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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 construed as:	110 111
(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	135 136 137 138 139 140

of the agency. The filing shall be in a form and at such times as	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	173
transportation;	174
(17) Applying to purchases necessary to provide public	175
notifications required by law or to provide notifications of job	176
openings;	177
(18) Applying to the judicial branch of state government;	178
(19) Applying to purchases of liquor for resale by the	179
division of liquor control;	180
(20) Applying to purchases of motor courier and freight	181
services made in accordance with department of administrative	182
services rules;	183
(21) Applying to purchases from the United States postal	184
service and purchases of stamps and postal meter replenishment	185
from vendors at rates established by the United States postal	186
service;	187
(22) Applying to purchases of books, periodicals, pamphlets,	188
newspapers, maintenance subscriptions, and other published	189
materials;	190
(23) Applying to purchases from other state agencies,	191
including state-assisted institutions of higher education;	192
(24) Limiting the authority of the director of environmental	193
protection to enter into contracts under division (D) of section	194
3745.14 of the Revised Code to conduct compliance reviews, as	195
defined in division (A) of that section;	196
(25) Applying to purchases from a qualified nonprofit agency	197
pursuant to sections 125.60 to 125.6012 or 4115.31 to 4115.35 of	198
the Revised Code;	199

(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;	200 201 202 203 204
(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5123.199 of the Revised Code;	205 206 207
(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;	208 209 210
(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.	211 212 213 214 215 216
(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract between the vendor and an inter-university purchasing group comprised of purchasing officers of state institutions of higher education;	217 218 219 220 221
(31) Applying to the department of job and family services' purchases of health assistance services under the children's health insurance program part I provided for under section 5101.50 of the Revised Code or the children's health insurance program part II provided for under section 5101.51 of the Revised Code;	222 223 224 225 226
(32) Applying to payments by the attorney general from the reparations fund to hospitals and other emergency medical facilities for performing medical examinations to collect physical evidence pursuant to section 2907.28 of the Revised Code;	227 228 229 230

(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 the department of job and family services enters <u>entered</u> into with terminal distributors of dangerous drugs under section 5110.12 <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
Sec. 2921.13. (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

<u>with those powers or duties.</u>	532
<u>(4) Wherever the department is referred to in this chapter or</u>	533
<u>another provision of the Revised Code relative to a power or duty</u>	534
<u>delegated to the program administrator, both of the following</u>	535
<u>apply:</u>	536
<u>(a) If the department has delegated the power or duty in</u>	537
<u>whole to the program administrator, the reference to the</u>	538
<u>department is, instead, a reference to the administrator.</u>	539
<u>(b) If the department retains any part of the power or duty</u>	540
<u>that is delegated to the program administrator, the reference to</u>	541
<u>the department is a reference to both the department and the</u>	542
<u>administrator.</u>	543
<u>(5) The terms of a contract for a program administrator shall</u>	544
<u>include provisions for offering the drug mail order system</u>	545
<u>included in the Ohio's best Rx program pursuant to section 5110.19</u>	546
<u>of the Revised Code. The terms of the contract may permit the</u>	547
<u>administrator to offer the drug mail order system by contracting</u>	548
<u>with another person.</u>	549
<u>(6) The department shall not delegate to a program</u>	550
<u>administrator the department's powers or duties to do any of the</u>	551
<u>following:</u>	552
<u>(a) Enter into contracts under this section other than a</u>	553
<u>contract to offer a drug mail order system;</u>	554
<u>(b) Receive verification of drug pricing information under</u>	555
<u>section 5110.09 of the Revised Code or verification of drug</u>	556
<u>manufacturer payment information under section 5110.30 of the</u>	557
<u>Revised Code from the pharmacy benefit manager selected under</u>	558
<u>section 5110.04 of the Revised Code to serve as the Ohio's best Rx</u>	559
<u>program's consulting pharmacy benefit manager;</u>	560
<u>(c) Request the program's consulting pharmacy benefit manager</u>	561

<u>to provide for an audit under section 5110.05 of the Revised Code;</u>	562
<u>(d) Review or use any information contained in or pertaining</u>	563
<u>to an audit provided for by the program's consulting pharmacy</u>	564
<u>benefit manager other than the audit's findings of whether the</u>	565
<u>consulting pharmacy benefit manager provided valid information</u>	566
<u>when providing drug pricing verification services or drug</u>	567
<u>manufacturer payment verification services;</u>	568
<u>(e) Adopt rules under section 5110.35 or 5110.36 of the</u>	569
<u>Revised Code;</u>	570
<u>(f) Employ an ombudsperson pursuant to section 5110.40 of the</u>	571
<u>Revised Code.</u>	572
<u>Sec. 5110.03. (A) Any entity that provides services as a</u>	573
<u>pharmacy benefit manager relative to the outpatient drug coverage</u>	574
<u>included in a health benefit plan offered to the employees or</u>	575
<u>retirees of a state agency or political subdivision and the</u>	576
<u>eligible dependents of those employees or retirees shall provide</u>	577
<u>drug pricing verification services under section 5110.09 of the</u>	578
<u>Revised Code and drug manufacturer payment verification services</u>	579
<u>under section 5110.30 of the Revised Code if the entity is</u>	580
<u>selected under section 5110.04 of the Revised Code by the</u>	581
<u>department of job and family services to serve as the Ohio's best</u>	582
<u>Rx program's consulting pharmacy benefit manager for purposes of</u>	583
<u>providing the verification services.</u>	584
<u>(B) Both of the following apply to the entity selected to</u>	585
<u>serve as the Ohio's best Rx program's consulting pharmacy benefit</u>	586
<u>manager:</u>	587
<u>(1) The entity shall provide the drug pricing verification</u>	588
<u>services and drug manufacturer payment verification services</u>	589
<u>without charge, either to the Ohio's best Rx program or to the</u>	590
<u>state agency or political subdivision for which it provides</u>	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
benefit manager. The information provided to the department shall
be certified by signature of an officer of the consulting pharmacy
benefit manager.

