants pursuant to an agreement 1480  
entered into under section ~~5110.12~~ 5110.20 of the Revised Code ~~and~~ 1481  
~~the Ohio's best Rx program administrator may charge under a~~ 1482  
~~contract entered into under section 5110.10 of the Revised Code,~~ 1483  
the department of job and family services shall review the amount 1484  
of the professional fee once a year or, at the department's 1485  
discretion, at more frequent intervals ~~and~~. The department shall 1486  
not increase the professional fee to an amount exceeding the 1487  
medicaid dispensing fee. 1488

A participating terminal distributor ~~and the Ohio's best Rx~~ 1489  
~~program administrator~~ may charge a maximum three dollar 1490  
professional fee regardless of whether the medicaid dispensing fee 1491  
for that drug is less than that amount. The department, however, 1492  
may not adopt a rule increasing the maximum professional fee for 1493  
that drug until the medicaid dispensing fee for that drug exceeds 1494  
that amount. 1495

**Sec. 5110.353.** (A) Once a year or, at the discretion of the 1496  
department of job and family services, at more frequent intervals, 1497  
the department shall determine the amount, if any, ~~to be specified~~ 1498  
~~in a rule adopted under division (C) of section 5110.35 of the~~ 1499  
~~Revised Code as the administrative fee. In determining the amount~~ 1500  
~~of the administrative fee, the department shall determine an~~ 1501  
~~amount, not exceeding~~ that each Ohio's best Rx program participant 1502  
will be charged as an administrative fee to be used in paying the 1503  
administrative costs of the program. The fee, which shall not 1504  
exceed one dollar per transaction, shall be specified in rules 1505  
adopted under section 5110.35 of the Revised Code. In adopting the 1506  
rules, the department shall specify a fee that results in an 1507  
amount that equals or is less than the amount needed to cover the 1508  
administrative costs of the Ohio's best Rx program when added to 1509  
the sum of the following: 1510

(1) The amount resulting from the ~~application of the rebate~~ 1511  
~~program~~ administration percentage, if the department determines a 1512  
program administration percentage in rules adopted under section 1513  
5110.35 of the Revised Code; 1514

(2) The investment earnings of the Ohio's best Rx program 1515  
fund created by section ~~5110.32~~ 5110.42 of the Revised Code; 1516

(3) Any amounts accepted by the department as donations to 1517  
the Ohio's best Rx program fund. 1518

(B) Once a year or, at the discretion of the department, at 1519  
more frequent intervals, the department shall report the 1520  
methodology underlying the determination of the administrative fee 1521  
to the Ohio's best Rx program council. 1522

**Sec. 5110.354.** (A) At least once a year or, at the discretion 1523  
of the department of job and family services, at more frequent 1524  
intervals, the department shall determine the percentage, if any, 1525

to be specified in a rule adopted under division (K) of section 1526  
5110.35 of the Revised Code as the rebate administration 1527  
percentage of each manufacturer payment made under an agreement 1528  
entered into under section 5110.26 of the Revised Code that will 1529  
be retained by the department for use in paying the administrative 1530  
costs of the Ohio's best Rx program. The percentage, which shall 1531  
not exceed five per cent, shall ~~result~~ be specified in rules 1532  
adopted under section 5110.35 of the Revised Code. In adopting the 1533  
rules, the department shall specify a percentage that results in 1534  
an amount that equals or is less than the amount needed to cover 1535  
the administrative costs of the Ohio's best Rx program when added 1536  
to the sum of the following: 1537

(1) The amount resulting from administrative fee ~~specified in~~ 1538  
fees, if the department determines an administrative fee in rules 1539  
adopted under section ~~5110.353~~ 5110.35 of the Revised Code; 1540

(2) The investment earnings of the Ohio's best Rx program 1541  
fund created by section ~~5110.32~~ 5110.42 of the Revised Code; 1542

(3) Any amounts accepted by the department as donations to 1543  
the Ohio's best Rx program fund. 1544

(B) Once a year or, at the discretion of the department, at 1545  
more frequent intervals, the department shall report the 1546  
methodology underlying the determination of the ~~rebate program~~ 1547  
administration percentage to the Ohio's best Rx program council. 1548

**Sec. 5110.38.** The department of job and family services may 1549  
coordinate the Ohio's best Rx program with ~~a state~~ any health 1550  
benefit plan ~~to enhance~~ offered to the employees of state agencies 1551  
and the eligible dependents of those employees, for purposes of 1552  
enhancing efficiency, ~~reduce~~ reducing the cost of drugs, and 1553  
~~maximize~~ maximizing the benefits of the Ohio's best Rx program and 1554  
~~state the health benefit plans~~ plan. 1555

Sec. 5110.39. The department of job and family services may 1556  
establish a component of the Ohio's best Rx program under which 1557  
subsidies are provided to participants to assist them with the 1558  
cost of purchasing drugs under the program, including the cost of 1559  
any professional fees charged for dispensing the drugs. The 1560  
subsidies shall be provided only when the Ohio's best Rx 1561  
administration fund created under section 5110.43 of the Revised 1562  
Code includes an amount that exceeds the amount necessary to pay 1563  
the administrative costs of the program. 1564

~~Sec. 5110.32~~ 5110.42. (A) The Ohio's best Rx program fund is 1565  
hereby created. The fund shall be in the custody of the treasurer 1566  
of state, but shall not be part of the state treasury. The fund 1567  
shall consist of the following: 1568

(1) ~~Rebate~~ Manufacturer payments made by participating 1569  
manufacturers ~~made~~ pursuant to agreements entered into under 1570  
section ~~5110.21~~ 5110.26 of the Revised Code; 1571

(2) Administrative fees, if an administrative fee is 1572  
determined by the department of job and family services in rules 1573  
adopted under section 5110.35 of the Revised Code; 1574

(3) Any amounts donated to the fund and accepted by the 1575  
department; 1576

(4) The fund's investment earnings. 1577

(B) ~~The department of job and family services shall use money~~ 1578  
Money in the Ohio's best Rx program fund shall be used to make 1579  
payments to participating terminal distributors and the Ohio's 1580  
best Rx program administrator under section ~~5110.17~~ 5110.23 of the 1581  
Revised Code and to make transfers to the Ohio's best Rx 1582  
administration fund in accordance with section 5110.43 of the 1583  
Revised Code. 1584

~~Sec. 5110.33~~ 5110.43. (A) The Ohio's best Rx administration 1585  
fund is hereby created in the state treasury. The treasurer of 1586  
state shall transfer from the Ohio's best Rx program fund to the 1587  
Ohio's best Rx administration fund amounts equal to the following: 1588

(1) Amounts resulting from application of the ~~rebate program~~ 1589  
administration percentage, if a program administration percentage 1590  
is determined by the department of job and family services in 1591  
rules adopted under section ~~5110.354~~ 5110.35 of the Revised Code; 1592

(2) The amount of the administrative fees charged Ohio's best 1593  
Rx participants, if an administrative fee is determined by the 1594  
department of job and family services in rules adopted under 1595  
section 5110.35 of the Revised Code; 1596

(3) The amount of any donations credited to the Ohio's best 1597  
Rx program fund; 1598

(4) The amount of investment earnings credited to the Ohio's 1599  
best Rx program fund. 1600

The treasurer of state shall make the transfers in accordance 1601  
with a schedule developed by the treasurer of state and the 1602  
department of job and family services. 1603

(B) The department of job and family services shall use money 1604  
in the Ohio's best Rx administration fund to pay the 1605  
administrative costs of the Ohio's best Rx program, including, but 1606  
not limited to, costs associated with contracted services, staff, 1607  
outreach activities, computers and network services, and the 1608  
Ohio's best Rx program council. If the fund includes an amount 1609  
that exceeds the amount necessary to pay the administrative costs 1610  
of the program, the department may use the excess amount to pay 1611  
the cost of subsidies provided to Ohio's best Rx program 1612  
participants under any subsidy program established pursuant to 1613  
section 5110.39 of the Revised Code. 1614

**Sec. ~~5110.23~~ 5110.54.** (A) The department of job and family services shall compile both of the following lists regarding the Ohio's best Rx program:

(1) A list consisting of the name of each drug manufacturer that enters into a ~~rebate~~ manufacturer agreement under section 5110.21 of the Revised Code and the names of the drugs included in each ~~rebate~~ manufacturer agreement;

(2) A list consisting of the name of each participating terminal distributor and the name of the drug mail order system included in the program pursuant to section 5110.19 of the Revised Code.

(B) As part of the list compiled under division (A)(1) of this section, the department may include aggregate information regarding the drugs selected under section 5110.30 of the Revised Code that were verified under that section as having per unit manufacturer payment amounts that were not more than two per cent lower than the per unit payment amounts negotiated for the same drugs by the program's consulting pharmacy benefit manager selected under section 5110.04 of the Revised Code. The information shall not identify a specific drug and shall be expressed only as a percentage of the sample of drugs selected under section 5110.30 of the Revised Code.

(C) The lists compiled under this section are public records for the purpose of section 149.43 of the Revised Code. The department shall specifically make the lists available to physicians, participating terminal distributors, and other health professionals.

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

(A) Drug manufacturers;	1645
(B) Terminal distributors of dangerous drugs;	1646
<del>(C) The Ohio's best Rx program administrator;</del>	1647
<del>(D) The department of job and family services;</del>	1648
<del>(E) The department of administrative services;</del>	1649
<del>(F) The state retirement systems;</del>	1650
<del>(G) A state health benefit plan or state retirement system health benefit plan;</del>	1651 1652
<del>(H)</del> (D) <u>The program's consulting pharmacy benefit manager selected under section 5110.04 of the Revised Code;</u>	1653 1654
<u>(E) Ohio's best Rx program participants;</u>	1655
<del>(I)</del> (F) Any other government entity or person.	1656
<b>Sec. 5110.56.</b> (A) Except as provided by section 5110.57 of the Revised Code, all of the following are trade secrets, are not public records for the purposes of section 149.43 of the Revised Code, and shall not be used, released, published, or disclosed in a form that reveals a specific drug or the identity of a drug manufacturer:	1657 1658 1659 1660 1661 1662
(1) The amounts determined under section <del>5110.17</del> <u>5110.23</u> of the Revised Code <u>for payment of claims submitted by participating terminal distributors and the drug mail order system included in the Ohio's best Rx program pursuant to section 5110.19 of the Revised Code;</u>	1663 1664 1665 1666 1667
(2) Information disclosed in a <del>rebate</del> <u>manufacturer</u> agreement <u>entered into under section 5110.26 of the Revised Code</u> or in communications related to a <del>rebate</del> <u>an</u> agreement;	1668 1669 1670
(3) <del>Information that the department of administrative services and state retirement systems submit to the department of</del>	1671 1672



~~job and family services under divisions (A)(3) and (4) of section 1673  
5110.25 of the Revised Code Drug pricing and drug manufacturer 1674  
payment information verified under sections 5110.09 and 5110.30 of 1675  
the Revised Code by the program's consulting pharmacy benefit 1676  
manager selected under section 5110.04 of the Revised Code; 1677~~

(4) Information contained in or pertaining to an audit 1678  
provided for by the program's consulting pharmacy benefit manager 1679  
under section 5110.05 of the Revised Code; 1680

~~(5) The elements of the computations under division (C) of 1681  
section 5110.21 of the Revised Code and under section 5110.27 made 1682  
pursuant to sections 5110.10, 5110.23, and 5110.28 of the Revised 1683  
Code and any results of those computations that reveal or could be 1684  
used to reveal the ~~drug pricing or rebate information and 1685~~  
manufacturer payment amounts used to make the computations. 1686~~

(B) No person or government entity shall use or reveal any 1687  
information specified in division (A) of this section except as 1688  
required for the implementation of this chapter. 1689

**Sec. 5110.57.** Sections 5110.55 and 5110.56 of the Revised 1690  
Code shall not preclude the department of job and family services 1691  
from disclosing information necessary for the implementation of 1692  
this chapter, including the amount an Ohio's best Rx program price 1693  
participant is to participating terminal distributors or the 1694  
Ohio's best Rx program administrator be charged when the amount is 1695  
disclosed under section ~~5110.29~~ 5110.11 of the Revised Code to 1696  
participating terminal distributors or the drug mail order system 1697  
included in the program pursuant to section 5110.19 of the Revised 1698  
Code. 1699

**Sec. 5110.58.** (A) As used in this section, "identifying 1700  
information" means information that identifies or could be used to 1701  
identify an Ohio's best Rx program applicant or participant. 1702

"Identifying information" does not include aggregate information 1703  
about applicants and participants that does not identify and could 1704  
not be used to identify an individual applicant or participant. 1705

(B) Except as provided in divisions (C), (D), and (E) of this 1706  
section, no person or government entity shall sell, solicit, 1707  
disclose, receive, or use identifying information or knowingly 1708  
permit the use of identifying information. 1709

(C)(1) The department of job and family services ~~and the~~ 1710  
~~Ohio's best Rx program administrator~~ may solicit, disclose, 1711  
receive, or use identifying information or knowingly permit the 1712  
use of identifying information for a purpose directly connected to 1713  
the administration of the Ohio's best Rx program, including 1714  
disclosing and knowingly permitting the use of identifying 1715  
information included in a claim that a participating manufacturer 1716  
audits pursuant to ~~division (D) of~~ section ~~5110.21~~ 5110.32 of the 1717  
Revised Code, contacting Ohio's best Rx program applicants or 1718  
participants regarding participation in the program, and notifying 1719  
applicants and participants regarding participating terminal 1720  
distributors and the drug mail order system included in the 1721  
program pursuant to section 5110.19 of the Revised Code. 1722

(2) The department ~~and administrator~~ may solicit, disclose, 1723  
receive, or use identifying information or knowingly permit the 1724  
use of identifying information to the extent required by federal 1725  
law. 1726

(3) The department ~~and administrator~~ may disclose identifying 1727  
information to the Ohio's best Rx program applicant or participant 1728  
who is the subject of that information or to the parent, spouse, 1729  
guardian, or custodian of that applicant or participant. 1730

(D)(1) A participating terminal distributor ~~or the Ohio's~~ 1731  
~~best Rx program administrator~~ may solicit, disclose, receive, or 1732  
use identifying information or knowingly permit the use of 1733

identifying information to the extent required or permitted by an 1734  
agreement the distributor enters into under section ~~5110.12~~ 1735  
5110.20 of the Revised Code ~~or a contract the administrator enters~~ 1736  
~~into under section 5110.10 of the Revised Code.~~ 1737

(2) Subject to division (B) of section 5110.19 of the Revised 1738  
Code, the drug mail order system included in the program pursuant 1739  
to section 5110.19 of the Revised Code may solicit, disclose, 1740  
receive, or use identifying information or knowingly permit the 1741  
use of identifying information to the extent required or permitted 1742  
by the department. 1743

(E) A participating manufacturer may, for the purpose of 1744  
auditing a claim pursuant to ~~division (D) of section 5110.21~~ 1745  
5110.32 of the Revised Code, solicit, receive, and use identifying 1746  
information included in the claim. 1747

**Sec. 5110.59.** ~~The (A) Except as provided in division (B) of~~ 1748  
~~this section, the~~ department of job and family services ~~and the~~ 1749  
~~Ohio's best Rx program administrator~~ shall use and preserve 1750  
records regarding the Ohio's best Rx program in accordance with 1751  
rules adopted under section 5110.35 of the Revised Code. ~~This~~ 1752  
~~section applies to the department's or administrator's use and~~ 1753  
~~preservation of~~ The department shall use and preserve the records 1754  
in accordance with those rules, regardless of whether the 1755  
department generated the records or received or generated by the 1756  
department, any other them from another government entity, or any 1757  
person. 1758

(B) All records received by the department under sections 1759  
5110.09 and 5110.30 of the Revised Code from the program's 1760  
consulting pharmacy benefit manager selected under section 5110.04 1761  
of the Revised Code shall be destroyed promptly after the 1762  
department has completed the purpose for which the information 1763  
contained in the records was obtained. 1764

**Section 2.** That existing sections 127.16, 2921.13, 5110.01, 1765  
5110.02, 5110.05, 5110.07, 5110.08, 5110.09, 5110.12, 5110.13, 1766  
5110.16, 5110.17, 5110.18, 5110.19, 5110.21, 5110.23, 5110.29, 1767  
5110.32, 5110.33, 5110.35, 5110.352, 5110.353, 5110.354, 5110.38, 1768  
5110.39, 5110.55, 5110.56, 5110.57, 5110.58, and 5110.59 and 1769  
sections 5110.03, 5110.10, 5110.11, 5110.14, 5110.15, 5110.22, 1770  
5110.25, 5110.26, 5110.27, 5110.28, and 5110.351 of the Revised 1771  
Code are hereby repealed. 1772

**Section 3.** All duties and any other obligations of the 1773  
Department of Administrative Services, Public Employees Retirement 1774  
System, State Teachers Retirement System, School Employees 1775  
Retirement System, Ohio Police and Fire Pension Fund, and State 1776  
Highway Patrol Retirement System pertaining to the Ohio's Best Rx 1777  
Program, as specified in Chapter 5110. of the Revised Code as it 1778  
existed prior to the effective date of Sections 1 and 2 of this 1779  
act, are hereby eliminated. 1780

**Section 4.** That sections 127.16, 173.06, 173.062, 173.99, 1781  
2921.13, 5110.01, 5110.02, 5110.021, 5110.03, 5110.04, 5110.05, 1782  
5110.07, 5110.08, 5110.09, 5110.10, 5110.11, 5110.12, 5110.13, 1783  
5110.14, 5110.15, 5110.16, 5110.17, 5110.18, 5110.19, 5110.20, 1784  
5110.21, 5110.22, 5110.23, 5110.24, 5110.25, 5110.26, 5110.27, 1785  
5110.28, 5110.29, 5110.30, 5110.31, 5110.32, 5110.35, 5110.352, 1786  
5110.353, 5110.354, 5110.36, 5110.37, 5110.38, 5110.39, 5110.40, 1787  
5110.42, 5110.43, 5110.45, 5110.47, 5110.54, 5110.55, 5110.56, 1788  
5110.57, 5110.58, and 5110.59 be amended and sections 173.062 1789  
(173.061), 5110.01 (173.71), 5110.02 (173.72), 5110.021 (173.721), 1790  
5110.03 (173.73), 5110.04 (173.731), 5110.05 (173.732), 5110.07 1791  
(173.74), 5110.08 (173.741), 5110.09 (173.742), 5110.10 (173.75), 1792  
5110.11 (173.751), 5110.12 (173.752), 5110.13 (173.753), 5110.14 1793  
(173.76), 5110.15 (173.77), 5110.16 (173.771), 5110.17 (173.772), 1794

5110.18 (173.773), 5110.19 (173.78), 5110.20 (173.79), 5110.21 1795  
(173.791), 5110.22 (173.80), 5110.23 (173.801), 5110.24 (173.802), 1796  
5110.25 (173.803), 5110.26 (173.81), 5110.27 (173.811), 5110.28 1797  
(173.812), 5110.29 (173.813), 5110.30 (173.814), 5110.31 1798  
(173.815), 5110.32 (173.82), 5110.35 (173.83), 5110.352 (173.831), 1799  
5110.353 (173.832), 5110.354 (173.833), 5110.36 (173.84), 5110.37 1800  
(173.722), 5110.38 (173.724), 5110.39 (173.861), 5110.40 1801  
(173.723), 5110.42 (173.85), 5110.43 (173.86), 5110.45 (173.87), 1802  
5110.46 (173.871), 5110.47 (173.872), 5110.48 (173.873), 5110.49 1803  
(173.874), 5110.50 (173.875), 5110.51 (173.876), 5110.54 (173.88), 1804  
5110.55 (173.89), 5110.56 (173.891), 5110.57 (173.892), 5110.58 1805  
(173.90), and 5110.59 (173.91) of the Revised Code be amended for 1806  
the purpose of adopting new section numbers as indicated in 1807  
parentheses to read as follows: 1808

**Sec. 127.16.** (A) Upon the request of either a state agency or 1809  
the director of budget and management and after the controlling 1810  
board determines that an emergency or a sufficient economic reason 1811  
exists, the controlling board may approve the making of a purchase 1812  
without competitive selection as provided in division (B) of this 1813  
section. 1814

(B) Except as otherwise provided in this section, no state 1815  
agency, using money that has been appropriated to it directly, 1816  
shall: 1817

(1) Make any purchase from a particular supplier, that would 1818  
amount to fifty thousand dollars or more when combined with both 1819  
the amount of all disbursements to the supplier during the fiscal 1820  
year for purchases made by the agency and the amount of all 1821  
outstanding encumbrances for purchases made by the agency from the 1822  
supplier, unless the purchase is made by competitive selection or 1823  
with the approval of the controlling board; 1824

(2) Lease real estate from a particular supplier, if the 1825

lease would amount to seventy-five thousand dollars or more when 1826  
combined with both the amount of all disbursements to the supplier 1827  
during the fiscal year for real estate leases made by the agency 1828  
and the amount of all outstanding encumbrances for real estate 1829  
leases made by the agency from the supplier, unless the lease is 1830  
made by competitive selection or with the approval of the 1831  
controlling board. 1832

(C) Any person who authorizes a purchase in violation of 1833  
division (B) of this section shall be liable to the state for any 1834  
state funds spent on the purchase, and the attorney general shall 1835  
collect the amount from the person. 1836

(D) Nothing in division (B) of this section shall be 1837  
construed as: 1838

(1) A limitation upon the authority of the director of 1839  
transportation as granted in sections 5501.17, 5517.02, and 1840  
5525.14 of the Revised Code; 1841

(2) Applying to medicaid provider agreements under Chapter 1842  
5111. of the Revised Code or payments or provider agreements under 1843  
the disability medical assistance program established under 1844  
Chapter 5115. of the Revised Code; 1845

(3) Applying to the purchase of examinations from a sole 1846  
supplier by a state licensing board under Title XLVII of the 1847  
Revised Code; 1848

(4) Applying to entertainment contracts for the Ohio state 1849  
fair entered into by the Ohio expositions commission, provided 1850  
that the controlling board has given its approval to the 1851  
commission to enter into such contracts and has approved a total 1852  
budget amount for such contracts as agreed upon by commission 1853  
action, and that the commission causes to be kept itemized records 1854  
of the amounts of money spent under each contract and annually 1855  
files those records with the clerk of the house of representatives 1856

- and the clerk of the senate following the close of the fair; 1857
- (5) Limiting the authority of the chief of the division of 1858  
mineral resources management to contract for reclamation work with 1859  
an operator mining adjacent land as provided in section 1513.27 of 1860  
the Revised Code; 1861
- (6) Applying to investment transactions and procedures of any 1862  
state agency, except that the agency shall file with the board the 1863  
name of any person with whom the agency contracts to make, broker, 1864  
service, or otherwise manage its investments, as well as the 1865  
commission, rate, or schedule of charges of such person with 1866  
respect to any investment transactions to be undertaken on behalf 1867  
of the agency. The filing shall be in a form and at such times as 1868  
the board considers appropriate. 1869
- (7) Applying to purchases made with money for the per cent 1870  
for arts program established by section 3379.10 of the Revised 1871  
Code; 1872
- (8) Applying to purchases made by the rehabilitation services 1873  
commission of services, or supplies, that are provided to persons 1874  
with disabilities, or to purchases made by the commission in 1875  
connection with the eligibility determinations it makes for 1876  
applicants of programs administered by the social security 1877  
administration; 1878
- (9) Applying to payments by the department of job and family 1879  
services under section 5111.13 of the Revised Code for group 1880  
health plan premiums, deductibles, coinsurance, and other 1881  
cost-sharing expenses; 1882
- (10) Applying to any agency of the legislative branch of the 1883  
state government; 1884
- (11) Applying to agreements or contracts entered into under 1885  
section 5101.11, 5101.20, 5101.201, 5101.21, or 5101.214 of the 1886

Revised Code;	1887
(12) Applying to purchases of services by the adult parole authority under section 2967.14 of the Revised Code or by the department of youth services under section 5139.08 of the Revised Code;	1888 1889 1890 1891
(13) Applying to dues or fees paid for membership in an organization or association;	1892 1893
(14) Applying to purchases of utility services pursuant to section 9.30 of the Revised Code;	1894 1895
(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;	1896 1897 1898 1899
(16) Applying to purchases of tickets for passenger air transportation;	1900 1901
(17) Applying to purchases necessary to provide public notifications required by law or to provide notifications of job openings;	1902 1903 1904
(18) Applying to the judicial branch of state government;	1905
(19) Applying to purchases of liquor for resale by the division of liquor control;	1906 1907
(20) Applying to purchases of motor courier and freight services made in accordance with department of administrative services rules;	1908 1909 1910
(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;	1911 1912 1913 1914
(22) Applying to purchases of books, periodicals, pamphlets,	1915



newspapers, maintenance subscriptions, and other published	1916
materials;	1917
(23) Applying to purchases from other state agencies,	1918
including state-assisted institutions of higher education;	1919
(24) Limiting the authority of the director of environmental	1920
protection to enter into contracts under division (D) of section	1921
3745.14 of the Revised Code to conduct compliance reviews, as	1922
defined in division (A) of that section;	1923
(25) Applying to purchases from a qualified nonprofit agency	1924
pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of	1925
the Revised Code;	1926
(26) Applying to payments by the department of job and family	1927
services to the United States department of health and human	1928
services for printing and mailing notices pertaining to the tax	1929
refund offset program of the internal revenue service of the	1930
United States department of the treasury;	1931
(27) Applying to contracts entered into by the department of	1932
mental retardation and developmental disabilities under sections	1933
5123.18, 5123.182, and 5123.199 of the Revised Code;	1934
(28) Applying to payments made by the department of mental	1935
health under a physician recruitment program authorized by section	1936
5119.101 of the Revised Code;	1937
(29) Applying to contracts entered into with persons by the	1938
director of commerce for unclaimed funds collection and remittance	1939
efforts as provided in division (F) of section 169.03 of the	1940
Revised Code. The director shall keep an itemized accounting of	1941
unclaimed funds collected by those persons and amounts paid to	1942
them for their services.	1943
(30) Applying to purchases made by a state institution of	1944
higher education in accordance with the terms of a contract	1945

between the vendor and an inter-university purchasing group	1946
comprised of purchasing officers of state institutions of higher	1947
education;	1948
(31) Applying to the department of job and family services'	1949
purchases of health assistance services under the children's	1950
health insurance program part I provided for under section 5101.50	1951
of the Revised Code or the children's health insurance program	1952
part II provided for under section 5101.51 of the Revised Code;	1953
(32) Applying to payments by the attorney general from the	1954
reparations fund to hospitals and other emergency medical	1955
facilities for performing medical examinations to collect physical	1956
evidence pursuant to section 2907.28 of the Revised Code;	1957
(33) Applying to contracts with a contracting authority or	1958
administrative receiver under division (B) of section 5126.056 of	1959
the Revised Code;	1960
(34) Applying to reimbursements paid to the United States	1961
department of veterans affairs for pharmaceutical and patient	1962
supply purchases made on behalf of the Ohio veterans' home agency;	1963
(35) Applying to agreements entered into with terminal	1964
distributors of dangerous drugs under section <del>5110.20</del> <u>173.79</u> of	1965
the Revised Code.	1966
(E) Notwithstanding division (B)(1) of this section, the	1967
cumulative purchase threshold shall be seventy-five thousand	1968
dollars for the departments of mental retardation and	1969
developmental disabilities, mental health, rehabilitation and	1970
correction, and youth services.	1971
(F) When determining whether a state agency has reached the	1972
cumulative purchase thresholds established in divisions (B)(1),	1973
(B)(2), and (E) of this section, all of the following purchases by	1974
such agency shall not be considered:	1975

(1) Purchases made through competitive selection or with controlling board approval;	1976 1977
(2) Purchases listed in division (D) of this section;	1978
(3) For the purposes of the thresholds of divisions (B)(1) and (E) of this section only, leases of real estate.	1979 1980
(G) As used in this section, "competitive selection," "purchase," "supplies," and "services" have the same meanings as in section 125.01 of the Revised Code.	1981 1982 1983
<b>Sec. 173.06.</b> (A) The director of aging shall establish a golden buckeye card program and provide a golden buckeye card to any resident of this state who applies to the director for a card and is sixty years of age or older or is a person with a disability and is eighteen years of age or older. The director shall devise programs to provide benefits of any kind to card holders, and encourage support and participation in them by all persons, including governmental organizations. Card holders shall be entitled to any benefits granted to them by private persons or organizations, the laws of this state, or ordinances or resolutions of political subdivisions. This section does not require any person or organization to provide benefits to any card holder. The department of aging shall bear all costs of the program, <del>except that the department is not required to bear any costs related to the prescription drug programs established pursuant to section 173.061 of the Revised Code.</del>	1984 1985 1986 1987 1988 1989 1990 1991 1992 1993 1994 1995 1996 1997 1998 1999
(B) Before issuing a golden buckeye card to any person, the director shall establish the identity of any person who applies for a card and shall ascertain that such person is sixty years of age or older or is a person with a disability and is eighteen years of age or older. The director shall adopt rules under Chapter 119. of the Revised Code to prevent the issuance of cards	2000 2001 2002 2003 2004 2005

to persons not qualified to have them. Cards shall contain the  
signature of the card holder and any other information the  
director considers necessary to carry out the purposes of the  
golden buckeye card program under this section. Any card that the  
director issues shall be held in perpetuity by the original card  
holder and shall not be transferable to any other person. A person  
who loses the person's card may obtain another card from the  
director upon providing the same information to the director as  
was required for the issuance of the original card.