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

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

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

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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
be used to certify that the applicant has attested to the accuracy
of the information and documentation. In the case of other
application methods, the application certification process
specified in the department's rules shall be used to certify that
the applicant has attested to the accuracy of the information and
documentation.

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

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

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

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~~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

(1) <i>i</i>	1256
<u>(2)</u> Specify which of the manufacturer's drugs are included in the agreement;	1257 1258
(2) <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
(3) <u>(4)</u> Require that the manufacturer make <u>specify</u> a rebate payment per unit amount that will be paid to the department for each drug specified under division (B)(1) of this section <u>included in the agreement</u> that is dispensed to an Ohio's best Rx program participant;	1261 1262 1263 1264 1265
(4) (a) <u>(5)</u> Require that the per unit rebate be in an amount equal to the greater of the following :	1266 1267
(i) The weighted average of the per unit rebates for the drug as computed under division (C)(1) of this section ;	1268 1269
(ii) A per unit amount specified by the manufacturer.	1270
(b) 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
(5) Specify the intervals at which the manufacturer will report to the department amounts specified pursuant to division (B)(4)(a)(ii) of this section ;	1275 1276 1277
(6) <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
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1319
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(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
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1331
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(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
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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 signature of an officer of the consulting pharmacy benefit manager. 1376
1377
1378

Sec. 5110.31. (A) The department of job and family services shall seek from the centers for medicare and medicaid services of the United States department of health and human services written confirmation that manufacturer payments made pursuant to an agreement entered into under section 5110.26 of the Revised Code are exempt from the medicaid best price computation applicable under Title XIX of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C. 1396r-8, as amended. 1379
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(B) Entering into a manufacturer agreement under section 5110.26 of the Revised Code does not require a drug manufacturer to make a manufacturer payment that would establish the manufacturer's medicaid best price for a drug. 1387
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1389
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Sec. 5110.32. A drug manufacturer that enters into an agreement under section 5110.26 of the Revised Code may submit a request to the department of job and family services to audit claims submitted under section 5110.22 of the Revised Code. On submission of a request that the department considers reasonable, the department shall permit the manufacturer to audit the claims. 1391
1392
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Sec. 5110.35. The department of job and family services shall adopt rules in accordance with Chapter 119. of the Revised Code to implement the Ohio's best Rx program. The rules shall provide for all of the following: 1397
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1399
1400

(A) Standards and procedures for establishing, pursuant to section 5110.07 of the Revised Code, the base price for each drug included in the program; 1401
1402
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
(C) The Ohio's best Rx program administrator;	1647
(D) The department of job and family services;	1648
(E) The department of administrative services;	1649
(F) The state retirement systems;	1650
(G) A state health benefit plan or state retirement system health benefit plan;	1651 1652
(H) (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
(I) (F) Any other government entity or person.	1656
 Sec. 5110.56. (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 5110.17 <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 rebate <u>manufacturer</u> agreement <u>entered into under section 5110.26 of the Revised Code</u> or in communications related to a rebate <u>an</u> agreement;	1668 1669 1670
(3) Information that the department of administrative services and state retirement systems submit to the department of	1671 1672