(C) No person shall use a golden buckeye card except to  
obtain a benefit for the holder of the card to which the holder is  
entitled under the conditions of the offer.

(D) As used in this section, "person with a disability" means  
a person who has some impairment of body or mind and has been  
certified as permanently and totally disabled by an agency of this  
state or the United States having the function of so classifying  
persons.

**Sec. ~~173.062~~ 173.061.** Records identifying the recipients of  
golden buckeye cards issued under section 173.06 of the Revised  
Code ~~or prescription drug cards issued under section 173.061 of~~  
~~the Revised Code~~ are not public records subject to inspection or  
copying under section 149.43 of the Revised Code and may be  
disclosed only at the discretion of the director of aging. The  
director may disclose only information in records identifying the  
recipients of golden buckeye cards ~~or prescription drug cards~~ that  
does not contain the recipient's medical history ~~or prescription~~  
~~drug utilization history.~~

**Sec. ~~5110.01~~ 173.71.** As used in ~~this chapter~~ sections 173.71  
to 173.91 of the Revised Code:

(A) "Children's health insurance program" means the

children's health insurance program part I and part II established	2036
under sections 5101.50 to 5101.5110 of the Revised Code.	2037
(B) "Disability medical assistance program" means the program	2038
established under section 5115.10 of the Revised Code.	2039
(C) "Medicaid program" or "medicaid" means the medical	2040
assistance program established under Chapter 5111. of the Revised	2041
Code.	2042
(D) "National drug code number" means the number registered	2043
for a drug pursuant to the listing system established by the	2044
United States food and drug administration under the "Drug Listing	2045
Act of 1972," 86 Stat. 559, 21 U.S.C. 360, as amended.	2046
(E) "Ohio's best Rx program participant" or "participant"	2047
means an individual determined eligible for the Ohio's best Rx	2048
program and included under an Ohio's best Rx program enrollment	2049
card.	2050
(F) "Participating manufacturer" means a drug manufacturer	2051
participating in the Ohio's best Rx program pursuant to a	2052
manufacturer agreement entered into under section <del>5110.26</del> <u>173.81</u>	2053
of the Revised Code.	2054
(G) "Participating terminal distributor" means a terminal	2055
distributor of dangerous drugs participating in the Ohio's best Rx	2056
program pursuant to an agreement entered into under section	2057
<del>5110.20</del> <u>173.79</u> of the Revised Code.	2058
(H) "Political subdivision" has the same meaning as in	2059
section 9.23 of the Revised Code.	2060
(I) "State agency" has the same meaning as in section 9.23 of	2061
the Revised Code.	2062
(J) "Terminal distributor of dangerous drugs" has the same	2063
meaning as in section 4729.01 of the Revised Code.	2064
(K) "Third-party payer" has the same meaning as in section	2065

3901.38 of the Revised Code. 2066

(L) "Trade secret" has the same meaning as in section 1333.61 2067  
of the Revised Code. 2068

(M) "Usual and customary charge" means the amount a 2069  
participating terminal distributor or the drug mail order system 2070  
included in the Ohio's best Rx program pursuant to section ~~5110.19~~ 2071  
173.78 of the Revised Code charges when a drug included in the 2072  
program is purchased by an individual who does not receive a 2073  
discounted price for the drug pursuant to any drug discount 2074  
program, including the Ohio's best Rx program, ~~a prescription drug~~ 2075  
~~discount card program established under section 173.061 of the~~ 2076  
~~Revised Code,~~ or a pharmacy assistance program established by any 2077  
person or government entity, and for whom no third-party payer or 2078  
program funded in whole or part with state or federal funds is 2079  
responsible for all or part of the cost of the drug. 2080

**Sec. ~~5110.02~~ 173.72.** There is hereby established the Ohio's 2081  
best Rx program for the purpose of providing outpatient 2082  
prescription drug discounts to individuals residing in this state 2083  
who are enrolled in the program by meeting the eligibility 2084  
requirements specified in section ~~5110.14~~ 173.76 of the Revised 2085  
Code, including eligible individuals who are sixty years of age or 2086  
older, eligible individuals who have low incomes but are not 2087  
eligible for medicaid, and other eligible individuals who do not 2088  
have health benefits that cover outpatient drugs. The program 2089  
shall include all drugs that are included in a manufacturer 2090  
agreement entered into under section ~~5110.26~~ 173.81 of the Revised 2091  
Code and all other drugs that may be dispensed only pursuant to a 2092  
prescription issued by a licensed health professional authorized 2093  
to prescribe drugs, as defined in section 4729.01 of the Revised 2094  
Code. 2095

**Sec. ~~5110.021~~ 173.721.** (A) Except as provided in division (B) 2096  
of this section, the Ohio's best Rx program shall be administered 2097  
by the department of ~~job and family services~~ aging. 2098

(B)(1) The department may enter into a contract with any 2099  
person under which the person serves as the administrator of the 2100  
Ohio's best Rx program. Before entering into a contract for a 2101  
program administrator, the department shall issue a request for 2102  
proposals from persons seeking to be considered. The department 2103  
shall develop a process to be used in issuing the request for 2104  
proposals, receiving responses to the request, and evaluating the 2105  
responses on a competitive basis. In accordance with that process, 2106  
the department shall select the person to be awarded the contract. 2107

(2) Subject to divisions (B)(5) and (6) of this section, the 2108  
department may delegate to the person awarded the contract any of 2109  
the department's powers or duties specified in ~~this chapter~~ 2110  
sections 173.71 to 173.91 of the Revised Code or any other 2111  
provision of the Revised Code pertaining to the Ohio's best Rx 2112  
program. The terms of the contract shall specify the extent to 2113  
which the powers or duties are delegated to the program 2114  
administrator. 2115

(3) In exercising powers or performing duties delegated under 2116  
the contract, the program administrator is subject to the same 2117  
provisions of ~~this chapter~~ sections 173.71 to 173.91 of the 2118  
Revised Code or other provisions of the Revised Code that grant 2119  
the powers or duties to the department, as well as any limitations 2120  
or restrictions that are applicable to or associated with those 2121  
powers or duties. 2122

(4) Wherever the department is referred to in ~~this chapter~~ 2123  
sections 173.71 to 173.91 of the Revised Code or another provision 2124  
of the Revised Code relative to a power or duty delegated to the 2125  
program administrator, both of the following apply: 2126

(a) If the department has delegated the power or duty in whole to the program administrator, the reference to the department is, instead, a reference to the administrator.

(b) If the department retains any part of the power or duty that is delegated to the program administrator, the reference to the department is a reference to both the department and the administrator.

(5) The terms of a contract for a program administrator shall include provisions for offering the drug mail order system included in the Ohio's best Rx program pursuant to section ~~5110.19~~ 173.78 of the Revised Code. The terms of the contract may permit the administrator to offer the drug mail order system by contracting with another person.

(6) The department shall not delegate to a program administrator the department's powers or duties to do any of the following:

(a) Enter into contracts under this section other than a contract to offer a drug mail order system;

(b) Receive verification of drug pricing information under section ~~5110.09~~ 173.742 of the Revised Code or verification of drug manufacturer payment information under section ~~5110.30~~ 173.814 of the Revised Code from the pharmacy benefit manager selected under section ~~5110.04~~ 173.731 of the Revised Code to serve as the Ohio's best Rx program's consulting pharmacy benefit manager;

(c) Request the program's consulting pharmacy benefit manager to provide for an audit under section ~~5110.05~~ 173.732 of the Revised Code;

(d) Review or use any information contained in or pertaining to an audit provided for by the program's consulting pharmacy



benefit manager other than the audit's findings of whether the 2157  
consulting pharmacy benefit manager provided valid information 2158  
when providing drug pricing verification services or drug 2159  
manufacturer payment verification services; 2160

(e) Adopt rules under section ~~5110.35~~ 173.83 or ~~5110.36~~ 2161  
173.84 of the Revised Code; 2162

(f) Employ an ombudsperson pursuant to section ~~5110.40~~ 2163  
173.723 of the Revised Code. 2164

**Sec. ~~5110.37~~ 173.722.** The department of ~~job and family~~ 2165  
~~services~~ aging shall undertake outreach efforts to publicize the 2166  
Ohio's best Rx program and maximize participation in the program. 2167

**Sec. ~~5110.40~~ 173.723.** The department of ~~job and family~~ 2168  
~~services~~ aging shall employ an ombudsperson to assist terminal 2169  
distributors of dangerous drugs with grievances regarding the 2170  
Ohio's best Rx program. 2171

**Sec. ~~5110.38~~ 173.724.** The department of ~~job and family~~ 2172  
~~services~~ aging may coordinate the Ohio's best Rx program with ~~any~~ 2173  
either of the following: 2174

(A) The golden buckeye card program established under section 2175  
173.06 of the Revised Code. In coordinating the programs, the 2176  
department may establish a card that serves as both a golden 2177  
buckeye card provided under section 173.06 of the Revised Code and 2178  
an Ohio's best Rx program enrollment card issued under section 2179  
173.773 of the Revised Code. The department may identify the card 2180  
by including the names of both programs on the card or by 2181  
selecting a combined name for inclusion on the card. 2182

(B) Any health benefit plan offered to the employees of state 2183  
agencies and the eligible dependents of those employees, for 2184  
purposes of enhancing efficiency, reducing the cost of drugs, and 2185

maximizing the benefits of the Ohio's best Rx program and the 2186  
health benefit plan. 2187

**Sec. ~~5110.03~~ 173.73.** (A) Any entity that provides services as 2188  
a pharmacy benefit manager relative to the outpatient drug 2189  
coverage included in a health benefit plan offered to the 2190  
employees or retirees of a state agency or political subdivision 2191  
and the eligible dependents of those employees or retirees shall 2192  
provide drug pricing verification services under section ~~5110.09~~ 2193  
173.742 of the Revised Code and drug manufacturer payment 2194  
verification services under section ~~5110.30~~ 173.814 of the Revised 2195  
Code if the entity is selected under section ~~5110.04~~ 173.731 of 2196  
the Revised Code by the department of ~~job and family services~~ 2197  
aging to serve as the Ohio's best Rx program's consulting pharmacy 2198  
benefit manager for purposes of providing the verification 2199  
services. 2200

(B) Both of the following apply to the entity selected to 2201  
serve as the Ohio's best Rx program's consulting pharmacy benefit 2202  
manager: 2203

(1) The entity shall provide the drug pricing verification 2204  
services and drug manufacturer payment verification services 2205  
without charge, either to the Ohio's best Rx program or to the 2206  
state agency or political subdivision for which it provides 2207  
services as a pharmacy benefit manager. 2208

(2) The entity shall provide the verification services for 2209  
the entire year for which it is selected to serve as the program's 2210  
consulting pharmacy benefit manager, regardless of the duration or 2211  
termination of its responsibility to the state agency or political 2212  
subdivision for which it provides services as a pharmacy benefit 2213  
manager. 2214

(C) If the entity selected to serve as the consulting 2215  
pharmacy benefit manager fails to provide the program with drug 2216

pricing verification services or drug manufacturer payment 2217  
verification services, or fails to provide for an audit when 2218  
requested to do so under section ~~5110.05~~ 173.732 of the Revised 2219  
Code, the department may ask the attorney general to bring an 2220  
action for injunctive relief in any court of competent 2221  
jurisdiction. On the filing of an appropriate petition in the 2222  
court, the court shall conduct a hearing on the petition. If it is 2223  
demonstrated in the proceedings that the pharmacy benefit manager 2224  
has failed to provide the verification services or has failed to 2225  
provide for the audit, the court shall grant a temporary or 2226  
permanent injunction enjoining the pharmacy benefit manager from 2227  
continuing to fail to provide the verification services or from 2228  
continuing to fail to provide for the audit. 2229

(D) This section does not impose any duty on the state agency 2230  
or political subdivision for which an entity provides services as 2231  
a pharmacy benefit manager. 2232

**Sec. ~~5110.04~~ 173.731.** Annually, the department of ~~job and~~ 2233  
~~family services~~ aging shall select a pharmacy benefit manager, 2234  
from among the pharmacy benefit managers subject to section 2235  
~~5110.03~~ 173.73 of the Revised Code, to serve as the Ohio's best Rx 2236  
program's consulting pharmacy benefit manager for purposes of 2237  
providing drug pricing verification services under section ~~5110.09~~ 2238  
173.742 of the Revised Code and drug manufacturer payment 2239  
verification services under section ~~5110.30~~ 173.814 of the Revised 2240  
Code. The department shall select the pharmacy benefit manager 2241  
that the department considers to be the most appropriate pharmacy 2242  
benefit manager to provide the verification services for the 2243  
Ohio's best Rx program. In making the selection, the department 2244  
shall consider the pharmacy benefit manager that provides services 2245  
relative to the outpatient drug coverage included in the health 2246  
benefit plan offered to the greatest number of employees or 2247

retirees of a state agency or political subdivision and the 2248  
eligible dependents of those employees or retirees. 2249

The department shall provide written notice to the pharmacy 2250  
benefit manager that it has been selected to serve as the Ohio's 2251  
best Rx program's consulting pharmacy benefit manager. The notice 2252  
shall specify the date on which the pharmacy benefit manager is to 2253  
begin serving as the program's consulting pharmacy benefit manager 2254  
for the ensuing year. 2255

Before the end of the one-year period during which a pharmacy 2256  
benefit manager is to serve as the program's consulting pharmacy 2257  
benefit manager, the department shall make another selection in 2258  
accordance with this section. In making the selection, the 2259  
department may select the same pharmacy benefit manager to serve 2260  
as the program's consulting pharmacy benefit manager or may select 2261  
another pharmacy benefit manager. 2262

**Sec. ~~5110.05~~ 173.732.** (A) To determine whether the pharmacy 2263  
benefit manager selected under section ~~5110.04~~ 173.731 of the 2264  
Revised Code to serve as the Ohio's best Rx program's consulting 2265  
pharmacy benefit manager has provided valid information when 2266  
providing drug pricing verification services under section ~~5110.09~~ 2267  
173.742 of the Revised Code or drug manufacturer payment 2268  
verification services under section ~~5110.30~~ 173.814 of the Revised 2269  
Code, the department of ~~job and family services~~ aging may request 2270  
that the consulting pharmacy benefit manager provide for an audit 2271  
of its relevant contracts with drug manufacturers and terminal 2272  
distributors of dangerous drugs. 2273

In making audit requests under this section, both of the 2274  
following apply: 2275

(1) The department may request an audit on a regularly 2276  
occurring basis, but not more frequently than once every three 2277

years. 2278

(2) The department may request an audit at any time it has a 2279  
reasonable basis to believe that the consulting pharmacy benefit 2280  
manager is not acting in good faith in providing drug pricing 2281  
verification services or drug manufacturer payment verification 2282  
services. Notice of the request shall be made in writing and 2283  
signed by the director of ~~job and family services~~ aging. The 2284  
notice may specify the basis for the belief that the consulting 2285  
pharmacy benefit manager is not acting in good faith. If the basis 2286  
for the belief is not specified and the audit findings demonstrate 2287  
that the consulting pharmacy benefit manager acted in good faith, 2288  
the department shall pay the cost incurred by the consulting 2289  
pharmacy benefit manager in providing for the audit. 2290

(B) An audit provided for under this section shall be 2291  
performed only by an auditor that is mutually satisfactory to the 2292  
department and consulting pharmacy benefit manager and independent 2293  
of both the department and consulting pharmacy benefit manager. 2294

(C) If the findings of an audit provided for under this 2295  
section demonstrate that the verification services provided by the 2296  
consulting pharmacy benefit manager did not result in valid 2297  
information, the department shall use the audit findings for 2298  
purposes of confirming the validity of the one or more drug 2299  
pricing formulas designated under section ~~5110.08~~ 173.741 of the 2300  
Revised Code and entering into agreements with drug manufacturers 2301  
under section ~~5110.26~~ 173.81 of the Revised Code. 2302

**Sec. ~~5110.07~~ 173.74.** Annually, the department of ~~job and~~ 2303  
~~family services~~ aging shall establish a base price for each drug 2304  
included in the Ohio's best Rx program. In the case of drugs 2305  
dispensed by a terminal distributor of dangerous drugs that has 2306  
entered into an agreement under section ~~5110.20~~ 173.79 of the 2307  
Revised Code, the base price shall be established by using the one 2308

or more formulas designated under section ~~5110.08~~ 173.741 of the 2309  
Revised Code. In the case of the drug mail order system included 2310  
in the program pursuant to section ~~5110.19~~ 173.78 of the Revised 2311  
Code, the base price shall be established in accordance with the 2312  
rules adopted under section ~~5110.35~~ 173.83 of the Revised Code 2313  
governing the drug mail order system. 2314

**Sec. ~~5110.08~~ 173.741.** Annually, the department of ~~job and~~ 2315  
~~family services~~ aging shall designate one or more formulas for use 2316  
in establishing under section ~~5110.07~~ 173.74 of the Revised Code 2317  
the Ohio's best Rx program's base price for drugs dispensed by a 2318  
terminal distributor of dangerous drugs that has entered into an 2319  
agreement under section ~~5110.20~~ 173.79 of the Revised Code. Each 2320  
formula shall include a drug pricing discount component that is 2321  
expressed as a percentage discount. The formula used for generic 2322  
drugs may include the maximum allowable cost limits that apply to 2323  
generic drugs under the medicaid program. 2324

In designating the one or more formulas, the department shall 2325  
use the best information on drug pricing that is available to the 2326  
department, including information obtained through the drug 2327  
pricing verification services provided under section ~~5110.09~~ 2328  
173.742 of the Revised Code by the Ohio's best Rx program's 2329  
consulting pharmacy benefit manager selected under section ~~5110.04~~ 2330  
173.731 of the Revised Code. Based on the available information, 2331  
the department shall modify the one or more formulas as it 2332  
considers appropriate to maximize the benefits provided to Ohio's 2333  
best Rx program participants. 2334

**Sec. ~~5110.09~~ 173.742.** For purposes of section ~~5110.08~~ 173.741 2335  
of the Revised Code, the department of ~~job and family services~~ 2336  
aging shall obtain verification of drug pricing information from 2337  
the Ohio's best Rx program's consulting pharmacy benefit manager 2338

selected under section ~~5110.04~~ 173.731 of the Revised Code. The 2339  
information shall be obtained in accordance with the following 2340  
procedures: 2341

(A) For brand name drugs, excluding generic drugs marketed 2342  
under brand names, the department shall submit to the consulting 2343  
pharmacy benefit manager the formula the department proposes to 2344  
use to establish the program's base price for brand name drugs 2345  
during the year. 2346

The consulting pharmacy benefit manager shall review the 2347  
formula submitted by the department. In conducting the review, the 2348  
consulting pharmacy benefit manager shall compare the drug pricing 2349  
discount percentage included in the department's formula to the 2350  
drug pricing discount percentage included in the formula most 2351  
commonly used by the consulting pharmacy benefit manager to 2352  
establish part of its payment rate for brand name drugs dispensed 2353  
by terminal distributors of dangerous drugs other than drug mail 2354  
order systems. If the formulas are not expressed in equivalent 2355  
terms, the consulting pharmacy benefit manager shall make all 2356  
accommodations necessary to make the comparison of the discount 2357  
percentages. 2358

After conducting the review, the consulting pharmacy benefit 2359  
manager shall provide information to the department verifying 2360  
whether the discount percentage included in the department's 2361  
formula is more than two percentage points below the discount 2362  
percentage included in the formula used by the consulting pharmacy 2363  
benefit manager. The information provided to the department shall 2364  
be certified by signature of an officer of the consulting pharmacy 2365  
benefit manager. 2366

(B) For generic drugs, the department shall identify the 2367  
fifty generic drugs most frequently purchased by Ohio's best Rx 2368  
program participants in the immediately preceding year from 2369

terminal distributors of dangerous drugs other than the drug mail 2370  
order system included in the program pursuant to section ~~5110.19~~ 2371  
173.78 of the Revised Code. The department shall submit to the 2372  
consulting pharmacy benefit manager the names of the fifty drugs, 2373  
the number of prescriptions filled for each of the drugs, the 2374  
formula used to compute the base price for the drugs during the 2375  
year, and the weighted average base price for the drugs that 2376  
resulted for the year. 2377

The consulting pharmacy benefit manager shall review the 2378  
submitted information. In conducting the review, the consulting 2379  
pharmacy benefit manager shall compare the department's weighted 2380  
average base price to the equivalent part of the consulting 2381  
pharmacy benefit manager's weighted average payment rate for the 2382  
same drugs when dispensed by terminal distributors of dangerous 2383  
drugs other than drug mail order systems. For purposes of the 2384  
comparison, the department and consulting pharmacy benefit manager 2385  
shall express the weighted average base price and payment rate in 2386  
terms of a discount percentage that is taken from the drugs' 2387  
average wholesale price, as identified by a national drug price 2388  
reporting service selected by the department and the consulting 2389  
pharmacy benefit manager. 2390

After conducting the review, the consulting pharmacy benefit 2391  
manager shall provide information to the department verifying 2392  
whether the discount percentage reflected in the department's 2393  
weighted average base price for the drugs is more than two 2394  
percentage points below the equivalent part of the consulting 2395  
pharmacy benefit manager's weighted average payment rate for the 2396  
same drugs. The information provided to the department shall be 2397  
certified by signature of an officer of the consulting pharmacy 2398  
benefit manager. 2399

**Sec. ~~5110.19~~ 173.75.** (A) Subject to division (B) of this 2400



section, the amount that an Ohio's best Rx program participant is 2401  
to be charged for a quantity of a drug purchased under the program 2402  
shall be established in accordance with all of the following: 2403

(1) If the drug is not included in a manufacturer agreement 2404  
entered into under section ~~5110.26~~ 173.81 of the Revised Code, the 2405  
participant shall be charged an amount that is computed according 2406  
to the drug's base price established under section ~~5110.07~~ 173.74 2407  
of the Revised Code. 2408

(2) If the drug is included in a manufacturer agreement 2409  
entered into under section ~~5110.26~~ 173.81 of the Revised Code, the 2410  
participant shall be charged an amount that is computed by 2411  
subtracting from the drug's base price established under section 2412  
~~5110.07~~ 173.74 of the Revised Code the amount of the manufacturer 2413  
payment that applies to the transaction, as established under 2414  
section ~~5110.28~~ 173.812 of the Revised Code. 2415

(3) If an administrative fee is specified in rules adopted 2416  
under section ~~5110.35~~ 173.83 of the Revised Code, the participant 2417  
shall be charged the amount of the administrative fee. 2418

(4) If the drug is dispensed by a terminal distributor of 2419  
dangerous drugs under an agreement entered into under section 2420  
~~5110.20~~ 173.79 of the Revised Code, and the terminal distributor 2421  
charges a professional fee pursuant to the agreement, the 2422  
participant shall be charged the amount of the professional fee. 2423

(5) If the drug is dispensed through the drug mail order 2424  
system included in the program pursuant to section ~~5110.19~~ 173.78 2425  
of the Revised Code, the participant shall not be charged a 2426  
professional fee. 2427

(B) When a quantity of a drug is purchased by an Ohio's best 2428  
Rx program participant, the participating terminal distributor or 2429  
drug mail order system dispensing the drug shall charge the lesser 2430

of the amount that applies to the transaction, as established in 2431  
accordance with division (A) of this section, or the usual and 2432  
customary charge that otherwise would apply to the transaction. 2433  
When a drug is purchased at the usual and customary charge 2434  
pursuant to this division, the transaction is not subject to ~~this~~ 2435  
~~chapter sections 173.71 to 173.91 of the Revised Code~~ as the 2436  
purchase or dispensing of a drug under the program. 2437

**Sec. ~~5110.11~~ 173.751.** The department of ~~job and family~~ 2438  
~~services aging~~ shall report the following to each participating 2439  
terminal distributor and the drug mail order system included in 2440  
the Ohio's best Rx program pursuant to section ~~5110.19~~ 173.78 of 2441  
the Revised Code in a manner enabling the distributor and system 2442  
to comply with section ~~5110.10~~ 173.75 of the Revised Code: 2443

(A) For each drug included in the program, the amount to be 2444  
charged under division (A)(1) or (2) of section ~~5110.10~~ 173.75 of 2445  
the Revised Code; 2446

(B) The administrative fee, if any, specified by the 2447  
department in rules adopted under section ~~5110.35~~ 173.83 of the 2448  
Revised Code. 2449

**Sec. ~~5110.12~~ 173.752.** The amount that an Ohio's best Rx 2450  
program participant saves when a drug is purchased under the 2451  
program shall be determined by subtracting the amount that the 2452  
participant is charged in accordance with division (A) of section 2453  
~~5110.10~~ 173.75 of the Revised Code from the usual and customary 2454  
charge that otherwise would apply to the transaction. 2455

**Sec. ~~5110.13~~ 173.753.** Not later than the first day of March 2456  
of each year, the department of ~~job and family services aging~~ 2457  
shall do all of the following: 2458

(A) Create a list of the twenty-five drugs most often 2459

dispensed to Ohio's best Rx program participants under the 2460  
program, using data from the most recent six-month period for 2461  
which the data is available; 2462

(B) Determine the average amount that participants are 2463  
charged under the program, on a date selected by the department, 2464  
for each drug included on the list created under division (A) of 2465  
this section; 2466

(C) Determine, for the date selected for division (B) of this 2467  
section, the average usual and customary charge for each drug 2468  
included on the list created under division (A) of this section; 2469

(D) By comparing the average charges determined under 2470  
divisions (B) and (C) of this section, determine the average 2471  
percentage savings Ohio's best Rx program participants receive for 2472  
each drug included on the list created under division (A) of this 2473  
section. 2474

**Sec. ~~5110.14~~ 173.76.** (A) To be eligible for the Ohio's best 2475  
Rx program, an individual must meet all of the following 2476  
requirements at the time of application for the program: 2477