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

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

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

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

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

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

"Identifying information" does not include aggregate information 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 materials;	1916 1917
(23) Applying to purchases from other state agencies, including state-assisted institutions of higher education;	1918 1919
(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;	1920 1921 1922 1923
(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;	1924 1925 1926
(26) Applying to payments by the department of job and family services to the United States department of health and human services for printing and mailing notices pertaining to the tax refund offset program of the internal revenue service of the United States department of the treasury;	1927 1928 1929 1930 1931
(27) Applying to contracts entered into by the department of mental retardation and developmental disabilities under sections 5123.18, 5123.182, and 5123.199 of the Revised Code;	1932 1933 1934
(28) Applying to payments made by the department of mental health under a physician recruitment program authorized by section 5119.101 of the Revised Code;	1935 1936 1937
(29) Applying to contracts entered into with persons by the director of commerce for unclaimed funds collection and remittance efforts as provided in division (F) of section 169.03 of the Revised Code. The director shall keep an itemized accounting of unclaimed funds collected by those persons and amounts paid to them for their services.	1938 1939 1940 1941 1942 1943
(30) Applying to purchases made by a state institution of higher education in accordance with the terms of a contract	1944 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 5110.20 <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
Sec. 173.06. (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, 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.	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 5110.26 <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
5110.20 <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.	2127 2128 2129
(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.	2130 2131 2132 2133
(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 <u>173.78</u> 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.	2134 2135 2136 2137 2138 2139
(6) The department shall not delegate to a program administrator the department's powers or duties to do any of the following:	2140 2141 2142
(a) Enter into contracts under this section other than a contract to offer a drug mail order system;	2143 2144
(b) Receive verification of drug pricing information under section 5110.09 <u>173.742</u> of the Revised Code or verification of drug manufacturer payment information under section 5110.30 <u>173.814</u> of the Revised Code from the pharmacy benefit manager selected under section 5110.04 <u>173.731</u> of the Revised Code to serve as the Ohio's best Rx program's consulting pharmacy benefit manager;	2145 2146 2147 2148 2149 2150 2151
(c) Request the program's consulting pharmacy benefit manager to provide for an audit under section 5110.05 <u>173.732</u> of the Revised Code;	2152 2153 2154
(d) Review or use any information contained in or pertaining to an audit provided for by the program's consulting pharmacy	2155 2156

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 2817
dispensed to an individual using the outpatient drug coverage 2818
included in a health benefit plan offered in this state or another 2819
state to public employees or retirees and the eligible dependents 2820
of those employees or retirees; 2821

(6) Require the manufacturer to make payments in accordance 2822
with the amounts computed under division (A) of section ~~5110.28~~ 2823
173.812 of the Revised Code; 2824

(7) Require that the manufacturer make the payments on a 2825
quarterly basis or in accordance with a schedule established by 2826
rules adopted under section ~~5110.35~~ 173.83 of the Revised Code. 2827

(B) For any drug included in a manufacturer agreement, the 2828
terms of the agreement may provide for the establishment of a 2829
process for referring Ohio's best Rx program applicants and 2830
participants to a patient assistance program operated or sponsored 2831
by the manufacturer. The referral process may be included only if 2832
the manufacturer agrees to refer to the Ohio's best Rx program 2833
residents of this state who apply but are found to be ineligible 2834
for the patient assistance program. 2835

Sec. ~~5110.28~~ 173.812. When a drug included in a manufacturer 2836
agreement entered into under section ~~5110.26~~ 173.81 of the Revised 2837
Code is dispensed under the Ohio's best Rx program, the 2838
manufacturer payment amount that applies to the transaction shall 2839
be established in accordance with the following: 2840

(A) For purposes of the amount to be paid by the 2841
manufacturer, the manufacturer payment amount shall be computed by 2842
multiplying the per unit amount specified for the drug in the 2843
manufacturer agreement by the number of units dispensed. 2844

(B) For purposes of the amount that a participant is to be 2845
charged under section ~~5110.10~~ 173.75 of the Revised Code and the 2846

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 <u>173.772</u> 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 <u>173.78</u> of the Revised Code;	2939 2940 2941
(G) Subject to section 5110.352 <u>173.831</u> 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 <u>173.79</u> of the Revised Code;	2942 2943 2944 2945 2946
(H) Subject to section 5110.353 <u>173.832</u> 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 <u>173.80</u> of the Revised Code;	2950 2951
(J) Additional information to be included on claims submitted under section 5110.22 <u>173.80</u> of the Revised Code that the department determines is necessary for the department to be able to make payments under section 5110.23 <u>173.801</u> of the Revised Code;	2952 2953 2954 2955 2956
(K) The method for making payments under section 5110.23 <u>173.801</u> of the Revised Code;	2957 2958
(L) Subject to section 5110.354 <u>173.833</u> of the Revised Code, the percentage, if any, that is the program administration percentage;	2959 2960 2961
(M) If the department determines it is best that participating manufacturers make payments pursuant to manufacturer agreements entered into under section 5110.26 <u>173.81</u> of the Revised Code on a basis other than quarterly, a schedule for making the payments;	2962 2963 2964 2965 2966

(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 job and family services <u>aging</u> in	3058
rules adopted under section 5110.35 <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 5110.23 <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 5110.43 <u>173.86</u> of the Revised Code.	3066
Sec. 5110.43 <u>173.86</u>. (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 job and family services <u>aging</u>	3073
in rules adopted under section 5110.35 <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 job and family services <u>aging</u> in rules adopted under	3077
section 5110.35 <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
Sec. 5110.47 <u>173.872</u>. 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 job and family services <u>aging</u> ;	3205
(D) The program's consulting pharmacy benefit manager selected under section 5110.04 <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
Sec. 5110.56 <u>173.891</u>. (A) Except as provided by section	3210
5110.57 <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 5110.23 <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 5110.19 <u>173.78</u> of	3219
the Revised Code;	3220
(2) Information disclosed in a manufacturer agreement entered	3221
into under section 5110.26 <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 5110.09 <u>173.742</u> and 5110.30 <u>173.814</u> of the	3225
Revised Code by the program's consulting pharmacy benefit manager	3226
selected under section 5110.04 <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
Sec. 2921.13. (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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