(1) The individual must be a resident of this state. 2478

(2) ~~Either~~ One of the following must be the case: 2479

(a) The individual has family income, as determined under 2480  
rules adopted pursuant to section ~~5110.35~~ 173.83 of the Revised 2481  
Code, that does not exceed three hundred per cent of the federal 2482  
poverty guidelines, as revised annually by the United States 2483  
department of health and human services in accordance with section 2484  
673(2) of the "Omnibus Budget Reconciliation Act of 1981," 95 2485  
Stat. 511, 42 U.S.C. 9902, as amended; 2486

(b) The individual is sixty years of age or older; 2487

(c) The individual is a person with a disability, as defined 2488

<u>in section 173.06 of the Revised Code.</u>	2489
(3) Except as provided in division (B) of this section, the individual must not have coverage for outpatient drugs paid for in whole or in part by any of the following:	2490 2491 2492
(a) A third-party payer, including an employer;	2493
(b) The medicaid program;	2494
(c) The children's health insurance program;	2495
(d) The disability medical assistance program;	2496
(e) Another health plan or pharmacy assistance program that uses state or federal funds to pay part or all of the cost of the individual's outpatient drugs.	2497 2498 2499
(4) The individual must not have had coverage for outpatient drugs paid for by any of the entities or programs specified in division (A)(3) of this section during any of the four months preceding the month in which the application for the Ohio's best Rx program is made, unless any of the following applies:	2500 2501 2502 2503 2504
(a) The individual is sixty years of age or older.	2505
(b) The third-party payer, including an employer, that paid for the coverage filed for bankruptcy under federal bankruptcy laws.	2506 2507 2508
(c) The individual is no longer eligible for coverage provided through a retirement plan subject to protection under the "Employee Retirement Income Security Act of 1974," 88 Stat. 832, 29 U.S.C. 1001, as amended.	2509 2510 2511 2512
(d) The individual is no longer eligible for the medicaid program, children's health insurance program, or disability medical assistance program.	2513 2514 2515
(e) The individual is either temporarily or permanently discharged from employment due to a business reorganization.	2516 2517

(B) An individual is not subject to division (A)(3) of this section if the individual has coverage for outpatient drugs paid for in whole or in part by ~~any~~ either of the following:

~~(1) A prescription drug discount card program established under section 173.061 of the Revised Code;~~

~~(2)~~ The workers' compensation program;

~~(3)~~ (2) A medicare prescription drug plan offered pursuant to the "Medicare Prescription Drug, Improvement, and Modernization Act of 2003," 117 Stat. 2071, 42 U.S.C. 1395w-101, as amended, but only if all of the following are the case with respect to the particular drug being purchased through the Ohio's best Rx program:

(a) The individual is responsible for the full cost of the drug.

(b) The drug is not subject to a rebate from the manufacturer under the individual's medicare prescription drug plan.

(c) The manufacturer of the drug has agreed to the Ohio's best Rx program's inclusion of individuals who have coverage through a medicare prescription drug plan.

**Sec. ~~5110.15~~ 173.77.** Application for participation in the Ohio's best Rx program shall be made in accordance with rules adopted by the department of ~~job and family services~~ aging under section ~~5110.35~~ 173.83 of the Revised Code. When applying for participation, an individual may include application for participation by the individual's spouse and children. An individual's guardian or custodian may apply on behalf of the individual.

When submitting an application, the applicant shall include the information and documentation specified in the department's rules as necessary to verify eligibility for the program. The

application may be submitted on a paper form prescribed and 2548  
supplied by the department or pursuant to any other application 2549  
method the department makes available for the program, including 2550  
methods that permit an individual to apply by telephone or through 2551  
the internet. 2552

An applicant shall attest that the information and 2553  
documentation the applicant submits with an application is 2554  
accurate to the best knowledge and belief of the applicant. In the 2555  
case of a paper application form, the applicant's signature shall 2556  
be used to certify that the applicant has attested to the accuracy 2557  
of the information and documentation. In the case of other 2558  
application methods, the application certification process 2559  
specified in the department's rules shall be used to certify that 2560  
the applicant has attested to the accuracy of the information and 2561  
documentation. 2562

The department shall inform each applicant that knowingly 2563  
making a false statement in an application is falsification under 2564  
section 2921.13 of the Revised Code, a misdemeanor of the first 2565  
degree. In the case of a paper application form, the department 2566  
shall provide the information by including on the form a statement 2567  
printed in bold letters. 2568

**Sec. ~~5110.16~~ 173.771.** The department of ~~job and family~~ 2569  
~~services~~ aging shall provide each applicant for the Ohio's best Rx 2570  
program information about the medicaid program in accordance with 2571  
rules adopted under section ~~5110.35~~ 173.83 of the Revised Code. 2572  
The information shall include general eligibility requirements, 2573  
application procedures, and benefits. The information shall also 2574  
explain the ways in which the medicaid program's drug benefits are 2575  
better than the Ohio's best Rx program. 2576

**Sec. ~~5110.17~~ 173.772.** On receipt of applications, the 2577

department of ~~job and family services~~ aging shall make eligibility 2578  
determinations for the Ohio's best Rx program in accordance with 2579  
procedures established in rules adopted under section ~~5110.35~~ 2580  
173.83 of the Revised Code. 2581

An eligibility determination under this section may not be 2582  
appealed under Chapter 119., section 5101.35, or any other 2583  
provision of the Revised Code. 2584

**Sec. ~~5110.18~~ 173.773.** (A) The department of ~~job and family~~ 2585  
~~services~~ aging shall issue Ohio's best Rx program enrollment cards 2586  
to or on behalf of individuals determined eligible to participate. 2587  
One enrollment card may cover each member of a family determined 2588  
eligible to participate. 2589

The department shall determine the information to be included 2590  
on the card, including an identification number, and shall 2591  
determine the card's size and format. If the department 2592  
establishes an application method that permits individuals to 2593  
apply through the internet, the department may issue the 2594  
enrollment card by sending the applicant an electronic version of 2595  
the card in a printable format. 2596

(B) Each time a drug is purchased under the program, the 2597  
entity dispensing the drug shall confirm whether the individual 2598  
for whom the drug is dispensed is enrolled in the program. If the 2599  
drug is being purchased from a participating terminal distributor 2600  
rather than the drug mail order system included in the program 2601  
pursuant to section ~~5110.19~~ 173.78 of the Revised Code, and the 2602  
individual's enrollment card is available for presentation at the 2603  
time of the purchase, the purchaser shall present the card to the 2604  
participating terminal distributor as confirmation of the 2605  
individual's enrollment in the program. If the drug is being 2606  
purchased through the drug mail order system and the individual's 2607

program identification number is available, the purchaser shall 2608  
present the identification number as confirmation of enrollment. 2609  
Otherwise, the terminal distributor or mail order system shall 2610  
confirm the individual's enrollment through the department. The 2611  
department shall establish the methods to be used in confirming 2612  
enrollment through the department, including confirmation by 2613  
telephone, through the internet, or by any other electronic means. 2614

(C) Purchasing a drug under the program by using an 2615  
enrollment card or any other method shall serve as an attestation 2616  
by the participant for whom the drug is dispensed that the 2617  
participant meets the eligibility requirements specified in 2618  
division (A)(3) of section ~~5110.14~~ 173.76 of the Revised Code 2619  
regarding not having coverage for outpatient drugs. 2620

**Sec. ~~5110.19~~ 173.78.** (A) For purposes of making drugs 2621  
included in the Ohio's best Rx program available to participants 2622  
by mail, the department of ~~job and family services~~ aging shall 2623  
include a drug mail order system within the program. Not more than 2624  
one drug mail order system shall be included in the program. 2625  
Subject to division (B) of this section, the program's drug mail 2626  
order system shall be provided in accordance with rules adopted 2627  
under section ~~5110.35~~ 173.83 of the Revised Code. 2628

(B) Neither the department nor the drug mail order system 2629  
shall promote the purchase of drugs through the system by using 2630  
information collected under the program regarding the drugs 2631  
purchased by participants from participating terminal 2632  
distributors. This division does not preclude the use of the 2633  
information for purposes of limiting the amount that a participant 2634  
may be charged for a quantity of a drug purchased through the drug 2635  
mail order system to an amount that is not more than the amount 2636  
that would be charged if the same quantity of the drug were 2637  
purchased from a participating terminal distributor. 2638



**Sec. ~~5110.20~~ 173.79.** (A) For purposes of making drugs 2639  
included in the Ohio's best Rx program available to participants 2640  
from terminal distributors of dangerous drugs other than the drug 2641  
mail order system included in the program pursuant to section 2642  
~~5110.19~~ 173.78 of the Revised Code, the department of ~~job and~~ 2643  
~~family services~~ aging shall enter into agreements under this 2644  
section with terminal distributors of dangerous drugs. Any 2645  
terminal distributor of dangerous drugs may enter into an 2646  
agreement with the department to participate in the program 2647  
pursuant to this section. 2648

Before entering into an agreement with a terminal 2649  
distributor, the department shall provide the terminal distributor 2650  
with one of the following: 2651

(1) A formula that allows the terminal distributor to 2652  
calculate for each drug included in the program the amount to be 2653  
charged under division (A)(1) or (2) of section ~~5110.10~~ 173.75 of 2654  
the Revised Code by participating terminal distributors. 2655

(2) A statistically valid sampling of drug prices that 2656  
includes the amount to be charged under division (A)(1) or (2) of 2657  
section ~~5110.10~~ 173.75 of the Revised Code by participating 2658  
terminal distributors for not fewer than two brand name drugs and 2659  
two generic drugs from each category of drugs included in the 2660  
program. 2661

(3) The current amount to be charged under division (A)(1) or 2662  
(2) of section ~~5110.10~~ 173.75 of the Revised Code by participating 2663  
terminal distributors for each drug included in the program. 2664

(B) An agreement entered into under this section shall do all 2665  
of the following: 2666

(1) Except as provided in division (B)(3) of this section, be 2667  
in effect for not less than one year; 2668

(2) Specify the dates that the agreement is to begin and end; 2669

(3) Permit the terminal distributor to terminate the 2670  
agreement before the date the agreement would otherwise end as 2671  
specified pursuant to division (B)(2) of this section by providing 2672  
the department notice of early termination at least thirty days 2673  
before the effective date of the early termination; 2674

(4) Require that the terminal distributor comply with section 2675  
~~5110.10~~ 173.75 of the Revised Code when charging for a drug 2676  
purchased under the program; 2677

(5) Permit the terminal distributor to add to the amount to 2678  
be charged under division (A)(1) or (2) of section ~~5110.10~~ 173.75 2679  
of the Revised Code a professional fee in an amount not to exceed, 2680  
except as provided in rules adopted under section ~~5110.35~~ 173.83 2681  
of the Revised Code, three dollars; 2682

(6) Require the terminal distributor to disclose to each 2683  
participant the amount the participant saves under the program as 2684  
determined in accordance with section ~~5110.12~~ 173.752 of the 2685  
Revised Code; 2686

(7) Require the terminal distributor to submit a claim to the 2687  
department under section ~~5110.22~~ 173.80 of the Revised Code for 2688  
each sale of a drug to a participant; 2689

(8) Permit the terminal distributor to deliver drugs to 2690  
Ohio's best Rx program participants by mail, but not by using a 2691  
drug mail order system operated in the same manner as the system 2692  
included in the program pursuant to section ~~5110.19~~ 173.78 of the 2693  
Revised Code. 2694

**Sec. ~~5110.21~~ 173.791.** A terminal distributor of dangerous 2695  
drugs shall not be prohibited from participating in any program or 2696  
any network of health care providers on the basis that the 2697  
terminal distributor has not entered into an agreement under 2698

section ~~5110.20~~ 173.79 of the Revised Code to participate in the 2699  
Ohio's best Rx program. 2700

**Sec. ~~5110.22~~ 173.80.** For each drug dispensed under the Ohio's 2701  
best Rx program, a claim shall be submitted to the department of 2702  
~~job and family services~~ aging. The participating terminal 2703  
distributor or the drug mail order system included in the program 2704  
pursuant to section ~~5110.19~~ 173.78 of the Revised Code that 2705  
dispensed the drug shall submit the claim not later than thirty 2706  
days after the drug is dispensed. The claim shall be submitted in 2707  
accordance with the electronic method provided for in rules 2708  
adopted under section ~~5110.35~~ 173.83 of the Revised Code. 2709

The claim shall specify all of the following: 2710

(A) The prescription number of the participant's prescription 2711  
under which the drug was dispensed to the participant; 2712

(B) The name of, and national drug code number for, the drug 2713  
dispensed to the participant; 2714

(C) The number of units of the drug dispensed to the 2715  
participant; 2716

(D) The amount the participant was charged for the drug; 2717

(E) The date the drug was dispensed to the participant; 2718

(F) Any additional information required by rules adopted 2719  
under section ~~5110.35~~ 173.83 of the Revised Code. 2720

**Sec. ~~5110.23~~ 173.801.** (A) In accordance with rules adopted 2721  
under section ~~5110.35~~ 173.83 of the Revised Code and subject to 2722  
section ~~5110.25~~ 173.803 of the Revised Code, the department of ~~job~~ 2723  
~~and family services~~ aging shall make payments under the Ohio's 2724  
best Rx program for complete and timely claims submitted under 2725  
section ~~5110.22~~ 173.80 of the Revised Code for drugs included in 2726

the program that are also included in a manufacturer agreement 2727  
entered into under section ~~5110.26~~ 173.81 of the Revised Code. The 2728  
payment for a complete and timely claim shall be made by a date 2729  
that is not later than two weeks after the department receives the 2730  
claim from the participating terminal distributor or the drug mail 2731  
order system included in the program pursuant to section ~~5110.19~~ 2732  
173.78 of the Revised Code. 2733

(B) Subject to division (D) of this section, the amount to be 2734  
paid for a claim for a drug dispensed under the program shall be 2735  
determined as follows: 2736

(1) Compute the manufacturer payment amount that applies to 2737  
the transaction, based on quantity of the drug dispensed and the 2738  
drug's national drug code number, in accordance with the 2739  
provisions of division (B) of section ~~5110.28~~ 173.812 of the 2740  
Revised Code; 2741

(2) If rules adopted under section ~~5110.35~~ 173.83 of the 2742  
Revised Code require that program participants be charged an 2743  
administrative fee for each transaction in which a quantity of the 2744  
drug was dispensed, subtract from the amount computed under 2745  
division (B)(1) of this section the administrative fee amount 2746  
specified in those rules. 2747

(C) The department may combine the claims submitted by a 2748  
participating terminal distributor or the program's drug mail 2749  
order system to make aggregate payments under this section to the 2750  
distributor or system. 2751

(D) If the total of the amounts computed under division (B) 2752  
of this section for any period for which payments are due is a 2753  
negative number, the participating terminal distributor or the 2754  
program's drug mail order system that submitted the claims has 2755  
been overpaid for the claims. When there is an overpayment, the 2756  
department shall reduce future payments made under this section to 2757

the distributor or system or collect an amount from the 2758  
distributor or system sufficient to reimburse the department for 2759  
the overpayment. 2760

**Sec. ~~5110.24~~ 173.802.** Neither a participating terminal 2761  
distributor nor the drug mail order system included in the Ohio's 2762  
best Rx program pursuant to section ~~5110.19~~ 173.78 of the Revised 2763  
Code may be charged by the department of ~~job and family services~~ 2764  
aging for the submission of a claim under section ~~5110.22~~ 173.80 2765  
of the Revised Code or the processing of a claim under section 2766  
~~5110.23~~ 173.801 of the Revised Code. 2767

**Sec. ~~5110.25~~ 173.803.** The department of ~~job and family~~ 2768  
~~services~~ aging may not make a payment under section ~~5110.23~~ 2769  
173.801 of the Revised Code for a claim submitted under section 2770  
~~5110.22~~ 173.80 of the Revised Code if any of the following are the 2771  
case: 2772

(A) The claim is submitted by either a terminal distributor 2773  
of dangerous drugs that is not a participating terminal 2774  
distributor or a drug mail order system that is not the system 2775  
included in the Ohio's best Rx program pursuant to section ~~5110.19~~ 2776  
173.78 of the Revised Code. 2777

(B) The claim is for a drug that is not included in the 2778  
program. 2779

(C) The claim is for a drug included in the program but the 2780  
drug is dispensed to an individual who is not covered by an Ohio's 2781  
best Rx program enrollment card. 2782

(D) A person or government entity has paid the participating 2783  
terminal distributor or the program's drug mail order system 2784  
through any other prescription drug coverage program or 2785  
prescription drug discount program for dispensing the drug, unless 2786  
the payment is reimbursement for redeeming a coupon or is an 2787

amount directly paid by a drug manufacturer to the distributor or 2788  
system for dispensing drugs to residents of a long-term care 2789  
facility. 2790

**Sec. ~~5110.26~~ 173.81.** For purposes of participating in the 2791  
Ohio's best Rx program, any drug manufacturer may enter into an 2792  
agreement with the department of ~~job and family services~~ aging 2793  
under which the manufacturer agrees to make payments to the 2794  
department with respect to one or more of the manufacturer's drugs 2795  
when the one or more drugs are dispensed under the program. The 2796  
terms of the agreement shall comply with section ~~5110.27~~ 173.811 2797  
of the Revised Code. 2798

**Sec. ~~5110.27~~ 173.811.** (A) A manufacturer agreement entered 2799  
into under section ~~5110.26~~ 173.81 of the Revised Code by a drug 2800  
manufacturer and the department of ~~job and family services~~ aging 2801  
shall include terms that do all of the following: 2802

(1) Specify the time the agreement is to be in effect, which 2803  
shall be not less than one year from the date the agreement is 2804  
entered into; 2805

(2) Specify which of the manufacturer's drugs are included in 2806  
the agreement; 2807

(3) Permit the department to remove a drug from the agreement 2808  
in the event of a dispute over the drug's utilization; 2809

(4) Require that the manufacturer specify a per unit amount 2810  
that will be paid to the department for each drug included in the 2811  
agreement that is dispensed to an Ohio's best Rx program 2812  
participant; 2813

(5) Require that the per unit amount specified by the 2814  
manufacturer be an amount that the manufacturer believes is 2815  
greater than or comparable to the per unit amount generally 2816

payable by the manufacturer for the same drug when the drug is  
dispensed to an individual using the outpatient drug coverage  
included in a health benefit plan offered in this state or another  
state to public employees or retirees and the eligible dependents  
of those employees or retirees;

(6) Require the manufacturer to make payments in accordance  
with the amounts computed under division (A) of section ~~5110.28~~  
173.812 of the Revised Code;

(7) Require that the manufacturer make the payments on a  
quarterly basis or in accordance with a schedule established by  
rules adopted under section ~~5110.35~~ 173.83 of the Revised Code.

(B) For any drug included in a manufacturer agreement, the  
terms of the agreement may provide for the establishment of a  
process for referring Ohio's best Rx program applicants and  
participants to a patient assistance program operated or sponsored  
by the manufacturer. The referral process may be included only if  
the manufacturer agrees to refer to the Ohio's best Rx program  
residents of this state who apply but are found to be ineligible  
for the patient assistance program.

**Sec. ~~5110.28~~ 173.812.** When a drug included in a manufacturer  
agreement entered into under section ~~5110.26~~ 173.81 of the Revised  
Code is dispensed under the Ohio's best Rx program, the  
manufacturer payment amount that applies to the transaction shall  
be established in accordance with the following:

(A) For purposes of the amount to be paid by the  
manufacturer, the manufacturer payment amount shall be computed by  
multiplying the per unit amount specified for the drug in the  
manufacturer agreement by the number of units dispensed.

(B) For purposes of the amount that a participant is to be  
charged under section ~~5110.10~~ 173.75 of the Revised Code and the

amount to be paid for claims under section ~~5110.23~~ 173.801 of the Revised Code, both of the following apply:

(1) If a program administration percentage is not determined by the department of ~~job and family services~~ aging in rules adopted under section ~~5110.35~~ 173.83 of the Revised Code, the manufacturer payment amount shall be the same as the manufacturer payment amount computed under division (A) of this section.

(2) If a program administration percentage is determined by the department, the manufacturer payment amount shall be computed as follows:

(a) Multiply the per unit amount specified for the drug in the agreement by the program administration percentage;

(b) Subtract the product determined under division (B)(2)(a) of this section from the per unit amount specified for the drug in the agreement;

(c) Multiply the per unit amount resulting from the computation under division (B)(2)(b) of this section by the number of units dispensed.

**Sec. ~~5110.29~~ 173.813.** In its negotiations with a drug manufacturer proposing to enter into an agreement under section ~~5110.26~~ 173.81 of the Revised Code, the department of ~~job and family services~~ aging shall use the best information on manufacturer payments that is available to the department, including information obtained from the verifications made under section ~~5110.30~~ 173.814 of the Revised Code by the Ohio's best Rx program's consulting pharmacy benefit manager selected under section ~~5110.04~~ 173.731 of the Revised Code. The department shall use the information in an attempt to obtain manufacturer payments that maximize the benefits provided to Ohio's best Rx program participants.



**Sec. ~~5110.30~~ 173.814.** Annually, the department of ~~job and~~ 2877  
~~family services~~ aging shall select a sample of not more than ten 2878  
of the drugs that were included in the manufacturer agreements 2879  
entered into under section ~~5110.26~~ 173.81 of the Revised Code in 2880  
the immediately preceding year. The department shall submit to the 2881  
program's consulting pharmacy benefit manager selected under 2882  
section ~~5110.04~~ 173.731 of the Revised Code information that 2883  
identifies the per unit amount of the manufacturer payments that 2884  
applied to each of the drugs in the sample. 2885

The consulting pharmacy benefit manager shall review the 2886  
submitted information. After the review, the consulting pharmacy 2887  
benefit manager shall provide information to the department 2888  
verifying whether any of the per unit payment amounts that applied 2889  
to the selected drugs were more than two per cent lower than the 2890  
per unit payment amounts negotiated by the consulting pharmacy 2891  
benefit manager for the same drugs in connection with health 2892  
benefit plans that generally do not use formularies to restrict 2893  
the outpatient drug coverage included in the plans. The consulting 2894  
pharmacy benefit manager shall specify which, if any, of the drugs 2895  
in the sample were subject to the lower per unit payment amounts. 2896  
The information provided to the department shall be certified by 2897  
signature of an officer of the consulting pharmacy benefit 2898  
manager. 2899

**Sec. ~~5110.31~~ 173.815.** (A) The department of ~~job and family~~ 2900  
~~services~~ aging shall seek from the centers for medicare and 2901  
medicaid services of the United States department of health and 2902  
human services written confirmation that manufacturer payments 2903  
made pursuant to an agreement entered into under section ~~5110.26~~ 2904  
173.81 of the Revised Code are exempt from the medicaid best price 2905  
computation applicable under Title XIX of the "Social Security 2906  
Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r-8, as amended. 2907

(B) Entering into a manufacturer agreement under section 2908  
~~5110.26~~ 173.81 of the Revised Code does not require a drug 2909  
manufacturer to make a manufacturer payment that would establish 2910  
the manufacturer's medicaid best price for a drug. 2911

**Sec. ~~5110.32~~ 173.82.** A drug manufacturer that enters into an 2912  
agreement under section ~~5110.26~~ 173.81 of the Revised Code may 2913  
submit a request to the department of ~~job and family services~~ 2914  
aging to audit claims submitted under section ~~5110.22~~ 173.80 of 2915  
the Revised Code. On submission of a request that the department 2916  
considers reasonable, the department shall permit the manufacturer 2917  
to audit the claims. 2918

**Sec. ~~5110.35~~ 173.83.** The department of ~~job and family~~ 2919  
~~services~~ aging shall adopt rules in accordance with Chapter 119. 2920  
of the Revised Code to implement the Ohio's best Rx program. The 2921  
rules shall provide for all of the following: 2922

(A) Standards and procedures for establishing, pursuant to 2923  
section ~~5110.07~~ 173.74 of the Revised Code, the base price for 2924  
each drug included in the program; 2925

(B) Determination of family income for the purpose of 2926  
division (A)(2)(a) of section ~~5110.14~~ 173.76 of the Revised Code; 2927

(C) For the purpose of section ~~5110.15~~ 173.77 of the Revised 2928  
Code, the application process for the program, including the 2929  
information and documentation to be submitted with applications to 2930  
verify eligibility and a process to be used in certifying that an 2931  
applicant has attested to the accuracy of the submitted 2932  
information and documentation; 2933

(D) The method of providing information about the medicaid 2934  
program to applicants under section ~~5110.16~~ 173.771 of the Revised 2935  
Code; 2936

(E) For the purpose of section ~~5110.17~~ 173.772 of the Revised Code, eligibility determination procedures; 2937  
2938

(F) Standards and procedures governing the drug mail order system included in the program pursuant to section ~~5110.19~~ 173.78 of the Revised Code; 2939  
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(G) Subject to section ~~5110.352~~ 173.831 of the Revised Code, periodically increasing the maximum professional fee that participating terminal distributors may charge Ohio's best Rx program participants pursuant to an agreement entered into under section ~~5110.20~~ 173.79 of the Revised Code; 2942  
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(H) Subject to section ~~5110.353~~ 173.832 of the Revised Code, the amount of the administrative fee, if any, that Ohio's best Rx program participants are to be charged under the program; 2947  
2948  
2949

(I) The electronic method for submission of claims to the department under section ~~5110.22~~ 173.80 of the Revised Code; 2950  
2951

(J) Additional information to be included on claims submitted under section ~~5110.22~~ 173.80 of the Revised Code that the department determines is necessary for the department to be able to make payments under section ~~5110.23~~ 173.801 of the Revised Code; 2952  
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(K) The method for making payments under section ~~5110.23~~ 173.801 of the Revised Code; 2957  
2958

(L) Subject to section ~~5110.354~~ 173.833 of the Revised Code, the percentage, if any, that is the program administration percentage; 2959  
2960  
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(M) If the department determines it is best that participating manufacturers make payments pursuant to manufacturer agreements entered into under section ~~5110.26~~ 173.81 of the Revised Code on a basis other than quarterly, a schedule for making the payments; 2962  
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(N) Procedures for making computations under sections ~~5110.10~~ 2967  
~~173.75~~ and ~~5110.28~~ 173.812 of the Revised Code; 2968

(O) Standards and procedures for the use and preservation of 2969  
records regarding the Ohio's best Rx program pursuant to section 2970  
~~5110.59~~ 173.91 of the Revised Code; 2971

(P) The efficient administration of other provisions of ~~this~~ 2972  
~~chapter~~ sections 173.71 to 173.91 of the Revised Code for which 2973  
the department determines rules are necessary. 2974

**Sec. ~~5110.352~~ 173.831.** As used in this section, "medicaid 2975  
dispensing fee" means the dispensing fee established under section 2976  
5111.071 of the Revised Code for the medicaid program. 2977

In adopting a rule under division (G) of section ~~5110.35~~ 2978  
173.83 of the Revised Code increasing the maximum amount of the 2979  
professional fee participating terminal distributors may charge 2980  
Ohio's best Rx program participants pursuant to an agreement 2981  
entered into under section ~~5110.20~~ 173.79 of the Revised Code, the 2982  
department of ~~job and family services~~ aging shall review the 2983  
amount of the professional fee once a year or, at the department's 2984  
discretion, at more frequent intervals. The department shall not 2985  
increase the professional fee to an amount exceeding the medicaid 2986  
dispensing fee. 2987

A participating terminal distributor may charge a maximum 2988  
three dollar professional fee regardless of whether the medicaid 2989  
dispensing fee for that drug is less than that amount. The 2990  
department, however, may not adopt a rule increasing the maximum 2991  
professional fee for that drug until the medicaid dispensing fee 2992  
for that drug exceeds that amount. 2993

**Sec. ~~5110.353~~ 173.832.** (A) Once a year or, at the discretion 2994  
of the department of ~~job and family services~~ aging, at more 2995  
frequent intervals, the department shall determine the amount, if 2996

any, that each Ohio's best Rx program participant will be charged 2997  
as an administrative fee to be used in paying the administrative 2998  
costs of the program. The fee, which shall not exceed one dollar 2999  
per transaction, shall be specified in rules adopted under section 3000  
~~5110.35~~ 173.83 of the Revised Code. In adopting the rules, the 3001  
department shall specify a fee that results in an amount that 3002  
equals or is less than the amount needed to cover the 3003  
administrative costs of the Ohio's best Rx program when added to 3004  
the sum of the following: 3005

(1) The amount resulting from the program administration 3006  
percentage, if the department determines a program administration 3007  
percentage in rules adopted under section ~~5110.35~~ 173.83 of the 3008  
Revised Code; 3009

(2) The investment earnings of the Ohio's best Rx program 3010  
fund created by section ~~5110.42~~ 173.85 of the Revised Code; 3011

(3) Any amounts accepted by the department as donations to 3012  
the Ohio's best Rx program fund. 3013

(B) Once a year or, at the discretion of the department, at 3014  
more frequent intervals, the department shall report the 3015  
methodology underlying the determination of the administrative fee 3016  
to the Ohio's best Rx program council. 3017

**Sec. ~~5110.354~~ 173.833.** (A) At least once a year or, at the 3018  
discretion of the department of ~~job and family services~~ aging, at 3019  
more frequent intervals, the department shall determine the 3020  
percentage, if any, of each manufacturer payment made under an 3021  
agreement entered into under section ~~5110.26~~ 173.81 of the Revised 3022  
Code that will be retained by the department for use in paying the 3023  
administrative costs of the Ohio's best Rx program. The 3024  
percentage, which shall not exceed five per cent, shall be 3025  
specified in rules adopted under section ~~5110.35~~ 173.83 of the 3026

Revised Code. In adopting the rules, the department shall specify 3027  
a percentage that results in an amount that equals or is less than 3028  
the amount needed to cover the administrative costs of the Ohio's 3029  
best Rx program when added to the sum of the following: 3030

(1) The amount resulting from administrative fees, if the 3031  
department determines an administrative fee in rules adopted under 3032  
section ~~5110.35~~ 173.83 of the Revised Code; 3033

(2) The investment earnings of the Ohio's best Rx program 3034  
fund created by section ~~5110.42~~ 173.85 of the Revised Code; 3035

(3) Any amounts accepted by the department as donations to 3036  
the Ohio's best Rx program fund. 3037

(B) Once a year or, at the discretion of the department, at 3038  
more frequent intervals, the department shall report the 3039  
methodology underlying the determination of the program 3040  
administration percentage to the Ohio's best Rx program council. 3041

**Sec. ~~5110.36~~ 173.84.** Notwithstanding any conflicting 3042  
provision of ~~this chapter~~ sections 173.71 to 173.91 of the Revised 3043  
Code, the department of ~~job and family services~~ aging may adopt 3044  
rules in accordance with Chapter 119. of the Revised Code to make 3045  
adjustments to the Ohio's best Rx program that the department 3046  
considers appropriate to conform the program to, or coordinate it 3047  
with, any federally funded prescription drug program created after 3048  
October 1, 2003. 3049

**Sec. ~~5110.42~~ 173.85.** (A) The Ohio's best Rx program fund is 3050  
hereby created. The fund shall be in the custody of the treasurer 3051  
of state, but shall not be part of the state treasury. The fund 3052  
shall consist of the following: 3053

(1) Manufacturer payments made by participating manufacturers 3054  
pursuant to agreements entered into under section ~~5110.26~~ 173.81 3055

of the Revised Code;	3056
(2) Administrative fees, if an administrative fee is	3057
determined by the department of <del>job and family services</del> <u>aging</u> in	3058
rules adopted under section <del>5110.35</del> <u>173.83</u> of the Revised Code;	3059
(3) Any amounts donated to the fund and accepted by the	3060
department;	3061
(4) The fund's investment earnings.	3062
(B) Money in the Ohio's best Rx program fund shall be used to	3063
make payments under section <del>5110.23</del> <u>173.801</u> of the Revised Code	3064
and to make transfers to the Ohio's best Rx administration fund in	3065
accordance with section <del>5110.43</del> <u>173.86</u> of the Revised Code.	3066
<b>Sec. <del>5110.43</del> <u>173.86</u>.</b> (A) The Ohio's best Rx administration	3067
fund is hereby created in the state treasury. The treasurer of	3068
state shall transfer from the Ohio's best Rx program fund to the	3069
Ohio's best Rx administration fund amounts equal to the following:	3070
(1) Amounts resulting from application of the program	3071
administration percentage, if a program administration percentage	3072
is determined by the department of <del>job and family services</del> <u>aging</u>	3073
in rules adopted under section <del>5110.35</del> <u>173.83</u> of the Revised Code;	3074
(2) The amount of the administrative fees charged Ohio's best	3075
Rx participants, if an administrative fee is determined by the	3076
department of <del>job and family services</del> <u>aging</u> in rules adopted under	3077
section <del>5110.35</del> <u>173.83</u> of the Revised Code;	3078
(3) The amount of any donations credited to the Ohio's best	3079
Rx program fund;	3080
(4) The amount of investment earnings credited to the Ohio's	3081
best Rx program fund.	3082
The treasurer of state shall make the transfers in accordance	3083
with a schedule developed by the treasurer of state and the	3084

department of ~~job and family services~~ aging. 3085

(B) The department of ~~job and family services~~ aging shall use 3086  
money in the Ohio's best Rx administration fund to pay the 3087  
administrative costs of the Ohio's best Rx program, including, but 3088  
not limited to, costs associated with contracted services, staff, 3089  
outreach activities, computers and network services, and the 3090  
Ohio's best Rx program council. If the fund includes an amount 3091  
that exceeds the amount necessary to pay the administrative costs 3092  
of the program, the department may use the excess amount to pay 3093  
the cost of subsidies provided to Ohio's best Rx program 3094  
participants under any subsidy program established pursuant to 3095  
section ~~5110.39~~ 173.861 of the Revised Code. 3096

**Sec. ~~5110.39~~ 173.861.** The department of ~~job and family~~ 3097  
~~services~~ aging may establish a component of the Ohio's best Rx 3098  
program under which subsidies are provided to participants to 3099  
assist them with the cost of purchasing drugs under the program, 3100  
including the cost of any professional fees charged for dispensing 3101  
the drugs. The subsidies shall be provided only when the Ohio's 3102  
best Rx administration fund created under section ~~5110.43~~ 173.86 3103  
of the Revised Code includes an amount that exceeds the amount 3104  
necessary to pay the administrative costs of the program. 3105

**Sec. ~~5110.45~~ 173.87.** There is hereby created the Ohio's best 3106  
Rx program council. The council shall advise the department of ~~job~~ 3107  
~~and family services~~ aging on the Ohio's best Rx program. With the 3108  
approval of a majority of the council's appointed members, the 3109  
council may initiate studies to determine whether there are more 3110  
effective ways to administer the program and provide the 3111  
department with suggestions for improvements. 3112

**Sec. ~~5110.46~~ 173.871.** The Ohio's best Rx program council 3113  
shall consist of the following members: 3114



(A) The president of the senate;	3115
(B) The speaker of the house of representatives;	3116
(C) The minority leader of the senate;	3117
(D) The minority leader of the house of representatives;	3118
(E) A representative of the Ohio chapter of the American federation of labor-congress of industrial organizations, appointed by the governor from a list of names submitted to the governor by that organization;	3119 3120 3121 3122
(F) A representative of the Ohio chapter of the American association of retired persons, appointed by the governor from a list of names submitted to the governor by that organization;	3123 3124 3125
(G) A representative of a disability advocacy organization located in the state of Ohio, appointed by the governor from a list of names submitted to the governor by disability advocacy organizations located in the state of Ohio;	3126 3127 3128 3129
(H) A representative of the Ohio chapter of the united way, appointed by the governor from a list of names submitted to the governor by that organization;	3130 3131 3132
(I) A representative of the Ohio alliance of retired Americans, appointed by the governor from a list of names submitted to the governor by that organization;	3133 3134 3135
(J) Three representatives of research-based drug manufacturers, appointed by the governor from a list of names submitted to the governor by the pharmaceutical research and manufacturers of America;	3136 3137 3138 3139
(K) A pharmacist licensed under Chapter 4729. of the Revised Code, appointed by the governor from a list of names submitted to the governor by the Ohio pharmacists association.	3140 3141 3142
<b>Sec. <del>5110.47</del> <u>173.872</u>.</b> The governor shall make initial	3143

appointments to the Ohio's best Rx program council not later than 3144  
thirty days after ~~the effective date of this section~~ December 18, 3145  
2003. The members appointed by the governor shall serve at the 3146  
pleasure of the governor. If an appointed member's seat becomes 3147  
vacant, the governor shall fill the vacancy not later than thirty 3148  
days after the vacancy occurs and in the manner provided for the 3149  
initial appointment. 3150

**Sec. ~~5110.48~~ 173.873.** The president of the senate and speaker 3151  
of the house of representatives shall serve as co-chairs of the 3152  
Ohio's best Rx program council. 3153

The president of the senate, the minority leader of the 3154  
senate, the speaker of the house of representatives, and the 3155  
minority leader of the house of representatives may each appoint a 3156  
member of the general assembly to attend any meeting of the Ohio's 3157  
best Rx program council on behalf of the president of the senate, 3158  
the minority leader of the senate, the speaker of the house of 3159  
representatives, or the minority leader of the house of 3160  
representatives, respectively. 3161

**Sec. ~~5110.49~~ 173.874.** Members of the Ohio's best Rx program 3162  
council shall serve without compensation and shall not be 3163  
reimbursed for any expenses associated with their duties on the 3164  
council. 3165

**Sec. ~~5110.50~~ 173.875.** Except for any part of records that 3166  
contain a trade secret, the Ohio's best Rx program council's 3167  
records are a public record for the purpose of section 149.43 of 3168  
the Revised Code. 3169

**Sec. ~~5110.51~~ 173.876.** Sections 101.82 to 101.87 of the 3170  
Revised Code do not apply to the Ohio's best Rx program council. 3171

**Sec. ~~5110.54~~ 173.88.** (A) The department of ~~job and family~~ 3172  
~~services~~ aging shall compile both of the following lists regarding 3173  
the Ohio's best Rx program: 3174

(1) A list consisting of the name of each drug manufacturer 3175  
that enters into a manufacturer agreement under section ~~5110.21~~ 3176  
173.791 of the Revised Code and the names of the drugs included in 3177  
each manufacturer agreement; 3178

(2) A list consisting of the name of each participating 3179  
terminal distributor and the name of the drug mail order system 3180  
included in the program pursuant to section ~~5110.19~~ 173.78 of the 3181  
Revised Code. 3182

(B) As part of the list compiled under division (A)(1) of 3183  
this section, the department may include aggregate information 3184  
regarding the drugs selected under section ~~5110.30~~ 173.814 of the 3185  
Revised Code that were verified under that section as having per 3186  
unit manufacturer payment amounts that were not more than two per 3187  
cent lower than the per unit payment amounts negotiated for the 3188  
same drugs by the program's consulting pharmacy benefit manager 3189  
selected under section ~~5110.04~~ 173.731 of the Revised Code. The 3190  
information shall not identify a specific drug and shall be 3191  
expressed only as a percentage of the sample of drugs selected 3192  
under section ~~5110.30~~ 173.814 of the Revised Code. 3193

(C) The lists compiled under this section are public records 3194  
for the purpose of section 149.43 of the Revised Code. The 3195  
department shall specifically make the lists available to 3196  
physicians, participating terminal distributors, and other health 3197  
professionals. 3198

**Sec. ~~5110.55~~ 173.89.** Information transmitted by or to any of 3199  
the following for any purpose related to the Ohio's best Rx 3200  
program is confidential to the extent required by federal and 3201

state law:	3202
(A) Drug manufacturers;	3203
(B) Terminal distributors of dangerous drugs;	3204
(C) The department of <del>job and family services</del> <u>aging</u> ;	3205
(D) The program's consulting pharmacy benefit manager selected under section <del>5110.04</del> <u>173.731</u> of the Revised Code;	3206 3207
(E) Ohio's best Rx program participants;	3208
(F) Any other government entity or person.	3209
<b>Sec. <del>5110.56</del> <u>173.891</u>.</b> (A) Except as provided by section	3210
<del>5110.57</del> <u>173.892</u> of the Revised Code, all of the following are	3211
trade secrets, are not public records for the purposes of section	3212
149.43 of the Revised Code, and shall not be used, released,	3213
published, or disclosed in a form that reveals a specific drug or	3214
the identity of a drug manufacturer:	3215
(1) The amounts determined under section <del>5110.23</del> <u>173.801</u> of	3216
the Revised Code for payment of claims submitted by participating	3217
terminal distributors and the drug mail order system included in	3218
the Ohio's best Rx program pursuant to section <del>5110.19</del> <u>173.78</u> of	3219
the Revised Code;	3220
(2) Information disclosed in a manufacturer agreement entered	3221
into under section <del>5110.26</del> <u>173.81</u> of the Revised Code or in	3222
communications related to an agreement;	3223
(3) Drug pricing and drug manufacturer payment information	3224
verified under sections <del>5110.09</del> <u>173.742</u> and <del>5110.30</del> <u>173.814</u> of the	3225
Revised Code by the program's consulting pharmacy benefit manager	3226
selected under section <del>5110.04</del> <u>173.731</u> of the Revised Code;	3227
(4) Information contained in or pertaining to an audit	3228
provided for by the program's consulting pharmacy benefit manager	3229

under section ~~5110.05~~ 173.732 of the Revised Code; 3230

(5) The elements of the computations made pursuant to 3231  
sections ~~5110.10~~ 173.75, ~~5110.23~~ 173.801, and ~~5110.28~~ 173.812 of 3232  
the Revised Code and any results of those computations that reveal 3233  
or could be used to reveal the manufacturer payment amounts used 3234  
to make the computations. 3235

(B) No person or government entity shall use or reveal any 3236  
information specified in division (A) of this section except as 3237  
required for the implementation of ~~this chapter~~ sections 173.71 to 3238  
173.91 of the Revised Code. 3239

**Sec. ~~5110.57~~ 173.892.** Sections ~~5110.55~~ 173.89 and ~~5110.56~~ 3240  
173.891 of the Revised Code shall not preclude the department of 3241  
~~job and family services~~ aging from disclosing information 3242  
necessary for the implementation of ~~this chapter~~ sections 173.71 3243  
to 173.91 of the Revised Code, including the amount an Ohio's best 3244  
Rx program participant is to be charged when the amount is 3245  
disclosed under section ~~5110.11~~ 173.751 of the Revised Code to 3246  
participating terminal distributors or the drug mail order system 3247  
included in the program pursuant to section ~~5110.19~~ 173.78 of the 3248  
Revised Code. 3249

**Sec. ~~5110.58~~ 173.90.** (A) As used in this section, 3250  
"identifying information" means information that identifies or 3251  
could be used to identify an Ohio's best Rx program applicant or 3252  
participant. "Identifying information" does not include aggregate 3253  
information about applicants and participants that does not 3254  
identify and could not be used to identify an individual applicant 3255  
or participant. 3256

(B) Except as provided in divisions (C), (D), and (E) of this 3257  
section, no person or government entity shall sell, solicit, 3258  
disclose, receive, or use identifying information or knowingly 3259

permit the use of identifying information. 3260

(C)(1) The department of ~~job and family services~~ aging may 3261  
solicit, disclose, receive, or use identifying information or 3262  
knowingly permit the use of identifying information for a purpose 3263  
directly connected to the administration of the Ohio's best Rx 3264  
program, including disclosing and knowingly permitting the use of 3265  
identifying information included in a claim that a participating 3266  
manufacturer audits pursuant to section ~~5110.32~~ 173.82 of the 3267  
Revised Code, contacting Ohio's best Rx program applicants or 3268  
participants regarding participation in the program, and notifying 3269  
applicants and participants regarding participating terminal 3270  
distributors and the drug mail order system included in the 3271  
program pursuant to section ~~5110.19~~ 173.78 of the Revised Code. 3272

(2) The department may solicit, disclose, receive, or use 3273  
identifying information or knowingly permit the use of identifying 3274  
information to the extent required by federal law. 3275

(3) The department may disclose identifying information to 3276  
the Ohio's best Rx program applicant or participant who is the 3277  
subject of that information or to the parent, spouse, guardian, or 3278  
custodian of that applicant or participant. 3279

(D)(1) A participating terminal distributor may solicit, 3280  
disclose, receive, or use identifying information or knowingly 3281  
permit the use of identifying information to the extent required 3282  
or permitted by an agreement the distributor enters into under 3283  
section ~~5110.20~~ 173.79 of the Revised Code. 3284

(2) Subject to division (B) of section ~~5110.19~~ 173.78 of the 3285  
Revised Code, the drug mail order system included in the program 3286  
pursuant to section ~~5110.19~~ 173.78 of the Revised Code may 3287  
solicit, disclose, receive, or use identifying information or 3288  
knowingly permit the use of identifying information to the extent 3289  
required or permitted by the department. 3290

(E) A participating manufacturer may, for the purpose of 3291  
auditing a claim pursuant to section ~~5110.32~~ 173.82 of the Revised 3292  
Code, solicit, receive, and use identifying information included 3293  
in the claim. 3294

**Sec. ~~5110.59~~ 173.91.** (A) Except as provided in division (B) 3295  
of this section, the department of ~~job and family services~~ aging 3296  
shall use and preserve records regarding the Ohio's best Rx 3297  
program in accordance with rules adopted under section ~~5110.35~~ 3298  
173.83 of the Revised Code. The department shall use and preserve 3299  
the records in accordance with those rules, regardless of whether 3300  
the department generated the records or received them from another 3301  
government entity or any person. 3302

(B) All records received by the department under sections 3303  
~~5110.09~~ 173.742 and ~~5110.30~~ 173.814 of the Revised Code from the 3304  
program's consulting pharmacy benefit manager selected under 3305  
section ~~5110.04~~ 173.731 of the Revised Code shall be destroyed 3306  
promptly after the department has completed the purpose for which 3307  
the information contained in the records was obtained. 3308

**Sec. 173.99.** (A) A long-term care provider, person employed 3309  
by a long-term care provider, other entity, or employee of such 3310  
other entity that violates division (C) of section 173.24 of the 3311  
Revised Code is subject to a fine not to exceed one thousand 3312  
dollars for each violation. 3313

(B) Whoever violates division (C) of section 173.23 of the 3314  
Revised Code is guilty of registering a false complaint, a 3315  
misdemeanor of the first degree. 3316

(C) A long-term care provider, other entity, or person 3317  
employed by a long-term care provider or other entity that 3318  
violates division (E) of section 173.19 of the Revised Code by 3319  
denying a representative of the office of the state long-term care 3320

ombudsperson program the access required by that division is	3321
subject to a fine not to exceed five hundred dollars for each	3322
violation.	3323
(D) Whoever violates division (C) of section 173.44 of the	3324
Revised Code is subject to a fine of one hundred dollars.	3325
<u>(E) Whoever violates division (B) of section 173.90 of the</u>	3326
<u>Revised Code is guilty of a misdemeanor of the first degree.</u>	3327
<b>Sec. 2921.13.</b> (A) No person shall knowingly make a false	3328
statement, or knowingly swear or affirm the truth of a false	3329
statement previously made, when any of the following applies:	3330
(1) The statement is made in any official proceeding.	3331
(2) The statement is made with purpose to incriminate	3332
another.	3333
(3) The statement is made with purpose to mislead a public	3334
official in performing the public official's official function.	3335
(4) The statement is made with purpose to secure the payment	3336
of unemployment compensation; Ohio works first; prevention,	3337
retention, and contingency benefits and services; disability	3338
financial assistance; retirement benefits; economic development	3339
assistance, as defined in section 9.66 of the Revised Code; or	3340
other benefits administered by a governmental agency or paid out	3341
of a public treasury.	3342
(5) The statement is made with purpose to secure the issuance	3343
by a governmental agency of a license, permit, authorization,	3344
certificate, registration, release, or provider agreement.	3345
(6) The statement is sworn or affirmed before a notary public	3346
or another person empowered to administer oaths.	3347
(7) The statement is in writing on or in connection with a	3348
report or return that is required or authorized by law.	3349



(8) The statement is in writing and is made with purpose to induce another to extend credit to or employ the offender, to confer any degree, diploma, certificate of attainment, award of excellence, or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.

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

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

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

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

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

(14) The statement is made with purpose to obtain an Ohio's best Rx program enrollment card under section ~~5110.18~~ 173.773 of the Revised Code or a payment under section ~~5110.23~~ 173.801 of the Revised Code.

(15) The statement is made in an application filed with a county sheriff pursuant to section 2923.125 of the Revised Code in order to obtain or renew a license to carry a concealed handgun or is made in an affidavit submitted to a county sheriff to obtain a temporary emergency license to carry a concealed handgun under section 2923.1213 of the Revised Code.

(16) The statement is required under section 5743.72 of the Revised Code in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(B) No person, in connection with the purchase of a firearm, as defined in section 2923.11 of the Revised Code, shall knowingly furnish to the seller of the firearm a fictitious or altered driver's or commercial driver's license or permit, a fictitious or altered identification card, or any other document that contains false information about the purchaser's identity.

(C) No person, in an attempt to obtain a license to carry a concealed handgun under section 2923.125 of the Revised Code, shall knowingly present to a sheriff a fictitious or altered document that purports to be certification of the person's competence in handling a handgun as described in division (B)(3) of section 2923.125 of the Revised Code.

(D) It is no defense to a charge under division (A)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.

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

(F)(1) Whoever violates division (A)(1), (2), (3), (4), (5), (6), (7), (8), (10), (11), (13), (14), or (16) of this section is

guilty of falsification, a misdemeanor of the first degree. 3412

(2) Whoever violates division (A)(9) of this section is 3413  
guilty of falsification in a theft offense. Except as otherwise 3414  
provided in this division, falsification in a theft offense is a 3415  
misdemeanor of the first degree. If the value of the property or 3416  
services stolen is five hundred dollars or more and is less than 3417  
five thousand dollars, falsification in a theft offense is a 3418  
felony of the fifth degree. If the value of the property or 3419  
services stolen is five thousand dollars or more and is less than 3420  
one hundred thousand dollars, falsification in a theft offense is 3421  
a felony of the fourth degree. If the value of the property or 3422  
services stolen is one hundred thousand dollars or more, 3423  
falsification in a theft offense is a felony of the third degree. 3424

(3) Whoever violates division (A)(12) or (B) of this section 3425  
is guilty of falsification to purchase a firearm, a felony of the 3426  
fifth degree. 3427

(4) Whoever violates division (A)(15) or (C) of this section 3428  
is guilty of falsification to obtain a concealed handgun license, 3429  
a felony of the fourth degree. 3430

(G) A person who violates this section is liable in a civil 3431  
action to any person harmed by the violation for injury, death, or 3432  
loss to person or property incurred as a result of the commission 3433  
of the offense and for reasonable attorney's fees, court costs, 3434  
and other expenses incurred as a result of prosecuting the civil 3435  
action commenced under this division. A civil action under this 3436  
division is not the exclusive remedy of a person who incurs 3437  
injury, death, or loss to person or property as a result of a 3438  
violation of this section. 3439

**Section 5.** That existing sections 127.16, 173.06, 173.062, 3440  
173.99, 2921.13, 5110.01, 5110.02, 5110.021, 5110.03, 5110.04, 3441

5110.05, 5110.07, 5110.08, 5110.09, 5110.10, 5110.11, 5110.12, 3442  
5110.13, 5110.14, 5110.15, 5110.16, 5110.17, 5110.18, 5110.19, 3443  
5110.20, 5110.21, 5110.22, 5110.23, 5110.24, 5110.25, 5110.26, 3444  
5110.27, 5110.28, 5110.29, 5110.30, 5110.31, 5110.32, 5110.35, 3445  
5110.352, 5110.353, 5110.354, 5110.36, 5110.37, 5110.38, 5110.39, 3446  
5110.40, 5110.42, 5110.43, 5110.45, 5110.46, 5110.47, 5110.48, 3447  
5110.49, 5110.50, 5110.51, 5110.54, 5110.55, 5110.56, 5110.57, 3448  
5110.58, and 5110.59 and sections 173.061, 173.07, 173.071, 3449  
173.072, and 5110.99 of the Revised Code are hereby repealed. 3450

**Section 6.** Sections 4 and 5 of this act take effect July 1, 3451  
2007. 3452

**Section 7.** On July 1, 2007, the Ohio's Best Rx Program and 3453  
all of its functions, assets, and liabilities are transferred from 3454  
the Department of Job and Family Services to the Department of 3455  
Aging. The transferred Program is thereupon and thereafter 3456  
successor to, assumes the obligations of, and otherwise 3457  
constitutes the continuation of the Program as it was operated 3458  
under Chapter 5110. of the Revised Code immediately prior to July 3459  
1, 2007. 3460

Any Program business commenced but not completed before July 3461  
1, 2007, shall be completed by the Department of Aging under 3462  
sections 173.71 to 173.91 of the Revised Code. The business shall 3463  
be completed in the same manner, and with the same effect, as if 3464  
completed by the Department of Job and Family Services under 3465  
Chapter 5110. of the Revised Code immediately prior to July 1, 3466  
2007. 3467

No validation, cure, right, privilege, remedy, obligation, or 3468  
liability pertaining to the Program is lost or impaired by reason 3469  
of the Program's transfer from the Department of Job and Family 3470  
Services to the Department of Aging. Each such validation, cure, 3471  
right, privilege, remedy, obligation, or liability shall be 3472

administered by the Department of Aging pursuant to sections 3473  
173.71 to 173.91 of the Revised Code. 3474

All rules, orders, and determinations pertaining to the 3475  
Program as it was operated under Chapter 5110. of the Revised Code 3476  
immediately prior to July 1, 2007, continue in effect as rules, 3477  
orders, and determinations of the Program under sections 173.71 to 3478  
173.91 of the Revised Code, until modified or rescinded by the 3479  
Department of Aging. If necessary to ensure the integrity of the 3480  
numbering of the Administrative Code, the Director of the 3481  
Legislative Service Commission shall renumber the rules to reflect 3482  
the transfer of the Program from the Department of Job and Family 3483  
Services to the Department of Aging. 3484

Subject to the lay-off provisions of sections 124.321 to 3485  
124.328 of the Revised Code, all of the Program's employees in the 3486  
Department of Job and Family Services shall be transferred to the 3487  
Department of Aging. The transferred employees shall retain their 3488  
positions and all of the benefits accruing to those positions. 3489

The Director of Budget and Management shall determine the 3490  
amount of the unexpended balances in the appropriation accounts 3491  
that pertain to the Program as it was operated under Chapter 5110. 3492  
of the Revised Code immediately prior to July 1, 2007, and shall 3493  
recommend to the Controlling Board their transfer to the 3494  
appropriation accounts that pertain to the Department of Aging. 3495  
The Department of Job and Family Services shall provide full and 3496  
timely information to the Controlling Board to facilitate this 3497  
transfer. 3498

In anticipation of the Program's transfer to the Department 3499  
of Aging, the Department may negotiate or enter into a contract 3500  
with a person to serve as the Program administrator beginning on 3501  
or after July 1, 2007. When negotiating or entering into the 3502  
contract, the Department shall comply with the same provisions 3503

that apply to the Department of Job and Family Services under  
section 5110.021 of the Revised Code.

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